

Chapter X

Human rights

In 1989, the United Nations continued its efforts to promote human rights and fundamental freedoms and to curtail their violations.

Progress continued to be made on a number of international instruments. In November, the General Assembly adopted and opened for signature the Convention on the Rights of the Child, and called on States to consider ratifying or acceding to the Convention as a matter of priority (resolution 44/25). In December, the Assembly adopted the Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at abolishing the death penalty (resolution 44/128).

The Working Group on Indigenous Populations reviewed developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous peoples. It considered the first revised text of the draft Universal Declaration on the Rights of Indigenous Peoples prepared by the Group's Chairman/Rapporteur. The Working Group on the Drafting of an International Convention on the Protection of the Rights of All Migrant Workers and Their Families discussed the provisions of the draft convention still pending during the second reading. As in the past; the Commission on Human Rights set up an informal open-ended working group to elaborate a draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities. The Working Group on Detention discussed a new draft declaration on the protection of all persons from enforced or involuntary disappearance.

In economic and social matters, the Working Group of Governmental Experts on the Right to Development considered the implementation of the 1986 Declaration on the Right to Development. The Committee on Economic, Social and Cultural Rights examined reports submitted by countries on their implementation of the 1966 International Covenant on Economic, Social and Cultural Rights. The Committee's day of general discussion focused on the right of each person to an adequate standard of living for self and family.

The Commission on Human Rights at its forty-fifth session, held in January-March, reviewed activities under the UN programme of advisory services in the field of human rights and the programme of the World Public Information Campaign for Human Rights, and considered the implications of scientific and technological de-

velopments for human rights as well as other issues relating to the promotion and protection of human rights. It examined situations involving alleged human rights violations on a large scale in several countries. The Commission adopted 75 resolutions and 14 decisions. Its Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-first session, held in August/September, adopted 47 resolutions and 13 decisions.

Discrimination

Racial discrimination

Second Decade to Combat Racism and Racial Discrimination (1983-1993)

Implementation of the Programme for the Decade

In 1989, United Nations efforts to implement the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination continued under the plan of activities for 1985-1989 put forward in 1984.(1) In 1988,(2) the General Assembly affirmed again the need for implementing the plan of activities for the remainder of the Decade (1990-1993).

Reports of the Secretary-General. As requested by the Economic and Social Council in 1988,(3) the Secretary-General submitted in April his annual report(4) summarizing activities carried out or planned within the UN system to achieve the Decade's objectives. In later addenda,(5) the Secretary-General presented information from Governments and intergovernmental and non-governmental organizations (NGOs) and information relating to the review and appraisal of Decade activities and the formulation of suggestions and recommendations.

The Secretary-General submitted a September report(6) informing the Assembly that he was proceeding with the publication of the global compilation of national legislation against racial discrimination, in accordance with a 1985 Assembly resolution.(7)

Also in September, the Secretary-General submitted to the Assembly a report(8) containing the views of three Governments, two specialized agen-

cies and two NGOs on his 1986 report(9) on the role of private group action to combat racism and racial discrimination.

Pursuant to a 1988 Assembly request,(2) the Secretary-General submitted, in October, a report(10) on the implementation of the Programme of Action. It described actions taken by UN bodies, national legislation to combat racism, seminars and training courses, the Trust Fund for the Programme for the Decade, and the plans of activities for both halves of the Second Decade. He noted that the global consultation on racism and racial discrimination had taken place in 1988 (Geneva, 3-6 October), as authorized by the Assembly in 1987,(11) and set out its conclusions and recommendations, which were annexed to a March note.(12)

On 24 May, the Economic and Social Council by decision 1989/159 took note of the Secretary-General's note on the global consultation.

Human Rights Commission action. On 23 February,(13) the Commission noted with concern that despite the efforts of the international community, the principal objectives of the first Decade for Action to Combat Racism and Racial Discrimination (1973-1983) had not been attained, and that millions continued to be victims of varied forms of racism, racial discrimination and apartheid. It appealed to those States that had not yet done so to take steps to ratify, accede to and implement the international instruments relevant to the Decade. The Commission decided to give thematic consideration each year to a selected topic within the plan of activities for 1990-1993, as listed in the annex to a 1987 Assembly resolution,(11) and requested the Secretary-General to envisage organizing a seminar on the political, historical, economic, social and cultural factors that contribute to racism, racial discrimination and apartheid. The Commission decided that the topic of the global consultation for 1991 would be ways and means of denying support to racist régimes with a view to making them change their policies. It appealed to Governments, organizations and individuals in a position to do so to contribute generously to the Trust Fund for the Programme for the Decade. The Secretary-General was asked to prepare and finalize a handbook of recourse procedures for victims of racism and racial discrimination, to ensure that sufficient resources were included in the proposed programme budgets for the 1990-1991 and 1992-1993 bienniums to provide for implementation of the activities of the Second Decade and to organize in 1990 a meeting of representatives of national institutions and organizations promoting tolerance and harmony and combating racism and racial discrimination. Report of special Rapporteur. In a July report and latter addendum, (14) Special Rapporteur

Asbjorn Eide (Norway) submitted his final report on the achievements made and obstacles encountered during the first and Second Decades.

Sub-Commission action. On 31 August,(15) the Sub-Commission on Prevention of Discrimination and Protection of Minorities decided to refer the final report of Special Rapporteur Eide to the Commission for further consideration and recommended to the Commission that the report be published and distributed as widely as possible.

Other action. At its thirty-seventh session (Geneva, 7 August-1 September),(16) the Committee on the Elimination of Racial Discrimination (CERD) considered revisions proposed for its study(17) on progress made towards achieving the objectives of the International Convention on the Elimination of All Forms of Racial Discrimination, which it had prepared in 1978 for the World Conference to Combat Racism and Racial Discrimination.(18) The Convention was adopted by the General Assembly in 1965(19) and had been in force since 1969.(20) The Committee agreed that the revised draft should be prepared by the Secretariat, in consultation with designated members, for approval by the Committee in 1990. CERD endorsed the conclusions and suggestions that had emerged from the 1988 global consultation on racism and racial discrimination.(12) The Committee also agreed on arrangements to commemorate in 1990 its twentieth year of activities.

In 1989, the Commission on Human Rights had before it the annual reports on racial discrimination submitted by the International Labour Organisation (ILO)(21) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).(22)

ECONOMIC AND SOCIAL COUNCIL ACTION

On 24 May, the Economic and Social Council adopted resolution 1989/83 without vote.

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

The Economic and Social Council,

Reaffirming the purpose set forth in the Charter of the United Nations of achieving international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling the proclamation by the General Assembly, in its resolution 38/14 of 22 November 1983, of the Second Decade to Combat Racism and Racial Discrimination,

Recalling also the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination, approved by the General Assembly in its resolution 38/14 to which it is annexed, to achieve the objectives of the Second Decade,

Reaffirming the plan of activities for the periods 1985-1989 and 1990-1993, to be implemented by the Secretary-General in accordance with General Assembly resolutions 39/16 of 23 November 1984 and 42/47 of 30 November 1987,

Conscious of the responsibility conferred upon it by the General Assembly for co-ordinating and, in particular, evaluating the activities undertaken in the implementation of the Programme of Action for the Second Decade,

Bearing in mind, in particular, its mandate under General Assembly resolution 41/94 of 4 December 1986 to submit to the Assembly, during the period of the Second Decade, annual reports on the activities undertaken or contemplated to achieve the objectives of the Second Decade,

Having examined the report of the Secretary-General on the implementation of the Programme of Action for the Second Decade,

Noting that, despite the efforts of the international community, the principal objectives of the first Decade for Action to Combat Racism and Racial Discrimination and the first years of the Second Decade have not been attained, and that millions of human beings continue to be victims of varied forms of racism, racial discrimination and apartheid,

Stressing the need to continue the co-ordination of activities undertaken by various United Nations bodies and specialized agencies for the purpose of implementing the Programme of Action for the Second Decade,

1. Reaffirm the importance of achieving the objectives of the Second Decade to Combat Racism and Racial Discrimination;

2. Takes note with appreciation of the report of the Secretary-General on the implementation of the Programme of Action for the Second Decade, in particular the recommendations contained therein;

3. Welcomes the results of the global consultation on racism and racial discrimination organized by the Secretary-General and held at Geneva from 3 to 6 October 1988;

4. reaffirms the need for continued co-ordination of the full range of programmes being implemented by the United Nations system as they relate to the objectives of the Second Decade;

5. Requests the Secretary-General to ensure the effective and immediate implementation of those activities proposed for the first half of the Second Decade that have not yet been undertaken, in particular the 1989 seminar on cultural dialogue between the countries of origin and the host countries of migrant workers;

6. Invites the Secretary-General to proceed with the implementation of the activities for the period 1990-1993 listed in the annex to General Assembly resolution 42/47, and requests him, in this context, to accord the highest priority to measures to combat apartheid;

7. Also invites all Governments to take or continue to take all necessary measures to combat all forms of racism and racial discrimination and to support the work of the Second Decade by making contributions to the Trust Fund for the Programme for the Decade for Action to Combat Racism and Racial Discrimination, in order to ensure further implementation of activities for the Second Decade;

8. Decides, as a matter of priority, to give particular attention to the specific activities of the Programme of

Action for the Second Decade that are directed towards the elimination of apartheid, in view of the explosive situation in southern Africa;

9. Requests the Secretary-General, in his reports, to continue to pay special attention to the situation of migrant workers and their families;

10. Emphasizes the importance of public information activities in combating racism and racial discrimination and in mobilizing public support for the objectives of the Second Decade, and, in this context, commends the efforts of the Co-ordinator for the Second Decade to Combat Racism and Racial Discrimination;

11. Decides to continue to accord the highest priority each year to the agenda item entitled "Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination".

Economic and Social Council resolution 1989/83

24 May 1989 Meeting 16 Adopted without vote

Draft by Burkina Faso (E/1989/L.18) on behalf of the African States; agenda item 2.

GENERAL ASSEMBLY ACTION

On 8 December, on the recommendation of the Third (Social, Humanitarian and Cultural) Committee, the General Assembly adopted resolution 44/52 without vote.

Second Decade to Combat Racism and Racial Discrimination

The General Assembly,

Reaffirming its objective set forth in the Charter of the United Nations to achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Reaffirming also its firm determination and its commitment to eradicate totally and unconditionally racism in all its forms, racial discrimination and apartheid,

Recalling the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the International Convention against Apartheid in Sports and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization on 14 December 1960,

Recalling also its resolution 3057(XXVIII) of 2 November 1973, on the first Decade for Action to Combat Racism and Racial Discrimination, and its resolution 38/14 of 22 November 1983, on the Second Decade to Combat Racism and Racial Discrimination,

Recalling further the two World Conferences to Combat Racism and Racial Discrimination, held at Geneva in 1978 and 1983,

Bearing in mind the Report of the Second World Conference to Combat Racism and Racial Discrimination,

Convinced that the Second World Conference represented a positive contribution by the international community towards attaining the objectives of the Decade, through its adoption of a Declaration and an operational Programme of Action for the Second Decade to Combat Racism and Racial Discrimination,

Noting with concern that, despite the efforts of the international community, the principal objectives of the first Decade for Action to Combat Racism and Racial Discrimination were not attained and that millions of human beings continue to this day to be the victims of varied forms of racism, racial discrimination and apartheid,

Recalling its resolutions 39/16 of 23 November 1984, 42/47 of 30 November 1987 and 43/91 of 8 December 1988,

Emphasizing once again the necessity of attaining the objectives of the Second Decade to Combat Racism and Racial Discrimination,

Having considered the note by the Secretary-General and his reports submitted within the framework of the implementation of the Programme of Action for the Second Decade,

Convinced of the need to take more effective and sustained international measures for the elimination of all forms of racism and racial discrimination and the total eradication of apartheid in South Africa,

Aware that certain activities of the Second Decade scheduled for the period 1985-1989 have not been implemented owing to a lack of financial resources,

Aware also of the importance and the magnitude of the phenomenon of migrant workers, as well as the efforts undertaken by the international community to improve the protection of the human rights of migrant workers and their families,

Taking note of the conclusions and suggestions of the global consultation on racism and racial discrimination held at Geneva from 3 to 6 October 1988, the conclusions and recommendations of the seminar on the effects of racism and racial discrimination on the social and economic relations between indigenous peoples and States, held at Geneva from 16 to 20 January 1989, and the conclusions and recommendations of the seminar on cultural dialogue between the countries of origin and the host countries of migrant workers, held at Athens from 18 to 26 September 1989,

1. Declares once again that all forms of racism and racial discrimination, particularly in their institutionalized form, such as apartheid, or resulting from official doctrines of racial superiority or exclusivity, are among the most serious violations of human rights in the contemporary world and must be combated by all available means;

2. Decides that the international community, in general, and the United Nations, in particular, should continue to give the highest priority to programmes for combating racism, racial discrimination and apartheid and intensify their efforts, during the Second Decade to Combat Racism and Racial Discrimination, to provide assistance and relief to the victims of racism and all forms of racial discrimination and apartheid, especially in South Africa and Namibia and in occupied territories and territories under alien domination;

3. Appeals to all Governments and to international and non-governmental organizations to increase and intensify their activities to combat racism, racial discrimination and apartheid and to provide relief and assistance to the victims of these evils;

4. Takes note of the reports submitted by the Secretary-General containing information on the activities of Governments, specialized agencies, regional intergovernmental organizations and non-governmental

organizations, as well as United Nations organs, to give effect to the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination;

5. Notes and commends the efforts made to co-ordinate all the programmes currently under implementation by the United Nations system that relate to the objectives of the Second Decade and encourages the Co-ordinator for the Second Decade to Combat Racism and Racial Discrimination to continue his efforts;

6. Note with satisfaction the holding of the seminar on the effects of racism and racial discrimination on the social and economic relations between indigenous peoples and States and the seminar on cultural dialogue between the countries of origin and the host countries of migrant workers and requests the Secretary-General to give the reports on the seminars wide distribution among Governments, competent United Nations bodies, specialized agencies, other intergovernmental organizations and non-governmental organizations;

7. Notes that the publication of the global compilation of national legislation against racial discrimination is proceeding, and requests the Secretary-General to transmit it to Governments as soon as possible;

8. Requests the Secretary-General to continue the study on the effects of racial discrimination on the children of minorities, in particular those of migrant workers, in the field of education, training and employment, and to submit, *inter alia*, specific recommendations for the implementation of measures to combat the effects of that discrimination;

9. Takes note of the reports of the Secretary-General on the study on the role of private group action to combat racism and racial discrimination;

10. Requests the Secretary-General to prepare and issue as soon as possible a collection of model legislation for the guidance of Governments in the enactment of further legislation against racial discrimination;

11. Renews its invitation to the United Nations Educational, Scientific and Cultural Organization to expedite the preparation of teaching materials and teaching aids to promote teaching, training and educational activities on human rights and against racism and racial discrimination, with particular emphasis on activities at the primary and secondary levels of education;

12. Welcomes the completion and the submission to the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the study of the results achieved and the obstacles encountered during the first Decade for Action to Combat Racism and Racial Discrimination and the first half of the Second Decade, and requests the Commission on Human Rights to transmit this study to the General Assembly at its forty-fifth session;

13. Emphasizes again the importance of adequate recourse procedures for victims of racism and racial discrimination, and therefore once again requests the Secretary-General, in the light of the results of the seminars held on this topic, to prepare and finalize, with the assistance of experts in this field, a handbook of recourse procedures;

14. Considers that all the parts of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination should receive equal attention in order to attain the objectives of the Second Decade;

15. Invites the Secretary-General to implement immediately those activities scheduled for the period 1985-

1989 not yet carried out and to proceed with the implementation of the activities scheduled for the biennium 1990-1991;

16. Affirms once again the need for the implementation of the plan of activities proposed for the period 1990-1993 contained in the annex to General Assembly resolution 42/47;

17. Requests the Secretary-General to continue to accord the highest priority, in executing the plan of activities, to measures for combating apartheid;

18. Also requests the Secretary-General, pursuant to General Assembly resolution 42/47, to ensure that sufficient additional resources are included in the proposed programme budgets for the bienniums 1990-1991 and 1992-1993 to provide for the implementation of the activities of the Second Decade, and requests him to inform the Assembly of the steps taken in that regard;

19. Further requests the Secretary-General to continue to accord special attention to the situation of migrant workers and their families and to include regularly in his reports all information on such workers;

20. Invites all Governments, United Nations bodies, the specialized agencies and other intergovernmental organizations, as well as interested non-governmental organizations in consultative status with the Economic and Social Council, to participate fully in the implementation of the plans of activities for the periods 1985-1989 and 1990-1993 by intensifying and broadening their efforts to bring about the speedy elimination of apartheid and all forms of racism and racial discrimination;

21. Considers that voluntary contributions to the Trust Fund for the Programme for the Decade for Action to Combat Racism and Racial Discrimination are indispensable for the implementation of the above-mentioned programmes;

22. Notes once again with regret that the present situation of the Trust Fund is not encouraging;

23. Strongly appeals, therefore, to all Governments, organizations and individuals in a position to do so to contribute generously to the Trust Fund and, to this end, requests the Secretary-General to continue to undertake appropriate contacts and initiatives to encourage contributions;

24. Takes note of the reports on the activities of the Second Decade, and reiterates its request to the Economic and Social Council, throughout the Decade, to submit annually to the General Assembly a report containing, *inter alia*:

(a) An enumeration of the activities undertaken or contemplated to achieve the objectives of the Second Decade, including the activities of Governments, United Nations bodies, the specialized agencies and other international and regional organizations, as well as non-governmental organizations;

(b) A review and appraisal of those activities;

(c) Its suggestions and recommendations;

25. Requests the Secretary-General to report to the General Assembly at its forty-fifth session on the implementation of the present resolution;

26. Decides to keep the item entitled "Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination" on its agenda throughout the Second Decade and to consider it as a matter of the highest priority at its forty-fifth session.

General Assembly resolution 44/52

8 December 1989 Meeting 78 Adopted without vote

Approved by Third Committee (A/44/715) without vote, 27 October (meeting 21); draft by Kenya (A/C.3/44/L.6) on behalf of the Group of African States, orally revised; agenda item 89.

Meeting numbers. GA 43rd session: 3rd Committee 3-11, 15, 21; plenary 78.

Convention on the

Elimination of Racial Discrimination

Accessions and ratifications

As at 31 December 1989,(23) there were 128 parties to the International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the General Assembly in 1965(19) and in force since 1969.(20) Yemen became a party in 1989.

Implementation of the Convention

The Committee on the Elimination of Racial Discrimination (CERD), set up under article 8 of the Convention, held only one extended session in 1989 (Geneva, 7 August-1 September).(16) Due to non-payment of contributions by a number of States parties, the Committee was unable to hold its spring session. Normally it held two 3-week sessions annually.

Most of CERD's work was devoted to examining reports submitted by States parties on measures taken to implement the Convention's provisions. It considered 49 reports submitted by 28 States parties under article 9 of the Convention. The report summarized the views of Committee members on each country report and the statements made by the States parties concerned.

CERD also considered, in conformity with article 14 of the Convention, communications from individuals or groups of individuals claiming violation of their rights under the Convention by a State party recognizing CERD competence to receive and consider such communications. Twelve States parties-Costa Rica, Denmark, Ecuador, France, Iceland, Italy, the Netherlands, Norway, Peru, Senegal, Sweden and Uruguay-had declared such recognition.

Under article 15 of the Convention, the Secretary-General transmitted to CERD documents related to Trust and Non-Self-Governing Territories. CERD observed that it found it impossible to fulfil its function under article 15 as the documents did not include copies of petitions and did not contain valid information concerning legislative, judicial, administrative or other measures directly related to the Convention's principles and objectives. The Committee asked that appropriate information be furnished.

As to its critical financial situation, the Committee adopted a decision containing a draft resolution by which the General Assembly would have authorized the Secretary-General to ensure, on a

temporary basis, the financing of the expenses of the members of the Committee from the UN regular budget until a more permanent solution was found. In an October report,(24) the Secretary-General stated that as at 1 September 1989, the total of outstanding assessments and arrears amounted to \$168,758.

GENERAL ASSEMBLY ACTION

On 8 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/68 without vote.

Report of the Committee on the Elimination of Racial Discrimination

The General Assembly,

Recalling its previous resolutions concerning the reports of the Committee on the Elimination of Racial Discrimination and resolution 43/95 of 8 December 1988 on the status of the International Convention on the Elimination of All Forms of Racial Discrimination, as well as its other relevant resolutions on the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination,

Reiterating the importance of the International Convention on the Elimination of All Forms of Racial Discrimination, which is the most widely accepted human rights instrument adopted under the auspices of the United Nations,

Aware of the importance of the contributions of the Committee to the efforts of the United Nations to combat racism and all other forms of discrimination based on race, colour, descent or national or ethnic origin,

Welcoming the report of the Committee on the work of its thirty-seventh session,

Reiterating once again the need to intensify the struggle for the elimination of racism and racial discrimination throughout the world, especially the elimination of the system of apartheid in South Africa and Namibia,

Emphasizing the obligation of all States parties to the Convention to take legislative, judicial and other measures in order to secure full implementation of the provisions of the Convention,

Recalling the urgent appeals made by the Secretary-General, the General Assembly, the eleventh and twelfth meetings of States parties to the Convention and the Committee itself to the States parties to honour their financial obligations under the Convention,

Gravely concerned that, despite those appeals and other efforts, the meeting schedule of the Committee has been interrupted and the proper functioning of the Committee continues to deteriorate,

Expressing its appreciation for the efforts of the members of the Committee to explore ways and means to overcome the Committee's current financial crisis,

Having considered the report of the Secretary-General on the question of financing the expenses of the members of the Committee,

1. Expresses its profound concern at the fact that a number of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination have still not fulfilled their financial obligations, which led to the cancellation of the February/March 1989 ses-

sion of the Committee on the Elimination of Racial Discrimination;

2. Expresses once again its concern that such a situation led to a further delay in the discharge of the substantive obligations of the Committee under the Convention;

3. Commends the Committee for its work with regard to the implementation of the Convention and the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination;

4. Takes note with appreciation of the report of the Committee on the work of its thirty-seventh session;

5. Calls upon States parties to fulfil their obligations under article 9, paragraph 1, of the Convention and to submit in due time their periodic reports on measures taken to implement the Convention;

6. Endorses the decision of the Committee to hold one of its regular sessions in New York, if resources are available, in commemoration of its twentieth year of activities under the Convention, to coincide with the International Day for the Elimination of Racial Discrimination, 21 March 1990;

7. Strongly appeals to all States parties, especially those in arrears, to fulfil their financial obligations under article 8, paragraph 6, of the Convention and to pay their outstanding contributions and, if possible, their contributions for 1990 before 1 February 1990, so as to enable the Committee to meet regularly;

8. Invites the Secretary-General to do everything possible to ensure that funds are available to meet all the costs of the meetings of the Committee in 1990, including the expenses of its members;

9. Requests the Secretary-General to invite those States parties which are in arrears to pay the amounts in arrears, and to report thereon to the General Assembly at its forty-fifth session;

10. Invites the Secretary-General to report to the States parties at their thirteenth meeting on all legal and administrative measures that the States parties and the General Assembly could take to guarantee the regular functioning of the Committee;

11. Invites States parties at their thirteenth meeting to decide on administrative and legal measures to improve the financial situation of the Committee;

12. Decides to consider at its forty-fifth session, under The item entitled "Elimination of all forms of racial discrimination", the next report of the Committee, as well as the report of the Secretary-General on the financial situation of the Committee.

General Assembly resolution 44/68

8 December 1989 Meeting 78 Adopted without vote

Approved by Third Committee (A/44/716) without vote, 27 October (meeting 21); 29-nation draft (A/C.3/44/L.7), orally revised; agenda item 100. Financial implications, S-G, A/C.3/44/L.12.

Meeting numbers. GA 44th session: 3rd Committee 3-11, 15, 21; plenary 78.

Other aspects of discrimination

Religious intolerance

Report of the Secretary-General. As requested by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1987,(25) the Secretary-General, in a May report,(26) presented information received from 22 Governments, 2 specialized agencies and 9 NGOs

relevant to its consideration of measures that might be taken to eliminate all forms of intolerance and discrimination based on religion or belief.

Report of the Special Rapporteur. The Commission on Human Rights had before it in 1989 a report of the Special Rapporteur, Angelo Vidal d'Almeida Ribeiro (Portugal),(27) containing allegations transmitted to the Governments concerned regarding situations which seemed to be inconsistent with the provisions in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,(28) and a summary of the replies received. He discussed national and international guarantees for freedom of thought, conscience, religion and belief, and presented examples of some positive steps taken to implement the Declaration. The report contained an analysis of the information collected by the Special Rapporteur as evidence of the persistence of numerous infringements of the rights set out in the Declaration.

The Special Rapporteur concluded that incidents and governmental actions inconsistent with the provisions of the Declaration persisted in nearly all regions of the world, but also that genuine efforts were being made to introduce and implement measures to combat the problem. He recommended the preparation of new international norms on the elimination of intolerance and discrimination based on religion or belief and urged States to ratify the relevant international human rights instruments. Advantage should be taken, he stated, of the advisory services made available by the United Nations in the field of human rights.

Human Rights Commission action. As requested by the General Assembly in 1988,(29) the Commission continued in 1989 to consider measures to implement the Declaration. On 6 March,(30) it urged States to provide adequate constitutional and legal guarantees of freedom of thought, conscience, religion and belief; to combat intolerance; and to ensure that members of law enforcement bodies, civil servants, educators and other public officials respected different religions and beliefs. The Commission further called on them to encourage understanding, tolerance and respect for freedom of religion or belief. The Commission asked the Secretary-General to continue to accord high priority to disseminating the Declaration in all UN official languages and to make the text available for use by UN information centres (UNICs) and other interested bodies. It also asked him to invite interested NGOs to consider facilitating the text's dissemination in national and local languages.

The Commission recalled its request to the Sub-Commission to: prepare a compilation of provisions relevant to the elimination of intolerance and

discrimination based on religion or belief contained in the Declaration and other international instruments; examine the issues and factors which should be considered before any drafting of a further binding international instrument on freedom of religion and belief took place; and report on those issues in 1989.

The Commission asked the Secretary-General to report to it in 1990 and to assist the Special Rapporteur to enable him to report in 1990 as well.

Sub-Commission action. On 31 August,(31) the Sub-Commission decided to submit to the Commission for consideration in 1990 the Secretary-General's report(26) and a working paper(32) by Theo van Boven (Netherlands), which contained a compilation of provisions relevant to the elimination of intolerance and discrimination based on religion or belief and a discussion of issues and factors that should be taken into account before drafting a further binding international instrument on freedom of religion or belief. It brought to the Commission's attention the following issues: the Declaration should continue to serve as a basis for any further work in standard-setting and in considering measures to ensure respect for the right to freedom of thought, conscience, religion and belief; the possibility of drafting any new binding instrument should be considered along the lines of a 1986 General Assembly resolution;(33) the Secretary-General might be asked to organize within the programme of advisory services, and not later than 1991, a seminar on the interrelationship between the enjoyment of the right to freedom of thought, conscience, religion and belief and the other human rights and fundamental freedoms; and consideration might also be given to organizing, in co-operation with UNESCO, the United Nations University, other interested intergovernmental and non-governmental organizations, and academic and research institutions, a global consultation on the positions and approaches of different religions and beliefs to human rights and fundamental freedoms.

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/131 without vote.

Elimination of all forms of religious intolerance

The General Assembly,

Conscious of the need to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Reaffirming its resolution 36/55 of 25 November 1981, by which it proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Recalling its resolution 43/108 of 8 December 1988, in which it requested the Commission on Human Rights to continue its consideration of measures to implement the Declaration,

Encouraged by the efforts being made by the Commission on Human Rights and by the Sub-Commission on Prevention of Discrimination and Protection of Minorities to study relevant developments affecting the implementation of the Declaration,

Recalling Commission on Human Rights resolution 1988/55 of 8 March 1988 and Economic and Social Council decision 1988/142 of 27 May 1988, by which the mandate of the Special Rapporteur appointed to examine incidents and governmental actions in all parts of the world that are incompatible with the provisions of the Declaration and to recommend remedial measures as appropriate was extended for two years,

Emphasizing that non-governmental organizations and religious bodies and groups at every level have an important role to play in the promotion of tolerance and the protection of freedom of religion or belief by, *inter alia*, engaging in the examination of the most effective means to promote the implementation of the Declaration,

Conscious of the importance of education in ensuring tolerance of religion and belief,

Seriously concerned that intolerance and discrimination on the grounds of religion or belief continue to occur in many parts of the world,

Believing that further efforts are therefore required to promote and protect the right to freedom of thought, conscience, religion and belief and to eliminate all forms of intolerance and discrimination based on religion or belief,

1. Reaffirms that freedom of thought, conscience, religion and belief is a right guaranteed to all without discrimination;

2. Urges States, therefore, in accordance with their respective constitutional systems and with such internationally accepted instruments as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, to provide, where they have not already done so, adequate constitutional and legal guarantees of freedom of thought, conscience, religion and belief, including the provision of effective remedies where there is intolerance or discrimination based on religion or belief;

3. Urges all States to take all appropriate measures to combat intolerance and to encourage understanding, tolerance and respect in matters relating to freedom of religion or belief and, in this context, to examine where necessary the supervision and training of their civil servants, educators and other public officials to ensure that, in the course of their official duties, they respect different religions and beliefs and do not discriminate against persons professing other religions or beliefs;

4. Invites the United Nations University and other academic and research institutions to undertake programmes and studies on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief;

5. Considers it desirable to enhance the promotional and public information activities of the United Nations in matters relating to freedom of religion or belief and

to ensure that appropriate measures are taken to this end in the World Public Information Campaign for Human Rights;

6. Invites the Secretary-General to continue to give high priority to the dissemination of the text of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, in all the official languages of the United Nations, and to take all appropriate measures to make the text available for use by United Nations information centres, as well as by other interested bodies;

7. Welcomes the efforts of non-governmental organizations to promote the implementation of the Declaration, including the Second International Conference on Ways to Promote the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, held at Warsaw from 14 to 18 May 1989;

8. Requests the Secretary-General to invite interested non-governmental organizations to consider what further role they could envisage playing in the implementation of the Declaration and in its dissemination in national and local languages;

9. Urges all States to consider disseminating the text of the Declaration in their respective national languages and to facilitate its dissemination in national and local languages;

10. Recalls with satisfaction the decision of the Economic and Social Council, based on the recommendation of the Commission on Human Rights at its forty-fourth session, to renew for two years the mandate of the Special Rapporteur appointed to examine incidents and governmental actions in all parts of the world that are incompatible with the provisions of the Declaration and to recommend remedial measures as appropriate;

11. Notes that the Commission on Human Rights, on the basis of a report to be submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, intends to consider at its forty-sixth session the question of drafting a binding international instrument on freedom of religion or belief, and emphasizes, in this connection, the relevance of General Assembly resolution 41/120 of 4 December 1986, entitled "Setting international standards in the field of human rights";

12. Requests the Commission on Human Rights to continue its consideration of measures to implement the Declaration and to report, through the Economic and Social Council, to the General Assembly at its forty-fifth session;

13. Decides to include in the provisional agenda of its forty-fifth session the item entitled "Elimination of all forms of religious intolerance" and to consider the report of the Commission on Human Rights under that item.

General Assembly resolution 44/131

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/825) without vote, 22 November (meeting 52); 34-nation draft (A/C.3/44/L.58); agenda item 106.

Meetings numbers. GA 44th session: 3rd Committee 36-43, 50, 52; Plenary 8 2 .

Indigenous populations

Human Rights Commission action. On 6 March,(34) the Commission welcomed the Sub-

Commission's 1988 decision⁽³⁵⁾ to entrust to the Chairman/Rapporteur of the Working Group on Indigenous Populations, Erica-Irene A. Daes (Greece), the further development of a draft declaration on indigenous rights, and asked the Secretary-General to give her the assistance she needed to carry out the task. The Economic and Social Council endorsed those actions by decision 1989/140 of 24 May. The Secretary-General was also asked to assist the Working Group in discharging its tasks and to distribute widely the report⁽³⁶⁾ on the UN seminar on the effects of racism and racial discrimination on the social and economic relations between peoples and States (Geneva, 16-20 January).

The Commission appealed to Governments, organizations and individuals to consider favourably requests for contributions to the United Nations Voluntary Fund for Indigenous Populations. It also asked the Working Group and the Sub-Commission to consider ways to broaden the scope and activities of the Fund and to transmit their recommendations thereon in 1990.

Working Group activities. At its seventh session (Geneva, 31 July-4 August),⁽³⁷⁾ the Working Group on Indigenous Populations reviewed developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous peoples. It had before it the first revised text of the draft universal declaration on the rights of indigenous peoples⁽³⁸⁾ prepared by the Chairman/Rapporteur. Subsequent addenda⁽³⁹⁾ contained comments received on the draft declaration from Member States, specialized agencies, intergovernmental organizations and NGOs. The Working Group recommended that the Chairman/Rapporteur prepare a second revised text of the draft declaration and that the Sub-Commission strongly encourage Governments and indigenous peoples to hold joint meetings in order to present to the Group in 1990 and in future sessions agreed-upon texts.

The Group decided to consider further the possibility of establishing a United Nations Commissioner for Indigenous Peoples, to co-ordinate international action for the recognition and promotion of the rights of indigenous peoples and for the improvement of their economic, social and political conditions. It recommended that the General Assembly proclaim 1993 the International Year for Indigenous Rights.

Sub-Commission action. By a resolution of 1 September,⁽⁴⁰⁾ the Sub-Commission recommended that the Chairman/Rapporteur prepare a second revised text of the draft declaration and asked the Secretary-General to assist her. It also asked him to transmit the Working Group's report to Governments, indigenous peoples and intergovernmental and non-governmental organiza-

tions for comments and proposals on the revised text. The Sub-Commission further asked him to assist the Working Group in discharging its tasks and to consider ways of better publicizing the aims of the Working Group.

Also on 1 September, ⁽⁴¹⁾ the Sub-Commission asked the Secretary-General to encourage the global consultation on the realization of the right to development (see below, under "Economic, social and cultural rights") to take account of the rights and concerns of indigenous peoples, particularly the report of the seminar on the effects of racism and racial discrimination on the social and economic relations between indigenous peoples and States, and to consider the extent to which the same principles might be applicable to other groups. It also asked him to organize regional training courses for indigenous peoples' organizations on international human rights standards and procedures, and to facilitate their participation in the work of the Working Group and their attendance at other UN human rights organs and bodies. The United Nations Centre on Transnational Corporations was invited to assist the Working Group in compiling information on investments and operations on the lands of indigenous peoples.

On the same date,⁽⁴²⁾ the Sub-Commission entrusted Asbjorn Eide and Christy Mbonu (Nigeria) with the task of preparing a working paper on possible UN activities for an international year for indigenous rights.

In other action on that date, the Sub-Commission decided⁽⁴³⁾ to endorse the recommendations made by the Working Group on Indigenous Populations in annex I of its report on its 1989 session. It also recommended, for the Working Group's consideration, an agenda including: the scope and effective exercise of internal autonomy and self-government; fiscal and administrative relations between indigenous governments and States; effective means of planning for and implementing autonomy, including negotiated constitutional arrangements and involving both territorial and personal autonomy; and recommendations for standard-setting.

The Sub-Commission expressed its thanks to Bangladesh⁽⁴⁴⁾ for progress made in the treatment of its tribal populations.

Study on treaties, agreements
and other constructive arrangements

On 6 March,⁽⁴⁵⁾ the Commission on Human Rights recommended to the Economic and Social Council a draft text regarding a study on treaties, agreements and other constructive arrangements between States and indigenous populations and the appointment of Special Rapporteur Miguel Alfonso Martínez (Cuba). The text was adopted by the Council on 24 May (see below).

ECONOMIC AND SOCIAL COUNCIL ACTION

On 24 May, the Economic and Social Council, on the recommendation of its Second (Social) Committee, adopted resolution 1989/77 without vote.

Study on treaties, agreements and other constructive arrangements between States and indigenous populations

The Economic and Social Council,

Recalling its decision 1988/134 of 27 May 1988,

Taking note of Commission on Human Rights resolutions 1988/56 of 9 March 1988 and 1989/41 of 6 March 1989 and resolutions 1987/17 of 2 September 1987 and 1988/20 of 1 September 1988 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking into account the outline of the study prepared by the Special Rapporteur, Mr. Miguel Alfonso Martínez, and of the substantive debate on the topic in the Sub-Commission's Working Group on Indigenous Populations at its sixth session,

1. Confirms the appointment of Mr. Miguel Alfonso Martínez as Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and authorizes him to carry out the study on the potential utility of treaties, agreements and other constructive arrangements between indigenous populations and Governments referred to in Commission on Human Rights resolution 1988/56;

2. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur in order for him to carry out the study;

3. Requests the Special Rapporteur to submit a progress report to the Sub-Commission at its forty-first session.

Economic and Social Council resolution 1989/77

24 May 1989 Meeting 16 Adopted without vote

Approved by Second Committee (E/1989/88) without vote, 19 May (meeting 22); draft by Commission on Human Rights (E/1989/20); agenda item 9.

On 1 September,(46) the Sub-Commission authorized the Special Rapporteur to undertake the travel necessary to prepare his preliminary report. It asked the Secretary-General to assist the Special Rapporteur and to secure the appointment of a consultant to help him during the 1990-1991 biennium.

Hopi-Navajo relocation

On 1 September,(47) the Sub-Commission expressed its appreciation to Erica-Irene Daes and John Carey for their report(48) regarding the relocation of Navajo and Hopi families in northern Arizona (United States) in accordance with the settlement of a land dispute between the two parties. It welcomed initiatives taken by the Navajo Nation and Hopi Tribe to resolve the situation by agreement.

Migrant workers

Draft convention

Human Rights Commission action. On 7 March,(49) the Commission asked the Secretary-General to inform it in 1990 of the progress made on the draft international convention on the protection of migrant workers and their families.

Working Group activities. The Working Group on the Drafting of an International Convention on the Protection of the Rights of All Migrant Workers and Their Families held its eighth inter-sessional meeting from 31 May to 9 June(50) and its tenth session from 26 September to 6 October(51) both in New York.

At the meetings, the Group discussed the provisions of the draft convention still pending during the second reading.

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/155 without vote.

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

The General Assembly,

Reaffirming once more the permanent validity of the principles and standards set forth in the basic instruments regarding the international protection of human rights, in particular in the Universal Declaration of Human Rights, the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women,

Bearing in mind the principles and standards established within the framework of the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization and the importance of the task carried out in connection with migrant workers and their families in other specialised agencies and in various organs of the United Nations,

Reiterating that in spite of the existence of an already established body of principles and standards, there is a need to make further efforts to improve the situation and ensure the human rights and dignity of all migrant workers and their families,

Recalling its resolution 34/172 of 17 December 1979, in which it decided to establish a working group open to all Member States to elaborate an international convention on the protection of the rights of all migrant workers and their families,

Recalling also its resolutions 35/198 of 15 December 1980, 36/160 of 16 December 1981, 37/170 of 17 December 1982, 38/86 of 16 December 1983, 39/102 of 14 December 1984, 40/130 of 13 December 1985, 41/151 of 4 December 1986, 42/140 of 7 December 1987 and 43/146 of 8 December 1988, by which it renewed the mandate of the Working Group on the Drafting of an International Convention on the Protection of the Rights of All Migrant Workers and Their Families and requested it to continue its work,

Having examined the progress made by the Working Group at its eighth inter-sessional meeting, held from 31 May to 9 June 1989, and at the current session of the General Assembly, from 26 September to 6 October 1989, during which the Working Group continued with the second reading of the draft convention,

1. Takes note with satisfaction of the two most recent reports of the Working Group on the Drafting of an International Convention on the Protection of the Rights of All Migrant Workers and Their Families and, in particular, of the progress made by the Working Group on the drafting, in second reading, of the draft convention;

2. Requests the Secretary-General to entrust to the Centre for Human Rights of the Secretariat the technical revision of the text of the articles of the draft convention that have been approved so far by the Working Group in second reading, with a view to ensuring uniformity of terminology and gender and to harmonizing the versions in the official languages of the United Nations, bearing in mind General Assembly resolution 41/120 of 4 December 1986, and to transmit the results of this technical revision to Governments as soon as possible, and at least one month before the next meeting of the Working Group, to be held in 1990;

3. Decides that the Working Group shall hold a meeting of two weeks' duration in New York, immediately after the first regular session of 1990 of the Economic and Social Council, with a view to completing the remaining articles and considering the results of the technical revision of the draft convention;

4. Invites the Secretary-General to transmit to Governments the two most recent reports of the Working Group so as to enable the members of the Working Group to finish the drafting, in second reading, of the draft convention during the meeting referred to in paragraph 3 of the present resolution, as well as to transmit the results obtained at that meeting to the General Assembly so that it may take a decision during its forty-fifth session;

5. Also invites the Secretary-General to transmit the above-mentioned documents to the competent organs of the United Nations and to the international organizations concerned, for their information, so as to enable them to continue their co-operation with the Working Group;

6. Requests the Secretary-General to do everything possible to ensure adequate secretariat services for the Working Group during the meeting to be held immediately after the first regular session of 1990 of the Economic and Social Council, for the timely fulfilment of its mandate.

General Assembly resolution 44/155

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/848) without vote, 29 November (meeting 60); 25-nation draft (A/C.3/44/L.74), agenda item 12.

Financial implications. 5th Committee, A/44/854; S-G, A/C.3/44/L.92, A/C.5/44/42.

Meeting numbers. GA 44th session: 3rd Committee 48, 50-60; 5th Committee, 53; plenary 82.

Protection of minorities

The Commission on Human Rights again established an informal open-ended working group to continue work on a draft declaration on the rights of persons belonging to national, ethnic, re-

ligious or linguistic minorities. The working group considered draft articles 4 and 5 in meetings held on 8, 9, 10, 14 and 20 February and 6 March.(52)

On 8 March,(53) the Commission decided to establish another working group in 1990 to consider the draft declaration. It further decided that the group would have no fewer than four full meetings, preferably during the first two weeks of the Commission's 1990 session. The Secretary-General was asked to give the group the assistance it needed. The Commission's decisions and request to the Secretary-General were approved by the Economic and Social Council in decision 1989/146 of 24 May.

As requested by the Sub-Commission in 1988,(54) Claire Palley (United Kingdom) submitted a July working paper(55) on possible ways and means to facilitate the peaceful and constructive resolution of situations involving racial, national, religious and linguistic minorities. On 1 September,(56) the Sub-Commission decided to entrust Asbjorn Eide with preparing a further report on national experience in that area, in accordance with the guidelines and principles set out in the working paper submitted by Claire Palley, for consideration in 1991 and asked him to present a progress report in 1990.

HIV- and AIDS-related discrimination

As requested by the Sub-Commission in 1988,(57) Luis Varela Quirós (Costa Rica) in a July report(58) submitted proposals for a study on AIDS and human rights. He discussed medical and legal aspects of AIDS and possible questions for a study on human rights and AIDS.

On 31 August,(59) the Sub-Commission decided to entrust Mr. Varela Quirós with a study of problems and causes of discrimination against HIV-infected people or people with AIDS and recommended that the Special Rapporteur take into account a resolution of the Commission on Human Rights concerning non-discrimination in the field of health(60) (see below, under "Other human rights questions") and the guidelines contained in the International Consultation on HIV/AIDS and Human Rights (Geneva, 26-28 July).(61) It recommended that the Special Rapporteur carry out the study in close co-operation with the World Health Organization (WHO) and asked him to make a preliminary report in 1990. It asked the Secretary-General and the WHO Global Programme on AIDS to provide the Special Rapporteur with all the assistance he needed for the task.

REFERENCES

- (1)YUN 1984, p. 785. (2)YUN 1988, p. 487, GA res. 43/91, 8 Dec. 1988. (3)Ibid., p. 485, ESC res. 1988/6, 24 May 1988. (4)E/1989/42. (5)E/1989/42/Add.1-4. (6)A/44/574. (7)YUN 1985, p. 837, GA res. 40/22, 29 Nov. 1985. (8)A/44/575. (9)YUN 1986, p. 682. (10)A/44/595. (11)YUN 1987, p. 730, GA res.

42/47, 30 Nov. 1987. (12)E/1989/48. (13)E/1989/20 (res. 1989/9). (14)E/CN.4/Sub.2/1989/8 & Add.1. (15)E/CN.4/Sub.2/1989/58 (res. 1989/19). (16)A/44/18. (17)Committee on the Elimination of Racial Discrimination and the Progress Made Toward the Achievement of the Objectives of the International Convention on the Elimination of All Forms of Discrimination: Published on the Occasion of the World Conference to Combat Racism and Racial Discrimination, Geneva, 14-25 August 1978 (CERD.1), Sales No. E.79.XIV.4. (18)YUN 1978, p. 661. (19)YUN 1965, p. 440, GA res. 2106 A (XX), annex, 21 Dec. 1965. (20)YUN 1969, p. 488. (21)E/CN.4/1989/35. (22)E/CN.4/1989/36. (23)Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 1989 (ST/LEG/SER.E/8), Sales No. E.90.V.6. (24)A/44/593. (25)YUN 1987, p. 736. (26)E/CN.4/Sub.2/1989/31 & Add.1. (27)E/CN.4/1989/44. (28)YUN 1981, p. 881, GA res. 36/55, 25 Nov. 1981. (29)YUN 1988, p. 492, GA res. 43/108, 8 Dec. 1988. (30)E/1989/20 (res. 1989/44). (31)E/CN.4/Sub.2/1989/58 (res. 1989/23). (32)E/CN.4/Sub.2/1989/32. (33)YUN 1986, p. 736, GA res. 41/120, 4 Dec. 1986. (34)E/1989/20 (res. 1989/34). (35)YUN 1988, p. 495. (36)E/CN.4/1989/22. (37)E/CN.4/Sub.2/1989/36. (38)E/CN.4/Sub.2/1989/33. (39)E/CN.4/Sub.2/1989/33/Add.1-3. (40)E/CN.4/Sub.2/1989/58 (res. 1989/34). (41)Ibid. (res. 1989/35). (42)Ibid. (res. 1989/36). (43)Ibid. (dec. 1989/112). (44)Ibid. (dec. 1989/109). (45)E/1989/20 (res. 1989/41). (46)E/CN.4/Sub.2/1989/58 (res. 1989/38). (47)Ibid. (res. 1989/37). (48)E/CN.4/Sub.2/1989/35, Part I & Part II Add.1. (49)E/1989/20 (res. 1989/55). (50)A/C.3/44/1. (51)A/C.3/44/4. (52)E/CN.4/1989/38. (53)E/1989/20 (res. 1989/61). (54)YUN 1988, p. 497. (55)E/CN.4/Sub.2/1989/43. (56)E/CN.4/Sub.2/1989/58 (res. 1989/44). (57)YUN 1988, p. 497. (58)E/CN.4/Sub.2/1989/5. (59)E/CN.4/Sub.2/1989/58 (res. 1989/17). (60)E/1989/20 (res. 1989/11). (61)HR/PUB/90/2.

Civil and political rights

Covenant on Civil and Political Rights and Optional Protocols

Accessions and ratifications

As at 31 December 1989, parties to the International Covenant on Civil and Political Rights and the Optional Protocol thereto, adopted by the General Assembly in 1966(1) and in force since 1976,(2) totalled 89 and 48 States, respectively(3) Argentina and Ireland ratified the Covenant in 1989; Algeria, Ireland, the Libyan Arab Jamahiriya, Nicaragua and the Philippines acceded to or ratified the Optional Protocol.

In August, the Secretary-General reported on the status of the Covenant as at 1 August 1989.(4)

Human Rights Commission action. On 2 March,(5) the Commission appealed to States that had not yet done so to become parties to the Covenant and Optional Protocol and to consider making the declaration provided for in article 41 of the Covenant. The Commission asked the Secretary-General to report in 1990 on the status of the Covenant and its Protocol.

Second optional protocol

Human Rights Commission action. On 6 March,(6) the Commission decided to transmit to the General Assembly, through the Economic and

Social Council, the comparative analysis and the draft second optional protocol to the Covenant aimed at abolishing the death penalty prepared in 1987,(7) as well as the comments expressed thereon by the Sub-Commission in 1988 and 1989 and the Commission in 1989. It asked the Secretary-General to bring the comparative analysis to the attention of all Governments and to invite them to communicate their comments on the text of the draft. He was also requested to submit a report thereon to the General Assembly in 1989. The Commission recommended that the Assembly consider taking action on the second optional protocol.

On 24 May, the Economic and Social Council, by resolution 1989/64, recommended that Member States take steps to implement the safeguards and strengthen further the protection of the rights of those facing the death penalty.

ECONOMIC AND SOCIAL COUNCIL ACTION

On 19 May, the Economic and Social Council, on the recommendation of its Second Committee, adopted decision 1989/139 by recorded vote.

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

At its 16th plenary meeting, on 24 May 1989, the Economic and Social Council, taking note of Commission on Human Rights resolution 1989/25 of 6 March 1989, approved the Commission's decision to transmit to the General Assembly for suitable action the comparative analysis concerning the proposal to elaborate a second optional protocol to the International Covenant on Civil and Political Rights and the draft second optional protocol prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, as well as the comments expressed at the thirty-ninth and fortieth sessions of the Sub-Commission and the forty-fifth session of the Commission.

Economic and Social Council decision 1989/139

27-7-15 (recorded vote)

Approved by Second Committee (E/1989/88) by recorded vote (28-4-17)), 19 May (meeting 22); draft by Commission on Human Rights (E/1989/20); agenda item 9.

Recorded vote in Council as follows:

In favour: Bolivia, Brazil, Bulgaria, Canada, Colombia, Czechoslovakia, Denmark, France, Germany, Federal Republic of, Greece, Ireland, Italy, Kenya, Netherlands, New Zealand, Nicaragua, Niger, Norway, Poland, Portugal, Ukrainian SSR, USSR, United Kingdom, United States, Uruguay, Venezuela, Zaire.

Against: Iran, Jordan, Libyan Arab Jamahiriya, Oman, Saudi Arabia, Somalia, Sudan.

Abstaining: Bahamas, Belize, Cameroon, Cuba, Ghana, Guinea, Indonesia, Japan, Lesotho, Liberia, Rwanda, Sri Lanka, Trinidad and Tobago, Yugoslavia, Zambia.

Reports of the Secretary-General. In October, the Secretary-General presented the views of 28 Governments on the draft text of the second optional protocol.(8)

In an October note,(9) the Secretary-General stated that pursuant to decisions of the Commis-

sion on Human Rights and the Economic and Social Council (see above), the comparative analysis and other necessary documents had been transmitted to the Assembly.

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/128 by recorded vote.

Second Optional Protocol to the International Covenant on Civil and Political Rights,
aiming at the abolition of the death penalty
The General Assembly,

Recalling article 3 of the Universal Declaration of Human Rights adopted in its resolution 217 A (III) of 10 December 1948,

Recalling also article 6 of the International Covenant on Civil and Political Rights contained in the annex to its resolution 2200 A (XXI) of 16 December 1966,

Mindful of its decision 35/437 of 15 December 1980, reaffirmed in its resolution 36/59 of 25 November 1981, to consider the idea of elaborating a draft of a second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty,

Mindful also of its resolution 37/192 of 18 December 1982, in which it requested the Commission on Human Rights to consider the idea of elaborating a draft of a second optional protocol, and its resolution 39/137 of 14 December 1984, in which it requested the Commission and the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider the idea further,

Taking note of the comparative analysis prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking note also of the views expressed by Governments in favour of and against the death penalty and of their comments and observations regarding such a second optional protocol, as reproduced in the relevant reports of the Secretary-General,

Referring to its decision 42/421 of 7 December 1987, and to Commission on Human Rights resolution 1989/25 of 6 March 1989 and Economic and Social Council decision 1989/139 of 24 May 1989, pursuant to which the comparative analysis and the draft second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, prepared by the Special Rapporteur, were transmitted to the General Assembly for suitable action,

Wishing to give States parties to the International Covenant on Civil and Political Rights that choose to do so the opportunity to become parties to a second optional protocol to that convention,

Having considered the draft second optional protocol,

1. Expresses its appreciation for the work achieved by the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

2. Adopts and opens for signature, ratification and accession the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, contained in the annex to the present resolution;

3. Calls upon all Governments in a position to do so to consider signing and ratifying or acceding to the Second Optional Protocol.

ANNEX

Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

The States Parties to the present Protocol,

Believing that abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights,

Recalling article 3 of the Universal Declaration of Human Rights, adopted on 10 December 1948, and article 6 of the International Covenant on Civil and Political Rights, adopted on 16 December 1966,

Noting that article 6 of the International Covenant on Civil and Political Rights refers to abolition of the death penalty in terms that strongly suggest that abolition is desirable,

penalty should be considered as progress in the enjoyment of the right to life,

Desirous to undertake hereby an international commitment to abolish the death penalty,

Have agreed as follows:

Article 1

1. No one within the jurisdiction of a State Party to the present Protocol shall be executed.

2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

Article 2

1. No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.

2. The State Party making such a reservation shall at the time of ratification or accession communicate to the Secretary-General of the United Nations the relevant provisions of its national legislation applicable during wartime.

3. The State Party having made such a reservation shall notify the Secretary-General of the United Nations of any beginning or ending of a state of war applicable to its territory.

Article 3

The States Parties to the present Protocol shall include in the reports they submit to the Human Rights Committee, in accordance with article 40 of the Covenant, information on the measures that they have adopted to give effect to the present Protocol.

Article 4

With respect to the States Parties to the Covenant that have made a declaration under article 41, the competence of the Human Rights Committee to receive and consider communications when a State Party claims that another State Party is not fulfilling its obligations shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

Article 5

With respect to the States Parties to the first Optional Protocol to the International Covenant on Civil and Political Rights adopted on 16 December 1966, the competence of the Human Rights Committee to receive and consider communications from individuals subject to its jurisdiction shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

Article 6

1. The provisions of the present Protocol shall apply as additional provisions to the Covenant.

2. Without prejudice to the possibility of a reservation under article 2 of the present Protocol, the right guaranteed in article 1, paragraph 1, of the present Protocol shall not be subject to any derogation under article 4 of the Covenant.

Article 7

1. The present Protocol is open for signature by any State that has signed the Covenant.

2. The present Protocol is subject to ratification by any State that has ratified the Covenant or acceded to it. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State that has ratified the Covenant or acceded to it.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 8

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

Article 9

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 10

The Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1, of the Covenant of the following particulars:

(a) Reservations, communications and notifications under article 2 of the present Protocol;

(b) Statements made under articles 4 or 5 of the present Protocol;

(c) Signatures, ratifications and accessions under article 7 of the present Protocol;

(d) The date of the entry into force of the present Protocol under article 8 thereof.

Article 11

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.

General Assembly resolution 44/128

15 December 1989 Meeting 82 59-26-48 (recorded vote)

Approved by Third Committee (A/44/824) by recorded vote (55-28-45), 22

November (meeting 52); 36-nation draft (A/C.3/44/L.42); agenda item 98. Meeting numbers. GA 44th session: 3rd Committee 36-43, 50, 52; plenary 82.

Recorded vote in Assembly as follows:

In favour: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Byelorussian SSR, Canada, Cape Verde, Colombia, Costa Rica, Cyprus, Czechoslovakia, Democratic Kampuchea, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, German Democratic Republic, Germany, Federal Republic of, Greece, Grenada, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, Mexico, Mongolia, Nepal, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines*, Samoa, Spain, Sweden, Togo, Ukrainian SSR, USSR, United Kingdom, Uruguay, Venezuela, Yugoslavia.

Against: Afghanistan, Bahrain, Bangladesh, Cameroon, China, Djibouti, Egypt, Indonesia, Iran, Iraq, Japan, Jordan, Kuwait, Maldives, Morocco, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, Sierra Leone, Somalia, Syrian Arab Republic, United Republic of Tanzania, United States, Yemen.

Abstaining: Algeria, Antigua and Barbuda, Bahamas, Barbados, Bhutan, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Chile, Congo, Côte d'Ivoire, Cuba, Democratic Yemen, Dominica, Ethiopia, Fiji, Gambia, Ghana, Guinea, Guyana, India, Israel, Jamaica, Kenya, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritius, Mozambique, Myanmar, Romania, Rwanda, Senegal, Singapore, Solomon Islands, Sri Lanka, Suriname, Trinidad and Tobago, Turkey, Uganda, Vanuatu, Zambia, Zimbabwe.

*Subsequently advised the Secretariat it had intended to abstain.

Implementation

The Human Rights Committee, established under article 28 of the Covenant, held three sessions in 1989: its thirty-fifth from 20 March to 7 April in New York; and the thirty-sixth from 10 to 28 July(10) and thirty-seventh from 23 October to 10 November,(11) both in Geneva.

At those sessions, the Committee considered reports submitted under article 40 of the Covenant from 11 States—Bolivia, Cameroon, Chile, Democratic Yemen, Italy, Mauritius, New Zealand, the Philippines, Togo, the USSR and Uruguay.

In April, the Committee adopted a general comment on article 24 (the enjoyment by children of the right of special protection), which was transmitted to the Economic and Social Council. On 9 November, the Committee adopted a general comment on non-discrimination for transmission to the Economic and Social Council at its first regular session in 1990.

State of siege or emergency

Human Rights Commission action. On 6 March,(12) the Commission, noting a 1988 Sub-Commission resolution,(13) approved the Sub-Commission's request to its Special Rapporteur on the question of human rights and states of emergency to continue to update his work and to

submit to the Sub-Commission in 1989 an annual report and a list updated on the basis of the information received, and to update his report to the Sub-Commission for the forty-sixth session of the Commission. It further approved the Sub-Commission's request to the Secretary-General to give the Special Rapporteur all the assistance he required.

Report of the Special Rapporteur. In June, the Special Rapporteur, Leandro Despouy (Argentina), submitted his third annual report⁽¹⁴⁾ containing information on States or territories which, since 1 January 1985, had proclaimed, extended or terminated a state of emergency. The first and second annual reports were issued in 1987⁽¹⁵⁾ and 1988⁽¹⁶⁾ respectively.

Sub-Commission action. On 1 September,⁽¹⁷⁾ the Sub-Commission asked the Special Rapporteur to present in 1990 the next annual report and list updated on the basis of the information received and to update his present report for the Commission's consideration in 1990. It asked the Secretary-General to give consideration to the technical assistance which might be provided by the Special Rapporteur or by the Secretariat to States requesting it. The Secretary-General was also asked to assist the Special Rapporteur.

As requested by the Sub-Commission, the Special Rapporteur submitted revised and updated information on countries where measures had been taken that constituted the proclamation, introduction, extension, maintenance or termination of emergency regimes in various forms.⁽¹⁴⁾

Self-determination of peoples

By five resolutions adopted in 1989, the Commission on Human Rights reaffirmed the right to self-determination of the People of Afghanistan,⁽¹⁸⁾ Kampuchea,⁽¹⁹⁾ Palestine,⁽²⁰⁾ Namibia⁽²¹⁾ and Western Sahara.⁽²²⁾ A sixth resolution adopted under the item on the right to self-determination pertained to mercenaries and condemned their use as a means to impede the exercise of the right of peoples to self-determination.⁽²³⁾

In an October report,⁽²⁴⁾ the Secretary-General summarized action taken by the Commission and the Economic and Social Council on the right of peoples to self-determination. He also summarized replies received from 13 Governments, 4 specialized agencies, 5 intergovernmental organizations and 3 NGOs in response to his request for information for inclusion in his report. The report was prepared in response to two 1988 General Assembly resolutions.⁽²⁵⁾

GENERAL ASSEMBLY ACTION

On 8 December 1989, the General Assembly adopted two resolutions on the right to self-

determination, a right it repeatedly reaffirmed for individual Non-Self-Governing Territories (see PART FOUR, Chapter I).

On the recommendation of the Third Committee, the Assembly adopted resolution 44/79 by recorded vote.

Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights

The General Assembly,

Reaffirming its faith in the importance of the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in its resolution 1514(XV) of 14 December 1960,

Reaffirming also the importance of the universal realization of the right of peoples to self-determination, national sovereignty and territorial integrity and of the speedy granting of independence to colonial countries and peoples as imperatives for the full enjoyment of all human rights.

Reaffirming further the obligation of all Member States to comply with the principles of the Charter of the United Nations and the resolutions of the United Nations regarding the exercise of the right to self-determination by peoples under colonial and foreign domination,

Recalling its resolution 1514(XV) and all relevant resolutions concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Recalling also its resolutions on the question of Namibia, in particular resolutions 2145(XXI) of 27 October 1966 and S-14/1 of 20 September 1986, as well as the relevant Security Council resolutions, in particular resolutions 385(1976) of 30 January 1976, 435(1978) of 29 September 1978, 629(1989) of 16 January 1989, 632(1989) of 16 February 1989 and 640(1989) of 29 August 1989,

Recalling further the final communiqué adopted by the United Nations Council for Namibia at its ministerial meeting held at United Nations Headquarters on 2 October 1987,

Expressing its support for, and solidarity with, the people of Namibia in their demand for the removal of the racist South African military personnel from Namibia and for the total removal of former Koevoet elements from the South West Africa Police,

Bearing in mind the Declaration adopted by the World Conference on Sanctions against Racist South Africa,

Welcoming the adoption at Harare on 21 August 1989 of the Declaration of the Organization of African Unity Ad Hoc Committee on Southern Africa on the question of South Africa and its subsequent endorsement by the Ninth Conference of Heads of State or Government of Non-Aligned Countries, held at Belgrade from 4 to 7 September 1989,^b

Bearing in mind the outcome of the International Conference on the Alliance between South Africa and Israel, held at Vienna from 11 to 13 July 1983,

^aA/44/697.

^bA/44/551-S/20870.

Taking note of resolutions CM/Res.1206(L) on Namibia and CM/Res.1207(L) on South Africa adopted by the Council of Ministers of the Organization of African Unity at its fiftieth ordinary session, held at Addis Ababa from 17 to 22 July 1989,c

Reaffirming that the system of apartheid imposed on the South African people constitutes a violation of the fundamental rights of that people, a crime against humanity and a constant threat to international peace and security,

Reaffirming also its resolution 39/2 of 28 September 1984, and recalling Security Council resolution 554(1984) of 17 August 1984, in which the Council rejected the so-called "new constitution" as null and void, Council resolution 569(1985) of 26 July 1985 and the statement made by the President of the Security Council on 13 June 1986 on the nation-wide state emergency in South Africa,

Alarmed by the increasing number of assassinations and abductions of members and leaders of the national liberation movements in Africa and elsewhere by hit squads deployed and paid by the racist régime,

Deeply concerned that the restrictions imposed by the Pretoria régime in 1988 on thirty-four democratic and non-violent organizations have not been lifted and that since the beginning of 1989 severe restrictions have been imposed on over six hundred political activists committed to peaceful means of struggle against apartheid,

Indignant at the latest ploy of the Pretoria régime aimed at legitimizing its undemocratic structures, namely, the staging on 6 September 1989 of so-called "general elections" for its tri-cameral parliamentary system, which has been overwhelmingly rejected,

Outraged by the massacre of twenty-nine peaceful demonstrators by the racist police during a non-violent protest against the so-called "general elections",

Deeply concerned about the racist régime's increased attacks on the religious community and its individual leaders, including the recent poisoning of the Secretary-General of the South African Council of Churches, as well as the spraying of poisonous substances in the church premises serving as the venue for a conference of religious leaders,

Gravely concerned about the apartheid régime's continued use of the death penalty against South African patriots with contemptuous disregard for appeals for clemency from the international community, including the General Assembly,

Considering the concerted campaign by the new President of the apartheid regime to project himself as a reformer in order to ward off the further imposition of sanctions by the international community,

Deeply concerned about the continued terrorist acts of aggression committed by the Pretoria regime against independent African States in the region, in particular the unprovoked attacks against Botswana, Mozambique, Zambia and Zimbabwe,

Deeply indignant at the persistent policy of hostility by the racist régime of South Africa against Angola, which constitutes an act of aggression against the sovereignty and territorial integrity of that country,

Reaffirming the national unity and territorial integrity of the Comoros,

Recalling the Political Declaration adopted by the first Conference of Heads of State and Government of the

Organization of African Unity and the League of Arab States, held at Cairo from 7 to 9 March 1977,

Recalling also the Geneva Declaration on Palestine and the Programme of Action for the Achievement of Palestinian Rights, adopted by the International Conference on the Question of Palestine,

Considering that the denial of the inalienable rights of the Palestinian people to self-determination, sovereignty, independence and return to Palestine and the brutal suppression by the Israeli forces of the heroic uprising, the intifadah, of the Palestinian population in the occupied territories, as well as the repeated Israeli aggression against the population of the region, constitute a serious threat to international peace and security,

Bearing in mind Security Council resolutions 605(1987) of 22 December 1987, 607(1988) of 5 January 1988 and 608(1988) of 14 January 1988 and General Assembly resolutions 43/21 of 3 November 1988, 43/177 of 15 December 1988 and 44/2 of 6 October 1989, on the deterioration of the situation of the Palestinian people in the occupied territories,

Deeply concerned and alarmed at the deplorable consequences of Israel's continuing acts of aggression against Lebanon and recalling all the relevant resolutions of the Security Council, in particular resolutions 425(1978) of 19 March 1978, 508(1982) of 5 June 1982, 509(1982) of 6 June 1982, 520(1982) of 17 September 1982 and 521(1982) of 19 September 1982,

1. Calls upon all States to implement fully and faithfully all the resolutions of the United Nations regarding the exercise of the right to self-determination and independence by peoples under colonial and foreign domination;

2. Reaffirms the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial domination, apartheid and foreign occupation by all available means, including armed struggle;

3. Reaffirms also the inalienable right of the Namibian people, the Palestinian people and all peoples under foreign occupation and colonial domination to self-determination, national independence, territorial integrity, national unity and sovereignty without foreign interference;

4. Strongly condemns those Governments that do not recognize the right to self-determination and independence of all peoples still under colonial domination, alien subjugation and foreign occupation, notably the peoples of Africa and the Palestinian people;

5. calls upon Israel to refrain from deporting any Palestinian civilians from the occupied Palestinian territories and to release immediately all Palestinian detainees;

6. Strongly condemns the constant and deliberate violations of the fundamental rights of the Palestinian people, as well as the expansionist activities of Israel in the Middle East, which constitute an obstacle to the achievement of self-determination and independence by the Palestinian people and a threat to peace and stability in the region;

7. Urges all States, the specialized agencies and organizations of the United Nations system, as well as other international organizations, to extend their support to the Palestinian people through its sole and legiti-

^cA/44/603.

mate representative, the Palestine Liberation Organization, in its struggle to regain its right to self-determination and independence in accordance with the Charter of the United Nations;

8. Welcomes the adoption by the Security Council of resolutions 629(1989) and 632(1989), by which the Council commenced the process of implementing the United Nations plan for the independence of Namibia, contained in its resolutions 385(1976) and 435(1978);

9. Reaffirms that Namibia remains under the direct and legal responsibility of the United Nations until independence, and expresses full support for the inalienable rights of the Namibian people to self-determination and genuine national independence, in a united Namibia, with its territorial integrity untruncated;

10. Expresses concern that South Africa has persistently violated the letter and spirit of Security Council resolution 435(1978), which remains the only internationally acceptable basis for the peaceful settlement of the Namibian conflict and must be implemented in its original and definitive form;

11. Demands the immediate and unconditional release of all Namibians still imprisoned and detained by the Pretoria régime;

12. Demands also that the racist régime of Pretoria put an immediate end to the persistent denial of equal access to the State-controlled media in Namibia by all political organizations participating in the electoral process in accordance with Security Council resolution 435(1978);

13. Urges all States, the specialized agencies and organizations of the United Nations system, as well as other international organizations, to extend their support to the Namibian people in their struggle for self-determination and national independence in accordance with the Charter;

14. Condemns the policy of "bantustanization" and reiterates its support for the oppressed people of South Africa in its just and legitimate struggle against the racist minority régime of Pretoria;

15. Reaffirms its rejection of the so-called "new constitution" and the so-called "general elections" based on that constitution as null and void, and reiterates that peace in South Africa can be guaranteed only by the establishment of majority rule through the full and free exercise of adult suffrage by all the people in a united and undivided South Africa;

16. Commends the mass democratic movement in South Africa for the tremendous advances scored during the recent campaign of defiance to unjust apartheid laws in the ongoing struggle against apartheid;

17. Strongly condemns the holding of so-called "general elections" on 6 September 1989, which will further entrench white supremacy, and demands the calling of free and fair elections based on universal adult suffrage in a united and democratic South Africa;

18. Also strongly condemns the wanton killing of peaceful and defenceless demonstrators and workers on strike, as well as the arbitrary arrests of leaders and activists of the mass democratic movement, including women and young children, and demands their immediate and unconditional release, in particular that of Nelson Mandela;

19. Further strongly condemns South Africa for the imposition, renewal and extension of the state of emergency under its repugnant Internal Security Act and calls for

the immediate lifting of the state of emergency, as well as the repeal of the Internal Security Act and all other legislation designed to circumscribe political activity;

20. Welcomes the unconditional release of Walter Sisulu and six other political prisoners and demands that the apartheid régime lift the restrictions imposed on all of the released political prisoners;

21. Strongly urges the apartheid régime to respond positively to the provisions of the Declaration of the Organization of African Unity Ad Hoc Committee on Southern Africa on the question of South Africa, adopted at Harare on 21 August 1989, by releasing unconditionally all political prisoners and detainees, including Nelson Mandela, by lifting all bans and restrictions on all proscribed and restricted organizations and persons, and by halting all political trials and political executions as a means of creating an environment conducive to the peaceful resolution of the South African situation;

22. Strongly condemns the increased attacks on the religious community and its leaders and demands that the racist Pretoria régime bring to justice those responsible for the bombing of the offices of religious bodies and for the poisoning of the Secretary-General of the South African Council of Churches and the attempts to poison other religious leaders;

23. Also strongly condemns the establishment and use of armed terrorist groups by South Africa with a view to pitting them against the national liberation movements and destabilizing the legitimate Governments of southern Africa;

24. Calls once again for the full implementation of the provisions of the Declaration adopted by the World Conference on Sanctions against Racist South Africa;

25. Again demands the immediate application of the mandatory arms embargo against South Africa, imposed under Security Council resolution 418(1977) of 4 November 1977, by all countries and more particularly by those countries which maintain military and nuclear co-operation with the racist Pretoria régime and continue to supply it with related matériel;

26. Strongly condemns the policy of those Western States, Israel and other States whose political, economic, military, nuclear, strategic, cultural and sports relations with the racist minority regime of South Africa encourage that regime to persist in its suppression of the aspirations of the people to self-determination and independence;

27. Denounces the collusion between Israel and South Africa and expresses support for the Declaration of the International Conference on the Alliance between South Africa and Israel;

28. Strongly condemns the persistent policy of hostility and aggression pursued by racist South Africa against the sovereignty and territorial integrity of Angola, which constitutes a violation of the New York accord of 22 December 1988;

29. Demands that the Pretoria régime respect the sovereignty and territorial integrity of Angola and the principle of non-interference in the internal affairs of that State, and demands the immediate payment of compensation to Angola for damages caused, in accordance with the relevant decisions and resolutions of the Security Council;

30. Commends the Government of Angola for its political will, diplomatic flexibility and constructive spirit

in the search for a negotiated solution to the problems of southern Africa;

31. Strongly reaffirms its solidarity with the independent African countries and national liberation movements that are victims of murderous acts of aggression and destabilization by the racist régime of Pretoria, and calls upon the international community to render increased assistance and support to these countries in order to enable them to strengthen their defence capacity, defend their sovereignty and territorial integrity and peacefully rebuild and develop;

32. Strongly condemns the racist régime of Pretoria for its acts of destabilization against Lesotho, and strongly urges the international community to continue to extend maximum assistance to Lesotho to enable it to fulfil its international humanitarian obligations towards refugees and to use its influence on the racist régime so that it desists from such acts against Lesotho;

33. Also strongly condemns the unprovoked and unwarranted military attacks of 14 June 1985, 19 May 1986 and 20 June 1988 on the capital of Botswana, and demands that the racist régime pay full and adequate compensation to Botswana for the loss of life and damage to property;

34. Further strongly condemns the escalation of massacres of defenceless people and the continuing destruction of economic and social infrastructures perpetrated against Mozambique by armed terrorists, who are an extension of the South African army of aggression;

35. Reaffirms all relevant resolutions adopted by the Organization of African Unity and the United Nations on the question of Western Sahara, including General Assembly resolution 43/33 of 22 November 1988, and calls upon the current Chairman of the Assembly, of Heads of State and Government of the Organization of African Unity and the Secretary-General of the United Nations to continue their efforts to find a just and lasting solution to the question;

36. Notes the contacts between the Government of the Comoros and the Government of France in the search for a just solution to the problem of the integration of the Comorian island of Mayotte into the Comoros, in accordance with the resolutions of the Organization of African Unity and the United Nations on the question;

37. Strongly condemns the continued violation of the human rights of the peoples still under colonial domination and alien subjugation;

38. Calls for a substantial increase in all forms of assistance given by all States, United Nations organs, the specialized agencies and non-governmental organizations to the victims of racism, racial discrimination and apartheid through national liberation movements recognized by the Organization of African Unity;

39. Reaffirms that the practice of using mercenaries against sovereign States and national liberation movements constitutes a criminal act, and calls upon the Governments of all countries to enact legislation declaring the recruitment, financing and training of mercenaries in their territories and the transit of mercenaries through their territories to be punishable offences, and prohibiting their nationals from serving as mercenaries, and to report on such legislation to the Secretary-General;

40. Demands the immediate and unconditional release of all persons detained or imprisoned as a result of their struggle for self-determination and indepen-

dence, full respect for their fundamental individual rights and compliance with article 5 of the Universal Declaration of Human Rights, under which no one shall be subjected to torture or to cruel, inhuman or degrading treatment;

41. Expresses its appreciation for the material and other forms of assistance that peoples under colonial rule continue to receive from Governments, organizations of the United Nations system and other intergovernmental organizations, and calls for a substantial increase in that assistance;

42. Urges all States, the specialized agencies and other competent organizations of the United Nations system to do their utmost to ensure the full implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and to intensify their efforts to support peoples under colonial, foreign and racist domination in their just struggle for self-determination and independence;

43. Requests the Secretary-General to give maximum publicity to the Declaration on the Granting of Independence to Colonial Countries and Peoples and to give the widest possible publicity to the struggle of oppressed peoples for the achievement of their self-determination and national independence and to report periodically to the General Assembly on his activities in this regard;

44. Decides to consider this item at its forty-fifth session on the basis of the reports on the strengthening of assistance to colonial territories and peoples that Governments, organizations of the United Nations system, other intergovernmental organizations and non-governmental organizations have been requested to submit.

General Assembly resolution 44/79

8 December 1989 Meeting 78 123-15-16 (recorded vote)

Approved by Third Committee (A/44/717) by recorded vote (107-15-15), 30

October (meeting 23); draft by Kenya (A/C.3/44/L.8) for Group of African States, orally revised; agenda item 105.

Meeting numbers. GA 44th session: 3rd Committee 3-11, 15, 23; plenary 78.

Recorded vote in Assembly as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Byelorussian SSR, Cameroon, Cape Verde, Central African Republic, Chad, China, Colombia, Comoros, Congo, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Gabon, Gambia, German Democratic Republic, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian SSR, USSR, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: Belgium, Canada, Denmark, Finland, France, Germany, Federal Republic of, Iceland, Israel, Italy, Luxembourg, Netherlands, Norway, Sweden, United Kingdom, United States.

Abstaining: Australia, Austria, Chile, El Salvador, Fiji, Greece, Ireland, Japan, Malawi, Malta, New Zealand, Paraguay, Portugal, Saint Lucia, Samoa, Spain.

Also on 8 December, the Assembly adopted resolution 44/80, on the recommendation of the Third Committee, without vote.

Universal realization of the right of peoples to self-determination

The General Assembly,

Reaffirming the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations and embodied in the International Covenants on Human Rights, as well as in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514(XV) of 14 December 1960,

Welcoming the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence,

Deeply concerned at the continuation of acts or threats of foreign military intervention and occupation that are threatening to suppress, or have already suppressed, the right to self-determination of an increasing number of sovereign peoples and nations,

Expressing grave concern that, as a consequence of the persistence of such actions, millions of people have been and are being uprooted from their homes as refugees and displaced persons, and emphasizing the urgent need for concerted international action to alleviate their condition,

Recalling the relevant resolutions regarding the violation of the right of peoples to self-determination and other human rights as a result of foreign military intervention, aggression and occupation, adopted by the Commission on Human Rights at its thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-first, forty-second, forty-third, forty-fourth and forty-fifth sessions,

Reiterating its resolutions 35/35 B of 14 November 1980, 36/10 of 28 October 1981, 37/42 of 3 December 1982, 38/16 of 22 November 1983, 39/18 of 23 November 1984, 40/24 of 29 November 1985, 41/100 of 4 December 1986, 42/94 of 7 December 1987 and 43/105 of 8 December 1988,

Taking note of the report of the Secretary-General,

1. Reaffirms that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

2. Declares its firm opposition to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world;

3. Calls upon those States responsible to cease immediately their military intervention and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, particularly the brutal and inhuman methods reportedly employed for the execution of these acts against the peoples concerned;

4. Deplores the plight of the millions of refugees and displaced persons who have been uprooted as a result of the aforementioned acts and reaffirms their right to return to their homes voluntarily in safety and honour;

5. Requests the Commission on Human Rights to continue to give special attention to the violation of

human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation;

6. Requests the Secretary-General to report on this issue to the General Assembly at its forty-fifth session under the item entitled "Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights".

General Assembly resolution 44/80

8 December 1989 Meeting 78 Adopted without vote

Approved by Third Committee (A/44/717) without vote, 30 October (meeting 23); 25-nation draft (A/C.3/44/L.9); agenda item 105.
Meeting numbers. GA 44th session: 3rd Committee 3-11, 15, 23; plenary 78.

Afghanistan

On 6 March,(18) the Commission on Human Rights welcomed the conclusion in 1988 of the Agreements on the Settlement of the Situation Relating to Afghanistan(26) and the completion of the withdrawal of foreign troops from the country. It also welcomed the appointment of the Special Co-ordinator for Humanitarian and Economic Assistance relating to Afghanistan and called on all States to provide adequate resources to the Special Co-ordinator to repatriate and rehabilitate Afghan refugees, as well as for the economic and social reconstruction of the country. Reaffirming the right of the Afghan people to self-determination, the Commission called for the establishment of a broad-based representative government to ensure the broadest support and immediate participation of all segments of the Afghan people, thus enabling them freely to exercise that right. It called on the parties concerned to work for the urgent achievement of a comprehensive political solution and the creation of peace and normal conditions. The Secretary-General was asked to facilitate the early realization of a comprehensive political settlement.

Kampuchea

On 6 March,(19) by a roll-call vote of 35 to 7, with 1 abstention, the Commission reiterated its condemnation of persistent gross violations of human rights in Kampuchea and reaffirmed that the continued illegal occupation of the country by foreign forces deprived Kampucheans of their right to self-determination and constituted the primary human rights violation in that country. It emphasized that the withdrawal of all foreign forces, restoration of Kampuchea's independence, sovereignty and territorial integrity, recognition of the Kampucheans' right to self-determination and the commitment of all States to non-interference in the country's internal affairs were essential for a solution. The Commission reaffirmed its call for an end to hostilities and an immediate withdrawal of foreign forces. The Secretary-General was asked to continue to monitor developments in Kam-

puchea and to intensify efforts to bring about a comprehensive political settlement and the restoration of fundamental human rights. The Commission recommended that the Economic and Social Council continue to undertake measures to implement recommendations to achieve the full enjoyment of fundamental human rights and freedoms by the Kampuchean people.

The Economic and Social Council, by decision 1989/156 of 24 May, also expressed its grave concern at the continued violations of fundamental human rights in Kampuchea by foreign occupying forces, in particular the shelling of civilian camps along the border, and requested the Secretary-General to report to the Council any further violations perpetrated against Kampuchean civilian refugees. It endorsed the Commission's resolution and reaffirmed its previous calls for the withdrawal of all foreign forces. The Council also took note of the announced withdrawal of occupying forces, the dialogue between the parties directly involved and other diplomatic activities; however, it expressed concern at the unresolved problem of the 350,000 Kampuchean civilians still stranded in Thailand (see also PART TWO, Chapter III).

Palestinians

On 6 March,(20) by a roll-call vote of 31 to 1, with 11 abstentions, the Commission on Human Rights adopted a resolution reaffirming the right of the Palestinian people to self-determination and calling on Israel to withdraw from the Palestinian and Arab territories. It asked the Secretary-General to make available to the Commission, prior to its 1990 session, all information pertaining to the implementation of its resolution and to transmit the resolution to Israel and to report thereon in 1990.

South Africa and Namibia

In a 6 March resolution,(21) the Commission called on States to take steps to enable the peoples of South Africa and Namibia to exercise fully and without delay their right to self-determination and independence. It reaffirmed the inalienable right of the people of Namibia to self-determination, freedom and national independence in a united Namibia, including Walvis Bay and the offshore islands. The Commission demanded that South Africa release all people detained or imprisoned as a result of their struggle for self-determination and independence and that it guarantee full respect for their fundamental rights. It also demanded that all States impose mandatory and comprehensive sanctions against South Africa in order to stop it from committing further acts of destabilization against neighbouring States.

(For human rights violations in South Africa and Namibia, see below, under "Human rights violations". For details on the situation in Namibia, see also PART TWO, Chapter II, and PART FOUR, Chapter III.)

Western Sahara

On 6 March,(22) by a roll-call vote of 24 to none, with 17 abstentions, the Commission reaffirmed that the question of Western Sahara was one of decolonization to be resolved through the exercise of the people's right to self-determination and independence. It again requested the parties to the conflict, the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (POLISARIO), to negotiate directly with a view to bringing about a ceasefire and creating conditions for a referendum for self-determination.

Mercenaries

Human Rights Commission action. By a resolution of 6 March,(23) adopted by a roll-call vote of 32 to 10, with 1 abstention, the Commission condemned the increased recruitment, financing, training, assembly, transit and use of mercenaries, and urged States to take measures to prohibit those and all other forms of assistance to mercenaries. Taking note of a report of the Special Rapporteur (see below), the Commission asked him, among other things, to develop further the position that mercenary acts and mercenarism in general were means of violating human rights and thwarting the self-determination of peoples. It also asked him to submit a report to the Commission in 1990 and a preliminary report to the General Assembly in 1989. The Secretary-General was asked to assist the Special Rapporteur in carrying out his duties. The Commission recommended to the Economic and Social Council that it make arrangements to ensure that the resources were provided to implement its resolution.

Reports of the Special Rapporteur. As requested by the Commission in 1988,(27) the Special Rapporteur, Enrique Bernalles Ballesteros (Peru), submitted a January report(28) containing information on mercenary activities. Based on replies received in response to his request to States for information, the Special Rapporteur noted that despite repeated condemnation of mercenary activities by the United Nations, the problem continued to exist, and that the main form taken by such activities was directly related to illicit activities involving interventionism and the use of force. It also appeared from the replies that few countries had made specific provision in their national legislation to treat mercenary activities as offences. Among other things, the Special Rapporteur

recommended support for the work of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries. The General Assembly adopted the Convention in December 1989 by resolution 44/34 (see PART FIVE, Chapter II).

In accordance with a 1988 request of the General Assembly,(29) the Secretary-General, by an October note,(30) transmitted a report of the Special Rapporteur which stated that the number of complaints of mercenary activities had declined appreciably, and that the world had entered a phase of significant easing of tensions.

The Special Rapporteur recommended strengthening UN principles and declarations by adding provisions aimed at eliminating all types of mercenary activities; the inclusion by States in their national legislation of sanctions against mercenary activities; and calling on States to ensure that their territory was not used for the recruitment, assembly, financing, training and transit of mercenaries or the planning of mercenary activities.

GENERAL ASSEMBLY ACTION

On 8 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/81 by recorded vote.

Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination

The General Assembly,

Recalling the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, territorial integrity of States and self-determination of peoples, as well as a scrupulous respect for the principle of the non-use or threat of use of force in international relations, as developed in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,

Reaffirming the legitimacy of the struggle of peoples and their liberation movements for independence, territorial integrity, national unity and liberation from colonial domination, apartheid and foreign intervention and occupation, and that their legitimate struggle can in no way be considered as or equated to mercenary activity,

Recognizing that the use of mercenaries is a threat to international peace and security,

Deeply concerned about the menace that the activities of mercenaries represent for all States, particularly African, Central American and other developing States,

Alarmed at the emergence of new international criminal activities carried out by mercenaries in collusion with drug traffickers,

Recognizing that the activities of mercenaries are contrary to the fundamental principles of international law, such as non-interference in the internal affairs of States, territorial integrity and independence, and impede the process of the self-determination of peoples struggling

against colonialism, racism and apartheid and all forms of foreign domination,

Recalling all of its relevant resolutions, in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries, with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of lighting against national liberation movements, and recalling also the relevant resolutions of the Security Council and the Economic and Social Council, as well as of the Organization of African Unity,

Deeply concerned about the loss of life, the substantial damage to property and the short-term and long-term negative effects on the economy of southern African countries resulting from mercenary aggression,

Convinced that it is necessary to develop international co-operation among States for the prevention, prosecution and punishment of such offences,

1. Expresses its appreciation to the Special Rapporteur of the Commission on Human Rights for his report on the question of the use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination;

2. Condemns the recruitment, financing, training, assembly, transit and use of mercenaries, as well as all other forms of support to mercenaries for the purpose of destabilizing and overthrowing the Governments of States in southern Africa and Central America and of other developing States and lighting against national liberation movements of peoples struggling for the exercise of their right to self-determination;

3. Affirms that the use as well as the recruitment, financing and training of mercenaries are offences of grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

4. Strongly condemns the racist régime of South Africa for its use of groups of armed mercenaries against national liberation movements and for the destabilization of the Governments of southern African States;

5. Denounces any State that persists in the recruitment, or permits or tolerates the recruitment, of mercenaries and provides facilities to them for launching armed aggression against other States;

6. Urges all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to ensure, by both administrative and legislative measures, that the territory of those States and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries, or for the planning of activities designed to destabilize or overthrow the Government of any State and to fight the national liberation movements struggling against racism, apartheid, colonial domination and foreign intervention or occupation;

7. Calls upon all States to extend humanitarian assistance to victims of situations resulting from the use of mercenaries, as well as from colonial or alien domination or foreign occupation;

8. Considers that the use of channels of humanitarian and other assistance to finance, train and arm mercenaries is inadmissible;

9. Welcomes the provisions of Commission on Human Rights resolution 1988/7 of 22 February 1988 aimed at

giving the Special Rapporteur the full opportunity to carry out his mandate most effectively;

10. Requests the Secretary-General to report to the General Assembly at its forty-fifth session on the use of mercenaries.

General Assembly resolution 44/81

8 December 1989 Meeting 78 125-10-21 (recorded vote)

Approved by Third Committee (A/44/717) by recorded vote (111-10-20), 30 October (meeting 23); 41-nation draft (A/C.3/44/L.10), orally revised; agenda item 105.

Meeting numbers. GA 44th session: 3rd Committee 3-11, 15, 23; plenary 78.

Recorded vote in Assembly as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Byelorussian SSR, Cameroon, Cape Verde, Central African Republic, Chad, China, Colombia, Comoros, Congo, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Gabon, Gambia, German Democratic Republic, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda; Ukrainian SSR, USSR, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: Belgium, France, Germany, Federal Republic of, Italy, Japan, Luxembourg, Netherlands, Portugal, United Kingdom, United States.

Abstaining: Australia, Austria, Canada, Chile, Costa Rica, Denmark, El Salvador, Fiji, Finland, Greece, Honduras, Iceland, Ireland, Israel, Malta, New Zealand, Norway, Paraguay, Spain, Sweden, Turkey.

Rights of detained persons

Administration of justice

On 6 March,(31) the Commission called on Member States to provide effective legislation and other mechanisms to ensure implementation of UN standards on human rights in the administration of justice, taking into account recommendations made by the General Assembly in 1988.(32) It called on its special rapporteurs and working groups to give special attention to questions relating to the effective protection of human rights in the administration of justice and to provide specific recommendations, including proposals for concrete measures under the UN advisory services programmes. The Commission asked the Secretary-General to study the feasibility of drafting model texts for national legislative or other measures for the effective implementation of standards in the area of the administration of justice, to seek the views of Member States on the issue and to inform the Commission in 1990 of the results of his study.

Reports of the Secretary-General. In a July report(33) the Secretary General presented succinct information on the work of the Human Rights Committee and CERD, developments elsewhere in the human rights programme and the activities within the UN programme on crime prevention

and control related to the rights of detained or imprisoned persons. In addition, he discussed extralegal, arbitrary and summary executions; capital punishment; the work of the Committee against Torture; the 1988 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;(34) standard minimum rules for the treatment of prisoners; independence of the judiciary; a code of conduct for law enforcement officials; victims of crime and abuse of power; juvenile justice; computerization of the administration of justice; and advisory services and the administration of justice.

Also in July, the Secretary-General presented a synopsis of material from NGOs referring to practices such as enforced disappearances, administrative detention without charge or trial, death during detention, and extrajudicial executions and other arbitrary or summary executions. Special attention was called to the issues of children in detention, the death penalty and the involvement of doctors in torture.

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/162 without vote.

Human rights in the administration of justice

The General Assembly,

Bearing in mind the principles embodied in articles 3, 5, 9, 10 and 11 of the Universal Declaration of Human Rights and the relevant provisions of the International Covenant on Civil and Political Rights, in particular article 6, which explicitly states that no one shall be arbitrarily deprived of his life and prohibits the imposition of the death penalty for crimes committed by persons below eighteen years of age,

Bearing in mind also the relevant principles embodied in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and in the International Convention on the Elimination of All Forms of Racial Discrimination,

Calling attention to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, set forth in the annex to its resolution 43/173 of 9 December 1988,

Calling attention also to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the safeguards guaranteeing protection of the rights of those facing the death penalty, as well as to the Basic Principles on the Independence of the Judiciary, the Model Agreement on the Transfer of Foreign Prisoners and recommendations on the treatment of foreign prisoners, the Code of Conduct for Law Enforcement Officials and the Standard Minimum Rules for the Treatment of Prisoners,

Reaffirming in this context the importance of the principles contained in its resolution 41/120 of 4 December 1986 on standard-setting in the field of human rights,

Recognizing the important contribution of the Commission on Human Rights in the field of human rights in the administration of justice, as reflected in its resolu-

tions 1989/24 of 6 March 1989 on human rights in the administration of justice, 1989/32 of 6 March 1989 on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, 1989/38 of 6 March 1989 on administrative detention without charge or trial and 1989/64 of 8 March 1989 on summary or arbitrary executions,

Recognizing also the significant work accomplished in this area under the United Nations crime prevention and criminal justice programme, including the results of the interregional and regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Convinced of the need for further co-ordinated and concerted action in promoting respect for human rights in the administration of justice,

Noting with satisfaction that the Commission on Human Rights, in its resolution 1989/24, *inter alia*, stressed the desirability of providing States, at their request, with continued assistance in the field of the administration of justice and of including in such assistance the provision of model texts for national legislative or other measures for the effective implementation of standards in this field,

1. Reaffirms the importance of the full implementation of United Nations norms and standards on human rights in the administration of justice;

2. Endorses Economic and Social Council resolution 1989/63 of 24 May 1989 on the implementation of United Nations standards and norms in crime prevention and criminal justice;

3. Also endorses the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions set forth in the annex to Economic and Social Council resolution 1989/65 of 24 May 1989;

4. Further endorses Economic and Social Council resolutions 1989/57 of 24 May 1989 on the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1989/60 of 24 May 1989 on the Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary, 1989/61 of 24 May 1989 on Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials and 1989/64 of 24 May 1989 on the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty;

5. Invites Member States to pay attention to these resolutions in developing strategies for the practical implementation of United Nations norms and standards on human rights in the administration of justice, as it requested in its resolution 43/153 of 8 December 1988;

6. Requests the Commission on Human Rights to invite the Sub-Commission on Prevention of Discrimination and Protection of Minorities to study the practical implementation of United Nations norms and standards in this field and to recommend practical measures to the Commission;

7. Requests the Secretary-General in this regard:

(a) To solicit from Member States as well as from the relevant international agencies and bodies, in particular the Human Rights Committee, the Committee against Torture and the Committee for the Elimination of Racial Discrimination, comments on the implementation of these standards;

(b) To forward those comments to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its next session;

8. Also requests the Secretary-General:

(a) To identify general problems that may impinge on the effective implementation of standards and norms and to recommend viable solutions with action-oriented proposals;

(b) To formulate practical proposals on procedures and action at the national, regional and international levels to implement United Nations norms and standards on human rights in the administration of justice for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

(c) To continue to assist Member States, at their request, in implementing existing international human rights standards in the administration of justice, in particular under the programme of advisory services;

(d) To continue to provide all necessary support to United Nations bodies working on standard-setting in this field;

(e) To co-ordinate the various technical advisory services provided by the Centre for Human Rights and the Centre for Social Development and Humanitarian Affairs of the Secretariat with a view to undertaking joint programmes and strengthening existing mechanisms for the protection of human rights in the administration of justice;

9. Emphasizes the important role of the regional commissions, specialized agencies and United Nations institutes in the area of human rights and crime prevention and criminal justice and other organizations of the United Nations system, as well as intergovernmental and non-governmental organizations, including national professional associations concerned with promoting United Nations standards in this field;

10. Draws the attention of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, as well as the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and the Committee on Crime Prevention and Control, to the issues raised in the present resolution, so that priority is accorded to issues related to human rights in the administration of justice;

11. Decides to consider at its forty-fifth session the question of human rights in the administration of justice.

General Assembly resolution 44/162

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/946) without vote, 29 November (meeting 60); 21-nation draft (A/C.3/44/L.83); agenda item 12.

Meeting numbers. GA 44th session: 3rd Committee 48, 50-60; plenary 82.

Torture and cruel treatment

Report of the Special Rapporteur. In January, Special Rapporteur Peter H. Kooijmans (Netherlands) presented a report to the Commission on questions relating to torture.⁽³⁶⁾ As in previous years, the Special Rapporteur received allegations of torture from different sources. After analysing them, letters with a summarized description of the allegations were transmitted to 37 countries for clarification. The letters and replies received were summarized in the report.

The Special Rapporteur stated that the majority of allegations received referred to torture practised during incommunicado detention and recom-

mended a formal prohibition of that form of detention. He also recommended medical inspection of persons at the time of arrest and regular inspections thereafter, with compulsory inspections whenever a detainee was transferred from one place of detention to another; identification of all persons present during an interrogation; interrogation only at official interrogation centres; the establishment of independent bodies to inspect regularly places of detention; and the right by detainees to initiate proceedings before a court on the lawfulness of their detention.

In a later report,(37) the Special Rapporteur described his visits to Guatemala (18-24 September) and Honduras (25-27 September).

Convention against torture

As at 31 December 1989,(3) 49 States had become parties to the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,(38) 10 of them (Algeria, Australia, Brazil, Finland, Guinea, Italy, Libyan Arab Jamahiriya, New Zealand, Poland, Portugal) in 1989. The Convention entered into force in 1987.(39) The optional provisions of articles 21 and 22 (under which a party recognized the competence of the Committee against Torture to receive and consider communications to the effect that a party claimed that another was not fulfilling its obligations under the Convention, and to receive communications from or on behalf of individuals claiming to be victims of a violation of the Convention by a State party) also entered into force in 1987; 23 parties had made the required declarations.

The Secretary-General reported on the status of the Convention as at 1 August 1989.(40)

Human Rights Commission action. On 6 March,(41) the Commission requested all States to become parties to the Convention as a matter of priority. It invited all ratifying or acceding States and those States parties that had not done so to make the declaration provided for in articles 21 and 22. The Commission asked the Secretary-General to continue to submit annual reports on the Convention's status and to ensure appropriate staff and facilities for the effective functioning of the Committee against Torture.

On the same date,(42) the Commission decided to postpone until 1991 consideration of a draft optional protocol to the Convention submitted by Costa Rica in 1980 which would provide a system of periodic visits by a committee of experts to places of detention or imprisonment within the jurisdiction of States parties to the Convention.

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/144 without vote.

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

The General Assembly,

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

Recalling also the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 3452(XXX) of 9 December 1975,

Recalling further its resolution 39/46 of 10 December 1984, by which it adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and called upon all Governments to consider signing and ratifying the Convention as a matter of priority, as well as its resolutions 40/28 of 13 December 1985, 41/134 of 4 December 1986, 42/123 of 7 December 1987 and 43/132 of 8 December 1988 and Commission on Human Rights resolutions 1987/30 of 10 March 1987 and 1988/36 of 8 March 1988, and taking note of Commission resolution 1989/29 of 6 March 1989,

Mindful of the relevance, for the eradication of torture and other cruel, inhuman or degrading treatment or punishment, of the Code of Conduct for Law Enforcement Officials and of the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment,

Recalling the adoption of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,

Seriously concerned about the alarming number of reported cases of torture and other cruel, inhuman or degrading treatment or punishment taking place in various parts of the world,

Determined to promote the full implementation of the prohibition, under international and national law, of the practice of torture and other cruel, inhuman or degrading treatment or punishment,

Recalling the decision of the Commission on Human Rights, in its resolution 1988/32 of 8 March 1988, to extend for two years the mandate of the Special Rapporteur to examine questions relevant to torture,

1. Welcomes the report of the Committee against Torture;
2. Takes note of the report of the Secretary-General on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
3. Stresses the importance of strict adherence by States parties to the obligations under the Convention regarding the financing of the Committee against Torture, to enable it to carry out in an effective and efficient manner all the functions entrusted to it under the Convention, and appeals to all States parties not to take any measures that might impair the financing of all the functions of the Committee under the Convention, so as to ensure the long-term viability of the Committee as an essential mechanism for overseeing the effective implementation of the provisions of the Convention;
4. Welcomes the attention that the Committee against Torture has given to the development of an effective system

of reporting on the implementation of the Convention by States parties, and especially its decision to revise its general guidelines for the submission of initial reports by States parties;

5. Notes with appreciation the adoption by the Committee against Torture of its rules of procedure;

6. Welcome the exchange of views that has taken place between the Committee against Torture and the Special Rapporteur of the Commission on Human Rights on questions relating to torture, and requests that this exchange be continued;

7. Requests the Secretary-General to ensure the provision of appropriate staff and facilities for the effective performance of the functions of the Committee against Torture;

8. Reiterates its request to all States to become parties to the Convention as a matter of priority;

9. Once again invites all States, upon ratification of or accession to the Convention, or subsequently, to consider the possibility of making the declarations provided for in articles 21 and 22 of the Convention;

10. Requests the Secretary-General to submit to the Commission on Human Rights at its forty-sixth session and to the General Assembly at its forty-fifth session a report on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

11. Decides to consider the report of the Secretary-General at its forty-fifth session under the item entitled "Torture and other cruel, inhuman or degrading treatment or punishment".

General Assembly resolution 44/144

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/1627) without vote, 22 November (meeting 52): 35-nation draft (A/C.3/44/L.52); agenda item 112.
Meeting numbers. GA 44th session: 3rd Committee 36-43, 50, 52; plenary 82.

Committee against Torture

The Committee against Torture, established as a monitoring body under the Convention, held its second session in Geneva from 17 to 28 April.(43) It examined reports submitted by Austria, Denmark, Egypt, Mexico, Norway, the Philippines and Sweden under article 19 of the Convention.

The Committee adopted rules of procedure pertaining to its activities under article 20, by which the Committee studied confidential information appearing to contain well-founded indications that torture was systematically practised in a State party to the Convention.

The Committee held its third session, also in Geneva, from 13 to 24 November,(44) during which it examined reports submitted by Argentina, the Byelorussian SSR, Cameroon, Canada, Chile, Colombia, France, the German Democratic Republic, Hungary, Senegal, Switzerland and the USSR. Under article 22, the Committee declared inadmissible the first three communications submitted to it by individuals claiming to be victims of violations by a State party.

Fund for victims of torture

On 6 March,(45) the Commission on Human Rights appealed to Governments, organizations and

individuals to contribute to the United Nations Voluntary Fund for Victims of Torture, which was established in 1981.(46) It asked the Secretary-General to transmit to Governments its appeals for contributions, to assist the Board of Trustees in its efforts to make the Fund and its work better known and to inform the Commission annually of the Fund's operations.

In his annual report to the General Assembly on the status of the Fund,(47) the Secretary-General stated that, at its eighth session (Geneva, 24-28 April), the Fund's Board of Trustees discussed its mandate, the definition of torture and the prevention of torture with a view to making the best possible use of the finances available. It decided to make recommendations to the Secretary-General for grants of nearly \$500,000. The focus of the grants was on therapy and rehabilitation projects and extended to some 36 countries in Africa, the Americas, Asia and Europe. The Secretary-General reported that during the period from 16 October 1988 to 15 October 1989, 21 States had contributed or pledged \$857,859 to the Fund.

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/145 without vote.

United Nations Voluntary Fund for Victims of Torture

The General Assembly:

Recalling article 5 of the Universal Declaration of Human Rights, which states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Recalling also the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recalling with satisfaction the entry into force on 26 June 1987 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recalling its resolution 36/151 of 16 December 1981, in which it noted with deep concern that acts of torture took place in various countries, recognized the need to provide assistance to the victims of torture in a purely humanitarian spirit and established the United Nations Voluntary Fund for Victims of Torture,

Convinced that the struggle to eliminate torture includes the provision of assistance in a humanitarian spirit to the victims and members of their families,

Taking note of the report of the Secretary-General,

1. Expresses its gratitude and appreciation to the Governments, organizations and individuals that have already contributed to the United Nations Voluntary Fund for Victims of Torture;

2. Calls upon all Governments, organizations and individuals in a position to do so to respond favourably to requests for initial as well as further contributions to the Fund;

3. Invites Governments to make contributions to the Fund, if possible on a regular basis, in order to enable the Fund to provide continuous support to projects that depend on recurrent grants;

4. Requests the Secretary-General to include the Fund on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

5. Expresses its appreciation to the Board of Trustees of the Fund for the work it has carried out;

6. Also expresses its appreciation to the Secretary-General for the support given to the Board of Trustees of the Fund;

7. Requests the Secretary-General to make use of all existing possibilities, including the preparation, production and dissemination of information materials, to assist the Board of Trustees of the Fund in its efforts to make the Fund and its humanitarian work better known and in its appeal for contributions.

General Assembly resolution 44/145

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/827) without vote, 22 November (meeting 52); 21-nation draft (A/C.3/44/L.53): agenda item 112.

Meeting numbers. GA 44th session: 3rd Committee 36-43, 50, 52; plenary 82.

Torture or inhuman treatment
of detained children in South Africa and Namibia

As requested by the Commission on Human Rights in 1988,(48) the Ad Hoc Working Group on southern Africa, in a January report,(49) described incidents regarding allegations of torture and ill-treatment and the detention of children in South Africa and Namibia. The Group concluded that torture and other forms of inhuman and degrading treatment of children and young people continued unabated. (For further details, see below, under "Human rights violations".)

On 23 February,(50) the Commission condemned the detention, torture and inhuman treatment of children in South Africa and Namibia, and demanded their immediate and unconditional release; the immediate dismantlement of the so-called "rehabilitation camps" or "re-education centres"; the termination of the state of emergency and abrogation of all repressive and discriminatory legislation; and the immediate abolition of the apartheid system. It asked the Ad Hoc Working Group to pay special attention to the detention, torture and other inhuman treatment of children and to report in 1990. The Secretary-General was asked to assist the Working Group; to intervene with the Government of South Africa to bring an end to the detention, torture and other inhuman treatment of children in South Africa and to report in 1990; and to bring the Commission's resolution to the attention of relevant UN bodies, specialized agencies and NGOs.

In an October report,(51) the Secretary-General summarized information received from UN bodies, specialized agencies and NGOs concerning torture and inhuman treatment of children in detention in South Africa and Namibia and presented

relevant excerpts from the report of the Ad Hoc Working Group.

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/143 without vote.

Torture and inhuman treatment of children
in detention in South Africa and Namibia

The General Assembly,

Recalling its resolution 43/134 of 8 December 1988 and taking note of Commission on Human Rights resolution 1989/4 of 23 February 1989,

Recalling also the relevant provisions of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Declaration on the Rights of the Child,

Taking note of the report of the Secretary-General and in particular the conclusion that torture and other forms of inhuman and degrading treatment of children and young people have continued unabated during the period under review,

1. Expresses its profound outrage at evidence of detention, torture and inhuman treatment of children in South Africa;

2. Vigorously condemns the apartheid racist régime for the increasing detention, torture and inhuman treatment of children in South Africa;

3. Reiterates its demand for the immediate and unconditional release of children held in detention by the apartheid régime in South Africa;

4. Demands the immediate dismantlement of the so-called "rehabilitation camps" and "re-education centres" in South Africa, since they only serve the racist régime's strategy of physically and mentally abusing black South African children;

5. Reiterates its request to all relevant United Nations bodies, specialized agencies and non-governmental organizations to intensify the world-wide campaign aimed at drawing attention to, monitoring and exposing these inhuman practices;

6. Requests the Commission on Human Rights to continue to pay special attention to the question of detention, torture and other inhuman treatment of children in South Africa;

7. Also requests the Commission on Human Rights to pay special attention to the children of Namibia who have been victims of torture, detention and other inhuman treatment by the apartheid régime, with a view to rehabilitating them;

8. Requests the Secretary-General to submit a report to the General Assembly at its forty-fifth session on the implementation of the present resolution;

9. Decides to consider this question at its forty-fifth session under the item entitled "Torture and other cruel, inhuman or degrading treatment or punishment".

General Assembly resolution 44/143

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/827) without vote, 22 November (meeting 52); 34-nation draft (A/C.3/44/L.51): agenda item 112.

Meeting numbers. GA 44th session: 3rd Committee 36-43, 50, 52; plenary 82.

Detention of juveniles

On 1 September,(52) the Sub-Commission, considering that a 1987 report of the Secretary-General(53) concerning the incarceration of children under the age of 18 with adult prisoners had not yet been discussed by the Sub-Commission, and that further information had meanwhile been made available to the Secretary-General on the issue, asked him to submit a revised version to the Sub-Commission for discussion in 1990. It decided to appoint Maria Concepción Bautista (Philippines) to prepare a report on the application of international standards concerning the human rights of detained juveniles, in particular the separation of juvenile children and adult offenders in penal institutions, detention pending trial, least possible use of institutionalization, and the objectives of institutional treatment. The Sub-Commission asked the Secretary-General to submit its resolution to Governments, specialized agencies and NGOs and request their comments on those issues.

Detention without charge or trial

On 6 March (54) the Commission, taking note of an analysis of questions dealt with in a paper on administrative detention without charge or trial(55) prepared by Special Rapporteur Louis Joinet (France), asked the Sub-Commission to consider the report to be submitted by Mr. Joinet and to make any proposals necessary on the question.

In a July report on administrative detention,(56) Mr. Joinet recommended the annual submission to the Commission of a special report on the development of all forms of administrative detention throughout the world, and said that particular attention should be paid to the subject by the Special Rapporteurs on summary executions, torture and states of emergency, as well as by the Working Group on Enforced or Involuntary Disappearances and other relevant UN monitoring bodies. It was recommended that the Special Rapporteur carry out an in-depth study, with a view to submitting proposals to the Commission.

Sub-Commission action. On 1 September,(57) the Sub-Commission, expressing its appreciation for the report submitted by Mr. Joinet, regretted that it was unable to study the report properly due to lack of time, and decided to examine his proposals and his revised report in 1990 as a matter of high priority.

Working Group on Detention

The Working Group on Detention met on 9 to 11, 15, 17 and 23 August in Geneva.(58) It discussed a new draft declaration on the protection of all persons from enforced or involuntary disap-

pearance, taking into account comments and views on the draft received from Governments, specialized agencies, UN bodies, NGOs and regional organizations.(59) The Group continued to consider detention resulting from the exercise of the right to freedom of expression, reviewed developments concerning the human rights of persons subjected to any form of detention or imprisonment and discussed the privatization of prisons. On 1 September,(60) the Sub-Commission decided to ask the Group's Chairman, Miguel Alfonso Martínez (Cuba), to prepare a working paper for consideration in 1990 containing proposals on the best way for the Sub-Commission to study further the issue of privatization of prisons. In response to the Working Group's suggestion, the Sub-Commission appealed(61) to States that retained the death penalty to consider the possibility of enacting legislation prohibiting the imposition of the death penalty on those persons under 18 years of age. The Sub-Commission asked the Secretary-General to transmit its resolution to all Governments, requesting comments and information on their legislation on the subject, as well as to specialized agencies and NGOs, and to prepare a report for submission in 1990 on the basis of information received.

Hostage-taking

Human Rights Commission action. On 6 March,(62) the Commission strongly condemned hostage-taking and those responsible and demanded the immediate release of those being held. It called on States to take preventive and punitive measures to put an immediate end to causes of abduction and unlawful restraint. It asked the Secretary-General, whenever a State so requested, to use all available means to secure the immediate release of persons held hostage.

Sub-Commission action. On 1 September,(63) the Sub-Commission condemned hostage-taking and the torture and murder that frequently accompanied it. It asked that all States take steps to prevent hostage-taking and to charge and bring to trial those who might participate in hostage-taking. The Secretary-General was asked to provide, prior to the Sub-Commission's 1990 session, a complete, up-to-date list of all UN personnel held in captivity including information concerning their names and the whereabouts of the captors, if known.

Detained UN staff members

Report of the Secretary-General. In February, the Secretary-General submitted to the Commission a report(64) updating developments pertaining to the detention of international civil servants and their families. Annexed to the report was a consolidated list of staff members under arrest and detention or missing.

Human Rights Commission action. On 6 March,(65) the Commission appealed to Member States to respect and ensure respect for the rights of staff members and others acting under UN authority and their families, and urged them, in accordance with the 1988 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,(34) to provide adequate and prompt information concerning their arrest or detention. It further urged Member States to allow medical teams to investigate the health of detained staff members, experts and their families and permit the necessary medical treatment. It asked the Secretary-General to continue his efforts to ensure that the human rights, privileges and immunities of UN staff members, experts and their families were fully respected, and to submit an updated report in 1990 on the situation of UN staff members, experts and their families detained, imprisoned, missing or held in a country against their will, including those cases that had been successfully settled during the last year.

Report of the Special Rapporteur. In August, Maria Concepción Bautista submitted a preliminary report(66) on the protection of the human rights of UN staff members, experts and their families. She discussed procedures to be followed in cases of arrest, detention or death; legal rights of the United Nations in cases of arrest or detention of staff members; relevant international instruments; and the Secretary-General's efforts to ensure respect for the privileges and immunities of UN staff members and experts.

Sub-Commission action. On 1 September,(67) the Sub-Commission asked the Secretary-General to redouble his efforts to ensure that the human rights, privileges and immunities of UN personnel, experts and their families were fully respected. It asked Maria Concepción Bautista, the Special Rapporteur, to continue her study and to submit an updated version of her report in 1990. Member States, the Secretary-General and the heads of the secretariats of the specialized agencies who had not yet done so were asked to communicate all information concerning cases of arrest, detention or abduction of officials of the United Nations or the specialized agencies since 1980, in order to enable the Special Rapporteur to complete her task.

Summary or arbitrary executions

Reports of the Special Rapporteur. The Commission on Human Rights considered a report(68) submitted by its Special Rapporteur on summary or arbitrary executions, S. Amos Wako (Kenya). In response to allegations of imminent or threatened summary or arbitrary executions which appeared *prima facie* relevant to his mandate, the Spe-

cial Rapporteur addressed urgent appeals to 23 Governments, and summarized the messages and replies in the report. He also sent letters to 36 Governments concerning alleged summary or arbitrary executions in their countries. Those allegations and the replies thereto were summarized in the report.

The Special Rapporteur concluded that there had been much indiscriminate killing of unarmed civilians on the part of governmental forces in conflict areas. He had also received more reports than at any prior time alleging increased use of chemical weapons. In addition, there was an increasing number of allegations to the effect that thousands of people had lost their lives at the hands of police or other enforcement officials in demonstrations. He recommended that the Centre for Human Rights should organize seminars for law enforcement officials to train them to carry out their work with due respect for the human rights of the individual, and to familiarize them with international human rights instruments related to their work.

The Special Rapporteur submitted a report(69) on his visit to Colombia (11-20 October) made at the invitation of the Government in connection with reports on summary or arbitrary executions transmitted to it by the Special Rapporteur.

Human Rights Commission action. On 8 March,(70) the Commission strongly condemned the large number of extrajudicial, summary or arbitrary executions taking place throughout the world, and appealed to Governments, UN bodies, specialized agencies, regional intergovernmental organizations and NGOs to take action to combat and eliminate them. It asked the Special Rapporteur on extrajudicial, summary or arbitrary executions to continue examining such executions and to respond effectively to information he received. The Commission asked the Secretary-General to assist the Special Rapporteur, to consider ways to publicize his work and recommendations, and to continue to use his best endeavours in cases where the minimum standard of legal safeguards provided for in articles 6, 14 and 15 of the 1966 International Covenant on Civil and Political Rights(1) appeared not to be respected.

Report of the Secretary-General. In accordance with a 1988 Sub-Commission request,(71) the Secretary-General, in July, described action by other international forums on international standards for the investigation of suspicious deaths in detention, as well as adequate autopsies.(72)

Sub-Commission action. On 1 September,(73) the Sub-Commission, emphasizing that law enforcement officials should not use force in ways which would undermine the right of everyone to peaceful assembly, recommended a draft text for adoption by the Commission on Human Rights.

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/159 without vote.

Summary or arbitrary executions

The General Assembly,

Recalling the provisions of the Universal Declaration of Human Rights, in which it is stated that every human being has the right to life, liberty and security of person,

Having regard to the provisions of the International Covenant on Civil and Political Rights, in which it is stated that every human being has the inherent right to life, that this right shall be protected by law and that no one shall be arbitrarily deprived of his life,

Recalling its resolution 36/22 of 9 November 1981, in which it condemned the practice of summary or arbitrary executions, and its resolutions 37/182 of 17 December 1982, 38/96 of 16 December 1983, 39/110 of 14 December 1984, 40/143 of 13 December 1985, 41/144 of 4 December 1986, 42/141 of 7 December 1987 and 43/51 of 8 December 1988,

Deeply alarmed at the continued occurrence on a large scale of summary or arbitrary executions, including extra-legal executions,

Recalling Economic and Social Council resolution 1984/50 of 25 May 1984 and the safeguards guaranteeing protection of the rights of those facing the death penalty annexed thereto, which resolution was endorsed by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders in its resolution 15,

Recalling also the close co-operation established between the Centre for Human Rights, the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs of the Secretariat and the Committee on Crime Prevention and Control with regard to the elaboration of the principles on the effective prevention and investigation of arbitrary and summary executions, including extra-legal executions,

Welcoming the adoption by the Economic and Social Council of its resolution 1989/65 of 24 May 1989, containing the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions,

Welcoming also the adoption by the Economic and Social Council of its resolution 1989/64 of 24 May 1989, entitled "Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty" and the recommendations contained therein,

Convinced of the need for appropriate action to combat and eventually eliminate the abhorrent practice of summary or arbitrary executions, which represents a flagrant violation of the most fundamental human right, the right to life,

1. Once again strongly condemns the large number of summary or arbitrary executions, including extra-legal executions, that continue to take place in various parts of the world;

2. Demands that the practice of summary or arbitrary executions be brought to an end;

3. Appeals urgently to Governments, United Nations bodies, the specialized agencies, regional intergovernmental organizations and non-governmental organizations to take effective action to combat and eliminate

summary or arbitrary executions, including extra-legal executions;

4. Reaffirms Economic and Social Council resolution 1982/35 of 7 May 1982, in which the Council decided to appoint a special rapporteur to consider the questions related to summary or arbitrary executions;

5. Recalls with satisfaction Economic and Social Council resolution 1988/38 of 7 May 1988, by which the Council decided to renew the mandate of the Special Rapporteur, Mr. S Amos Wako, for two years, while maintaining the annual reporting cycle;

6. Urges all Governments, in particular those which have consistently not responded to communications transmitted to them by the Special Rapporteur, and all others concerned to co-operate with and assist the Special Rapporteur so that he may carry out his mandate effectively;

7. Requests the Special Rapporteur, in carrying out his mandate, to respond effectively to information that comes before him, in particular when a summary or arbitrary execution is imminent or threatened, or when such an execution has recently occurred, and, furthermore, to promote exchanges of views between Governments and those who provide reliable information to the Special Rapporteur, where the Special Rapporteur considers that such exchanges of information might be useful;

8. Welcomes the recommendations made by the Special Rapporteur in his reports to the Commission on Human Rights at its forty-fourth and forty-fifth sessions with a view to eliminating summary or arbitrary executions;

9. Encourages Governments, international organizations and non-governmental organizations to organize training programmes and support projects with a view to training or educating law enforcement officers in human rights issues connected with their work, and appeals to the international community to support endeavours to that end;

10. Considers that the Special Rapporteur, in carrying out his mandate, should continue to seek and receive information from Governments, United Nations bodies, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council, as well as medical and forensic experts;

11. Requests the Secretary-General to continue to provide all necessary assistance to the Special Rapporteur so that he may effectively carry out his mandate;

12. Again requests the Secretary-General to continue to use his best endeavours in cases where the minimum standard of legal safeguards provided for in articles 6, 14 and 15 of the International Covenant on Civil and Political Rights appear not to have been respected;

13. Requests the Commission on Human Rights at its forty-sixth session, on the basis of the report of the Special Rapporteur to be prepared in conformity with Economic and Social Council resolutions 1982/35, 1983/36, 1984/35, 1985/40, 1986/36, 1987/60 and 1988/38, to make recommendations concerning appropriate action to combat and eventually eliminate the abhorrent practice of summary or arbitrary executions.

General Assembly resolution 44/159

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/848) without vote, 29 November (meeting 60); 23-nation draft (A/C.3/44/L.80); agenda item 12.

Meeting numbers. GA 44th session: 3rd Committee 48, 50-60; plenary 82.

Disappearance of persons

Human Rights Commission action. On 6 March,(74) the Commission requested the Working Group on Enforced or Involuntary Disappearances to submit all information it deemed necessary and any specific recommendations it might have regarding the fulfilment of its task and to report to the Commission in 1990. It noted the intention of the Working Group to submit to the Sub-Commission in 1989 observations concerning the draft declaration on enforced or involuntary disappearances. The Commission asked the Secretary-General to consider ways of better publicizing the Group's work and to ensure that the Group received all necessary assistance, in particular staff and resources, especially in carrying out missions and holding sessions in countries that were prepared to receive them.

Working Group activities. The five-member Working Group on Enforced or Involuntary Disappearances, established in 1980,(75) held three sessions in 1989: its twenty-seventh in New York (17-21 April), and its twenty-eighth and twenty-ninth in Geneva (28 August-1 September, 6-15 December).(76) The Group examined information on enforced or involuntary disappearances received from Governments, NGOs and relatives of missing persons.

In 1989, the Working Group received some 2,700 reports of enforced or involuntary disappearances and transmitted some 1,650 newly reported cases to the Governments concerned; 721 of those cases were reported to have occurred in 1989, 515 were transmitted under the urgent action procedure, and 112 were clarified in the same year. The remaining cases were referred back to the sources as they lacked elements required by the Group for their transmission.

The Working Group examined the draft declaration on enforced or involuntary disappearances, which was annexed to a 1988 report of the Working Group on Detention.(77)

In its concluding observations, the Group reviewed its activities over the past 10 years. It stated that during those years it had transmitted 19,000 cases to a total of 41 Governments. It noted that advisory services would benefit countries where the problem of disappearance was endemic.

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/160 without vote.

Question of enforced or involuntary disappearances
The General Assembly,

Recalling its resolution 33/173 of 20 December 1978 concerning disappeared persons, and its resolution 43/159 of 8 December 1988 on the question of enforced or involuntary disappearances,

Deeply concerned about the persistence, in certain cases, of the practice of enforced or involuntary disappearances, and about the fact that, in certain cases, the families of disappeared persons have been the target of intimidation and ill-treatment,

Expressing its profound emotion at the anguish and sorrow of the families concerned, who are unsure of the fate of their relatives,

Convinced of the need to continue implementing the provisions of its resolution 33/173 and of the other United Nations resolutions on the question of enforced or involuntary disappearances, with a view to finding solutions for cases of disappearances and helping to eliminate such practices,

Welcoming the progress made in the preparation of the draft declaration on enforced or involuntary disappearances,

Bearing in mind Commission on Human Rights resolution 1989/27 of 6 March 1989,

1. Expresses its appreciation to the Working Group on Enforced or Involuntary Disappearances for its humanitarian work and to those Governments that have cooperated with it;

2. Recalls the decision of the Commission on Human Rights, at its forty-fourth session, to extend for two years the term of the mandate of the Working Group, as defined in Commission resolution 20(XXXVI) of 29 February 1980, while maintaining the principle of annual reporting by the Working Group;

3. Also recalls the provisions made by the Commission on Human Rights in its resolution 1986/55 of 13 March 1986 to enable the Working Group to fulfil its mandate with greater efficiency;

4. Appeals to the Governments concerned, particularly those which have not yet replied to the communications addressed to them by the Working Group, to cooperate fully with it so as to enable it, with respect for its working methods based on discretion, to perform its strictly humanitarian role, and in particular to reply more quickly to the requests for information addressed to them;

5. Encourages the Governments concerned to consider the wish of the Working Group, when such a wish is expressed, to visit their countries, thus enabling it to fulfil its mandate even more effectively;

6. Extends its warm thanks to those Governments that have invited the Working Group and requests them to give all necessary attention to its recommendations;

7. Appeals to the Governments concerned to take steps to protect the families of disappeared persons against any intimidation or ill-treatment of which they may be the target;

8. Calls upon the Commission on Human Rights to continue to study this question as a matter of priority and to take any step it may deem necessary to the pursuit of the task of the Working Group when it considers the report to be submitted by the Working Group to the Commission at its forty-sixth session;

9. Renews its request to the Secretary-General to continue to provide the Working Group with all necessary facilities.

General Assembly resolution 44/160

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/848) without vote, 29 November (meeting 60): 24-nation draft (A/C.3/44/L.81), orally revised; agenda item 12. Meeting numbers. GA 44th session: 3rd Committee 48, 50-60; plenary 82.

Other aspects of civil and political rights Slavery

Human Rights Commission action. On 6 March,(78) the Commission asked the Secretary-General to invite States parties to the three slavery conventions—the 1926 Slavery Convention, the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery,(79) and the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others(80)—to submit regular reports to the Sub-Commission on the situation in their countries. It invited States that had not ratified the conventions to do so, or to explain in writing why they felt unable to. Relevant intergovernmental organizations, UN organizations and NGOs were asked to supply information to the Working Group on Contemporary Forms of Slavery. The Secretary-General was asked to undertake a study of ways of establishing an effective mechanism to implement the three slavery conventions; to assign a full-time professional staff member to serve the Working Group and undertake other activities relating to contemporary forms of slavery; to designate the Centre for Human Rights as the focal point for the co-ordination of activities; and to submit his final report on the sale of children to the Working Group in 1989.

Working Group activities. The Sub-Commission's five-member Working Group on Contemporary Forms of Slavery, at its fourteenth session (Geneva, 31 July-4 August and 25 August),(81) considered the status and implementation of the conventions on slavery and slavery-like practices; prevention of the sale of children, child prostitution and child pornography; and developments in other areas, including slavery and the slave trade, exploitation of child labour, debt bondage, the prevention of traffic in persons and the exploitation of the prostitution of others and slavery-like practices of apartheid and colonialism.

The Working Group had before it a May report(82) of the Secretary-General on ways of establishing an effective mechanism to implement the slavery conventions. He addressed the issues of amendment or modification of the slavery conventions, the establishment of a reporting procedure and strengthening the mandate, role and functioning of the Working Group on Slavery.

Sub-Commission action. On 1 September,(83) the Sub-Commission congratulated the Anti-Slavery Society, the oldest human rights organization in the world, on its one-hundred-and-fiftieth anniversary.

ECONOMIC AND SOCIAL COUNCIL ACTION

On 24 May, the Economic and Social Council, on the recommendation of its Second Committee, adopted resolution 1989/74 without vote.

Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities The Economic and Social Council,

Recalling Commission on Human Rights resolution 1982/20 of 10 March 1982 on the question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism,

Recalling also its resolutions 1982/20 of 4 May 1982 and 1983/30 of 26 May 1983 on the suppression of the traffic in persons and of the exploitation of the prostitution of others,

Considering that the report of its Special Rapporteur on the suppression of the traffic in persons and the exploitation of the prostitution of others still constitutes a useful basis for further action,

Recalling General Assembly resolutions 38/107 of 16 December 1983 and 40/103 of 13 December 1985 on the prevention of prostitution,

Gravely concerned that slavery, the slave trade and slavery-like practices still exist, that there are modern manifestations of those phenomena and that such practices represent some of the gravest violations of human rights,

Aware of the complexity of the issue of the suppression of the traffic in persons and the exploitation of the prostitution of others, and the need for further co-ordination and co-operation to implement the recommendations made by the Special Rapporteur and by various United Nations bodies,

1. Reminds States 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 of their obligation to submit to the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities regular reports on the situation in their countries, as provided for under the relevant conventions and under Council decision 16(LVI);

2. Endorses the request made by the Commission on Human Rights in its resolution 1989/35 of 6 March 1989 that the Secretary-General should assign a full-time professional staff member to serve the Working Group and undertake other activities relating to contemporary forms of slavery under the post which has been included in the budget of the Centre for Human Rights of the Secretariat for questions relating to slavery and slavery-like practices;

3. Also endorses the request made by the Commission on Human Rights in its resolution 1988/42 of 8 March 1988, that the Secretary-General should report to the Council on the steps taken by Member States, United Nations organizations and other intergovernmental organizations to implement the recommendations made in Council resolution 1983/30, and the request made by the Commission in its resolution 1989/35 that the Secretary-General should report to the Council at its first regular session of 1990 on the comments received;

4. Further endorses the request made by the Commission on Human Rights in its resolution 1989/35 that the Secretary-General should designate the Centre for Human Rights as the focal point for the co-ordination of United Nations activities for the suppression of contemporary forms of slavery;

5. Decides to consider the question of the suppression of traffic in persons at its first regular session of 1990 under the agenda item entitled "Human rights".

Economic and Social Council resolution 1989/74

24 May 1989 Meeting 16 Adopted without vote

Approved by Second Committee (E/1989/88) without vote, 19 May (meeting 22); draft by Commission on Human Rights (E/1989/201, amended by Netherlands (E/1989/C.2/L.16); agenda item 9.

Freedom of movement

Human Rights Commission action. On 6 March,(84) the Commission asked the Secretary-General to provide the necessary assistance to the Sub-Commission and the Special Rapporteur during the consideration of the Special Rapporteur's report(85) (see below, under "Discrimination") and the draft declaration on the right of everyone to leave any country, including his own, and to return to his country

Report of the Secretary-General. In a May report and later addenda,(86) the Secretary-General presented comments on the draft declaration received from Governments, specialized agencies, intergovernmental organizations and NGOs.

Sub-Commission action. On 31 August,(87) the Sub-Commission asked the Secretary-General to prepare an analytical compilation of the comments on the draft declaration received from Governments, specialized agencies, intergovernmental organizations and NGOs and of the comments made by Sub-Commission members. It decided to establish, at its 1990 session, a sessional open-ended working group with a view to preparing a revised version of the draft declaration.

Human rights and fundamental freedoms

On 7 March (88) the Commission expressed concern that in many parts of the world, persons were detained for seeking to exercise peacefully their human rights and fundamental freedoms, particularly the rights to freedom of expression, assembly and association. It asked Governments to release all persons deprived of their liberty for seeking peacefully to exercise those rights and freedoms or to promote and defend them and called on Governments, pending such release, to take measures to safeguard their human rights and fundamental freedoms.

Freedom of speech

Human Rights Commission action. On 6 March,(89) expressing concern at the extensive occurrence of detention of persons exercising their right to freedom of opinion and expression, the Commission appealed to States to ensure respect and support for that right. It took note of a 1988 Sub-Commission decision asking Danilo Türk (Yugoslavia) to prepare a working paper containing a proposal for carrying out a study concern-

ing the right to freedom of opinion and expression to serve as a basis for future Sub-Commission decisions.

Working paper. In a June working paper,(90) Mr. Türk discussed the main elements of the right to freedom of opinion and expression, permissible limitations of that right and the limitations which might jeopardize it. He recommended that the Sub-Commission appoint two of its members to work jointly on a study to be entitled "The right to freedom of opinion and expression: current problems of its realization and measures necessary for its strengthening and promotion". He stated that the priority area of the study should be the political dimension of that right.

Sub-Commission action. On 31 August,(91) the Sub-Commission, endorsing the recommendations made by Mr. Türk, decided to entrust Louis Joinet and Mr. Türk with preparing a study on the right to freedom of opinion and expression, current problems of its realization and measures necessary for its strengthening and promotion.

Conscientious objectors

Report of the Secretary-General. In 1989, the Commission on Human Rights had before it a report of the Secretary-General(92) presenting views on conscientious objection to military service of States with national military service that provided for alternatives to service in the armed forces; of States that did not, in principle, allow conscientious objection to military service but considered individual cases; of States that had no standing army or with voluntary military service; and of UN bodies and specialized agencies, intergovernmental organizations and NGOs.

Human Rights Commission action. On 8 March,(93) the Commission requested the Secretary-General to report in 1991 on conscientious objection to military service, taking into account comments provided by Governments and other information received by him.

Independence of the judicial system

On 6 March,(94) the Commission expressed its appreciation to Special Rapporteur L. M. Singhvi (India) for his 1985 study on the independence and impartiality of the judiciary(95) and the revised draft declaration on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers(96) It also asked Governments to take into account the principles set forth in the draft declaration in implementing the 1985 Basic Principles on the Independence of the Judiciary.(97) It asked the Sub-Commission to consider effective means to monitor the implementation of the Basic Principles and the protection of practising lawyers. The Secretary-General was asked to transmit the study and the draft decla-

ration to the Committee on Crime Prevention and Control and to the Eighth (1990) United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The Commission also urged the Committee and the Congress to take them into account in completing work on the draft basic principles on the role of lawyers (see PART THREE, Chapter XII).

The Economic and Social Council, by resolution 1989/60 of 24 May, adopted the Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary (see PART THREE, Chapter XII).

Sub-Commission action. On 31 August,(98) the Sub-Commission asked Louis Joinet to prepare a working paper on ways by which the Sub-Commission could assist in ensuring respect for the independence of the judiciary and the protection of practising lawyers. It also asked the Secretary-General to assist Mr. Joinet.

Right to a fair trial

Sub-Commission action. On 1 September,(99) the Sub-Commission decided to appoint Stanislav Chernichenko (Russian Federation) and William Treat (United States) as rapporteurs to prepare a report on existing international norms and standards pertaining to the right to a fair trial. It asked them to recommend which provisions guaranteeing the right to a fair trial should be made non-derogable.

REFERENCES

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Economic, social and cultural rights

Report of the Secretary-General. The Commission on Human Rights considered a report of the Secretary-General containing replies from Governments, UN bodies, specialized agencies and NGOs on their policies regarding the implementation, promotion and protection of economic, social and cultural rights.(1)

Human Rights Commission action. On 2 March,(2) by a roll-call vote of 31 to 10, with 1 abstention, the Commission appealed to States to pursue policies for the implementation, promotion and protection of economic, social, cultural, civil and political rights and called on them to co-operate in promoting social progress and better standards of life in larger freedom. It asked the Secretary-General to provide the Special Rapporteur, Danilo Türk, appointed in 1988,(3) with any assistance he might need in preparing a study of problems, policies and progressive measures relating to a more effective realization of those rights. On the same date,(4) the Commission approved the Sub-Commission's 1988 decision(3) to entrust the Special Rapporteur with the study and its request to him to submit a preliminary report in 1989, as well as its request to the Secretary-General for assistance. The Commission's request to the Secretary-General to assist the Special Rapporteur was endorsed by the Economic and Social Council by decision 1989/138 of 24 May.

Report of the Special Rapporteur. In a preliminary report(5) submitted in June, the Special Rapporteur discussed the possibility of a unified UN approach to economic, social and cultural rights, problems in realizing those rights at the national level, and international co-operation. He indicated a number of problem areas on which the study on the realization of economic, social and cultural rights should focus; these included further discussion of a unified approach to the interpretation and realization of the rights in question; extreme poverty and the effects of structural adjust-

ment policies; international co-operation; and the role of UN development agencies.

Sub-Commission action. On 31 August,(6) the Sub-Commission asked the Special Rapporteur to prepare a progress report for consideration at its forty-second session and requested the Secretary-General to provide him with all the assistance he needed.

Covenant on Economic, Social and Cultural Rights

As at 31 December 1989, the International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly in 1966(7) and in force since 1976,(8) had been ratified or acceded or succeeded to by 94 States. Algeria and Ireland became parties to the Covenant in 1989.(9)

The Secretary-General provided information on the status of ratifications of or accessions and successions to the Covenant as at 1 August 1989.(10)

Implementation of the Covenant

Human Rights Commission action. On 2 March,(11) the Commission appealed to all States that had not done so to become parties to the Covenant. It encouraged the Committee on Economic, Social and Cultural Rights to strive towards the application of universally recognized criteria in implementing the Covenant and encouraged Governments to publish the Covenant in as many languages as possible and to disseminate it widely. The Commission also asked the Secretary-General to report in 1990 on the status of the Covenant.

On the same date,(12) the Commission asked the Secretary-General to consult with the Committee as to how the programme of advisory services could be used to promote enhanced respect for economic, social and cultural rights.

Committee on Economic, Social and Cultural Rights. The Committee on Economic, Social and Cultural Rights, established in 1985,(13) held its third session at Geneva from 6 to 24 February.(14) Its pre-sessional working group, a five-member group established in 1988(15) to meet for one week prior to each session, met at Geneva from 30 January to 3 February.

Concerning the rights covered by articles 6 to 9 of the Covenant (the right to work and to favourable conditions of work, trade union rights and the right to social security), the Committee examined reports from Canada,(16) the Netherlands,(17) Rwanda,(18) and Trinidad and Tobago.(19) Rights covered under articles 10 to 12 (the protection of the family, mothers and children, and the right to an adequate living standard and to physical and mental health) were examined in reports submitted by Cameroon, (20) France(21) the Nether-

lands,(22) Poland,(23) Trinidad and Tobago,(24) Tunisia(25) and the United Kingdom.(26) As to the rights covered by articles 13 to 15 (education, including compulsory education, and cultural participation), the Committee considered reports from the Netherlands,(27) Rwanda,(28) and Trinidad and Tobago.(29) It also considered supplementary information submitted by Zaire.(30)

The Committee's day of general discussion focused on article 11, the right of everyone to an adequate standard of living for himself and his family (including adequate food, clothing and housing) and to the continuous improvement of living conditions.

In response to a 1988 Economic and Social Council request,(31) Special Rapporteur Asbjorn Eide made a presentation of his 1987 study(32) on the right to adequate food in order for the Committee to submit its observations thereon.

In 1989, the Committee began to prepare general comments based on the articles and provisions of the Covenant with a view to assisting the States parties in fulfilling their reporting obligations. Its first general comment outlined the objectives of reports submitted by States parties.

Annexed to the Committee's report was a list of States parties to the Covenant as at 24 February 1989 and provisional rules of procedure adopted by the Committee on 21 February.

The Economic and Social Council, by decision 1989/158 of 24 May, took note of the provisional rules of procedure and decided to defer until 1990 consideration of those rules. In the interim, the Council asked the Committee to continue to use the rules of procedure of the Council.(33)

Other action. The Secretary-General transmitted to the Economic and Social Council the eleventh report of the International Labour Organisation (ILO) Committee of Experts on the Application of Conventions and Applications on progress made towards the observance of the provisions of the Covenant lying within ILO's scope of activities. The report described progress in the observance of articles 6 to 10 in 13 States.(34)

Interdependence of economic, social, cultural, civil and political rights

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/130 by recorded vote.

Indivisibility and interdependence of economic, social, cultural, civil and political rights

The General Assembly,

Mindful of the obligations of States under the Charter of the United Nations to promote social progress and better standards of life in larger freedom and universal respect for, and observance of, human rights and fun-

damental freedoms for all without distinction as to race, sex, language or religion.

Reaffirming the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Declaration on Social Progress and Development,

Recalling that in the preambles to the International Covenants on Human Rights, it is recognized that the ideal of free human beings enjoying freedom from fear and want can be achieved only if conditions are created whereby persons may enjoy their economic, social and cultural rights as well as their civil and political rights,

Also recalling its resolutions 40/114 of 13 December 1985, 41/117 of 4 December 1986, 42/102 of 7 December 1987 and 43/113 of 8 December 1988,

Reaffirming the provisions of its resolution 32/130 of 16 December 1977 that all human rights and fundamental freedoms are indivisible and interdependent and that the promotion and protection of one category of rights can never exempt or excuse States from the promotion and protection of the other rights,

Convinced that equal attention and urgent consideration should be given to the implementation, promotion and protection of economic, social, cultural, civil and political rights,

Desirous of removing all obstacles to the full realization of human rights, in particular mass and flagrant violations of human rights,

Reaffirming that there is a close and multidimensional relationship between disarmament and development, that progress in disarmament would considerably promote progress in development and that resources released through disarmament measures could contribute to the economic and social development and well-being of all peoples,

Recognizing that the realization of the right to development may help to promote the enjoyment of all human rights and fundamental freedoms,

Recalling Commission on Human Rights resolutions 1985/42 of 14 March 1985, 1986/15 of 10 March 1986, 1987/19 and 1987/20 of 10 March 1987, and 1988/22 and 1988/23 of 7 March 1988, and taking note of Commission resolutions 1989/12 and 1989/13 of 2 March 1989, in which it is stated that the implementation, promotion and protection of economic, social and cultural rights have not received sufficient attention within the framework of the United Nations system.

1. Notes the essential importance of national efforts and international co-operation to achieve the full and effective realization of all human rights recognized in the International Covenants on Human Rights and other international instruments;

2. Appeals to all States to pursue policies directed towards the implementation, promotion and protection of economic, social, cultural, civil and political rights recognized in the International Covenants on Human Rights and other international instruments;

3. Requests the Secretary-General to intensify his efforts under the programme of advisory services to States in the implementation, promotion and protection of human rights and fundamental freedoms set forth in the International Covenants on Human Rights and other international instruments;

4. Urges the Secretary-General to take determined steps, within existing resources, to give publicity to the

Human Rights Committee and to the Committee on Economic, Social and Cultural Rights and to ensure that they receive full administrative support in order to enable them to discharge their functions effectively;

5. Requests the organs of the United Nations, in co-operation with the specialized agencies, Member States and non-governmental organizations, to pay equal attention to economic, social, cultural, civil and political rights in the World Public Information Campaign for Human Rights;

6. Decides to consider the question of the indivisibility and interdependence of economic, social, cultural, civil and political rights at its forty-fifth session under the item entitled "International Covenants on Human Rights".

General Assembly resolution 44/130

15 December 1989 Meeting 82 124-0-23 (recorded vote)

Approved by Third Committee (A/44/824) by recorded vote (116-0-24), 22 November (meeting 52); 7-nation draft (A/C.3/44/L.48), orally revised: agenda item 98.

Sponsors: Algeria, Bulgaria, Byelorussian SSR, German Democratic Republic, Guatemala, Mongolia, Nicaragua.

Meeting numbers. GA 44th session: 3rd Committee 36-43, 50, 52; plenary 82.

Recorded vote in Assembly as follows:

In favour: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Byelorussian SSR, Cameroon, Cape Verde, Central African Republic, Chad, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Ethiopia, Fiji, Gabon, Gambia, German Democratic Republic, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mongolia, Morocco, Mozambique, Myanmar, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Uganda, Ukrainian SSR, USSR, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe.

Against: None.

Abstaining: Austria, Belgium, Canada, Chile, Denmark, Finland, France, Germany, Federal Republic of, Greece, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Turkey, United Kingdom, United States.

Right to development

Working Group activities. In 1989, the Working Group of Governmental Experts on the Right to Development held its twelfth session (Geneva, 23-27 January). (35)

Pursuant to a 1988 General Assembly resolution, (36) the 15-member Group considered an analytical compilation of comments on the implementation of the 1986 Declaration on the Right to Development (37) prepared by the Secretary-General and replies received from Governments, UN bodies and specialized agencies, governmental organizations and NGOs. (38) The Group recommended eliciting from Governments, UN organs and other bodies through a questionnaire more specific views on ways to implement the Declaration. It also advised: integrating the right

to development with other human rights in the World Public Information Campaign to be launched in 1989; including the right to development in the advisory services of the Centre for Human Rights; paying special attention to vulnerable groups; inviting the Secretary-General to prepare, on a continuing basis, an analytical compendium containing provisions of national laws and administrative and judicial measures that implement the Declaration's provisions; and urging the Secretary-General to increase collaboration and co-ordination with interested NGOs. It recommended to the Commission on Human Rights that the Commission request the Secretary-General to explore possibilities of initiating consultation and an exchange of views with experts in development and human rights, and invite him to organize a global consultation on the realization of the right to development, in 1989 if possible. It reiterated its recommendation that there was a need for continuing evaluation mechanisms regarding the Declaration.

Human Rights Commission action. On 6 March, (39) the Commission asked the Secretary-General to circulate the Working Group's report to Governments, UN bodies and specialized agencies, governmental organizations and NGOs, drawing their attention to the analytical compilation of replies. It also asked him to transmit the Group's report to the General Assembly at its current session and to transmit a questionnaire to Governments, UN bodies and specialized agencies, governmental organizations and NGOs to elicit additional, updated and more specific views on the implementation and further enhancement of the Declaration. It further invited him to organize, in 1989, a global consultation on the realization of the right to development; to prepare background documents to assist the consultation; and to submit a report on the consultation in 1990. The Commission requested that the right to development be fully integrated with other human rights in the World Public Information Campaign for Human Rights to be launched in 1989 and that the right to development be included in the programme of activities of the advisory services of the Centre for Human Rights.

On 24 May, the Economic and Social Council, by decision 1989/141, approved the Commission's invitation to the Secretary-General to organize a global consultation.

The global consultation was scheduled to be held in January 1990 at Geneva.

Sub-Commission action. On 30 August, (40) the Sub-Commission, considering that among the reasons for the non-realization of human rights and fundamental freedoms in developing countries were economic, social and cultural problems, decided to consider, on an annual basis, the item

"The new international economic order and the promotion of human rights".

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/62 without vote.

Right to development

The General Assembly,

Recalling the proclamation by the General Assembly at its forty-first session of the Declaration on the Right to Development,

Recalling also its resolutions and those of the Commission on Human Rights relating to the right to development, and taking note of Commission resolution 1989/45 of 6 March 1989, endorsed by the Economic and Social Council by its decision 1989/141,

Reiterating the importance of the right to development for all countries, in particular the developing countries,

Having considered the report of the Working Group of Governmental Experts on the Right to Development and all other relevant documents submitted to the General Assembly at its forty-fourth session,

Aware of the interest shown by several Member States, specialized agencies and non-governmental organizations in the work of the Working Group,

1. Expresses the hope that the replies of Governments, United Nations bodies and specialized agencies, and governmental and non-governmental organizations, including those active in development and human rights, to the request made by the Secretary-General, pursuant to Commission on Human Rights resolution 1989/45, will contain additional, updated and more specific views and proposals on the subject of the implementation and further enhancement of the Declaration on the Right to Development;

2. Takes note of the invitation of the Commission to the Secretary-General to organize, within existing resources, a global consultation on the realization of the right to development, which would involve experts with relevant experience gained at the national level and representatives of the United Nations system, including the specialized agencies, regional intergovernmental organizations and interested non-governmental organizations, including those active in development and human rights, and which would focus on the fundamental problems posed by the implementation of the Declaration, the criteria that might be used to identify progress and mechanisms for evaluating and stimulating such progress;

3. Expresses the hope that the results of that global consultation, the report on which is to be presented to the Commission at its forty-sixth session, will substantially contribute to the future work of the Commission on the implementation and further enhancement of the Declaration;

4. Endorses the view of the Commission that there is a need for a continuing evaluation mechanism to ensure the promotion, encouragement and reinforcement of the principles set forth in the Declaration;

5. Urges all relevant bodies of the United Nations system, particularly the specialized agencies, when planning their programmes of activities, to take due account

of the Declaration and to make efforts to contribute to its application;

6. Requests the Secretary-General to inform the Commission at its forty-sixth session and the General Assembly at its forty-fifth session of the activities of the organizations of the United Nations system for the implementation of the Declaration;

7. Calls upon the Commission to decide at its forty-sixth session on the future course of action on the question, in particular on practical measures for the implementation and enhancement of the Declaration;

8. Invites the Commission to report on the question to the General Assembly at its forty-fifth session, through the Economic and Social Council;

9. Decides to consider this question at its forty-fifth session under the item entitled "Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms".

General Assembly resolution 44/62

8 December 1989 Meeting 78 Adopted without vote

Approved by Third Committee (A/44/799) without vote, 20 November (meeting 49); 39-nation draft (A/C.3/44/L.38); agenda item 96 (b).

Meeting numbers. GA 44th session: 3rd Committee 34, 35, 43, 49; plenary 78.

Extreme poverty

Human Rights Commission action. On 2 March,(41) the Commission drew the attention of the General Assembly and all UN bodies to the contradiction between the existence of situations of extreme poverty and exclusion of society and the duty to guarantee full enjoyment of human rights, and urged the Committee on Economic, Social and Cultural Rights to give the necessary attention to that question. It asked the Sub-Commission to pay particular attention to the question of extreme poverty and exclusion from society and to examine the feasibility of a study on the topic.

Foreign debt

Human Rights Commission action. By a roll-call vote of 30 to 6, with 6 abstentions, the Commission, on 2 March,(42) decided to include in the agenda of its 1990 session the subject of foreign debt, economic adjustment policies and their effects on the full enjoyment of human rights and, in particular, on the implementation of the Declaration on the Right to Development.

Sub-Commission action. On 31 August,(43) by a roll-call vote of 17 to 1, with 1 abstention, the Sub-Commission invited the Special Rapporteur on problems, policies and progressive measures relating to the more effective realization of economic, social and cultural rights to take those factors into account in his study. It considered it necessary to invite the developed countries and multilateral financial institutions to take particular account, in formulating their debt policies, of

social objectives and growth and development priorities.

Right to food

In a July report,(44) the Secretary-General presented information received from the Food and Agriculture Organization of the United Nations (FAO) and the International Law Association on the right to food in response to his request for a description of laws States had pertaining to the right to food.

Popular participation and human rights

Reports of the Secretary-General. The Commission had before it two reports of the Secretary-General on popular participation and human rights.

One of the reports(45) contained comments on a 1985 study on popular participation in its various forms as an important factor in development and in the full realization of all human rights(46) received from Governments, UN bodies and Secretariat departments, specialized agencies and NGOs. The other report, a study of laws and practices regarding popular participation,(47) presented the views of States on popular participation in relation to some civil and political rights, certain economic, social and cultural rights, and vulnerable or disadvantaged groups.

Human Rights Commission action. On 2 March,(48) the Commission invited Governments, UN organs, specialized agencies and NGOs that had not yet done so to comment on the study on popular participation,(45) and asked the Secretary-General to submit a report in 1990 containing comments made by them. It also asked him to prepare a study for submission in 1991 regarding the extent to which the right to participation had been established and had evolved at the national level.

GENERAL ASSEMBLY ACTION

On 8 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/53 without vote.

Popular participation in its various forms as an important factor in development and in the full realization of all human rights

The General Assembly,

Recalling its resolutions 34/152 of 17 December 1979, 37/55 of 3 December 1982, 38/24 of 22 November 1983 and 40/99 of 13 December 1985.

Recalling also Economic and Social Council resolution 1983/31 of 27 May 1983 and decision 1984/131 of 24 May 1984 and taking note of Commission on Human Rights resolution 1989/14 of 2 March 1989,

Reaffirming that popular participation in all its various forms constitutes an important factor in socio-

economic development and in the full realization of all human rights and the dignity of the human person,

1. Invites Governments, the concerned specialized agencies and other organizations of the United Nations system and the relevant non-governmental organizations that have not yet done so to transmit to the Secretary-General their comments on the study on popular participation in its various forms as an important factor in development and in the full realization of all human rights;

2. Requests the Commission on Human Rights to continue to consider at its forty-sixth and, if desired by the Commission, at its forty-seventh, forty-eighth and forty-ninth sessions, the question of popular participation in its various forms as an important factor in the full realization of all human rights, and to inform the General Assembly at its forty-eighth session, through the Economic and Social Council, of the results of that consideration;

3. Decides to continue the consideration of this question at its forty-eighth session, in the context of the item relating to the world social situation, under the sub-item entitled "Popular participation in its various forms as an important factor in development and in the full realization of all human rights".

General Assembly resolution 44/53

8 December 1989 Meeting 78 Adopted without vote

Approved by Third Committee (A/44/749) without vote, 9 November (meeting 37): 20-nation draft (A/C.3/44/L.13): agenda item 90 (b). Meeting numbers. GA 44th session: 3rd Committee 12-20, 30, 37: plenary 78.

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Advancement of human rights

In November, in his fourth biennial progress report on international conditions and human rights⁽¹⁾ issued pursuant to a 1981 General Assembly request,⁽²⁾ the Secretary-General submitted substantive information and views on the

subject received during the year from seven Governments and four UN specialized agencies.

The Secretary-General noted that Member States had drawn attention to such issues as international peace and security and human rights; the impact of the arms race on human rights; international co-operation and human rights; elimination of racial discrimination and apartheid; decolonization; development and international economic conditions; legislative activity and the implementation of international human rights instruments; activities of international organizations; and measures undertaken at the national level. Specialized agencies, for their part, described activities for the promotion and protection of human rights within their areas of concern. Some Governments and organizations underlined the necessity to intensify the struggle against racism, racial discrimination and apartheid, stating that their eradication was central to achieving the UN objectives in maintaining world peace and securing social progress. It was emphasized that all forms of racial discrimination, besides constituting a violation of fundamental human rights, tended to jeopardize friendly relations among peoples, co-operation between nations, and international peace and security.

Noting the complex interrelationship between international conditions and human rights, the Secretary-General pointed out that human rights violations led to political consequences injurious to the long-term interests of peace and that the stability of national and international society could only rest upon a foundation of assured human rights.

GENERAL ASSEMBLY ACTION

On 8 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/63 by recorded vote.

Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms

The General Assembly,

Recalling that in the Charter of the United Nations the peoples of the United Nations declared their determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and of nations large and small and to employ international machinery for the promotion of the economic and social advancement of all peoples,

Recalling also the purposes and principles of the Charter to achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion,

Emphasizing the significance and validity of the Universal Declaration of Human Rights and of the International Covenants on Human Rights in promoting respect for and observance of human rights and fundamental freedoms,

Recalling its resolution 32/130 of 16 December 1977, in which it decided that the approach to future work within the United Nations system with respect to human rights questions should take into account the concepts set forth in that resolution,

Recalling also its resolutions 34/46 of 23 November 1979, 35/174 of 15 December 1980, 36/133 of 14 December 1981, 38/124 of 16 December 1983, 39/145 of 14 December 1984, 40/124 of 13 December 1985, 41/131 and 41/133 of 4 December 1986, 42/119 of 7 December 1987 and 43/125 of 8 December 1988,

Taking into account Commission on Human Rights resolution 1985/43 of 14 March 1985,

Reiterating that the right to development is an inalienable human right and that equality of development opportunities is a prerogative both of nations and of individuals within nations,

Recognizing that the human being is the main subject of development and that everyone has the right to participate in, as well as to benefit from, the development process,

Bearing in mind that the grave economic situation facing the developing countries noticeably affects the effective promotion and full enjoyment of human rights and fundamental freedoms,

Reiterating once again that the establishment of the new international economic order is an essential element for the effective promotion and full enjoyment of human rights and fundamental freedoms for all,

Reiterating also its profound conviction that all human rights and fundamental freedoms are indivisible and interdependent and that equal attention and urgent consideration should be given to the implementation, promotion and protection of civil and political rights and of economic, social and cultural rights,

Emphasizing the need for the creation, at the national and international levels, of conditions for the promotion and full protection of the human rights of individuals and peoples,

Recognizing that international peace and security are essential elements for the full realization of human rights, including the right to development,

Convinced that the resources that would be released by disarmament could contribute significantly to the development of all States, in particular the developing countries,

reiterating that co-operation among all nations on the basis of respect for the independence, sovereignty and territorial integrity of each State, including the right of every people to choose freely its own socio-economic and political system, is essential for the promotion of peace and development,

Convinced that the primary aim of such international co-operation must be the achievement by all human beings of a life of freedom and dignity and freedom from want,

Concerned, however, about the occurrence of violations of human rights in the world,

Reaffirming that nothing in the Universal Declaration of Human Rights or in the International Covenants on Human Rights may be interpreted as implying for any

State, group or person the right to engage in any activity or perform any act aimed at destroying any of the rights and freedoms proclaimed therein,

Affirming that the ultimate aim of development is the steady improvement of the well-being of the entire population, on the basis of its full participation in the process of development and a fair distribution of the benefits therefrom,

Considering that the efforts of the developing countries for their own development should be supported by an increased flow of resources and by the adoption of appropriate and substantive measures for creating an external environment conducive to such development,

Taking into account the final documents of the Ninth Conference of Heads of State or Government of Non-Aligned Countries, held at Belgrade from 4 to 7 September 1989,^a

Bearing in mind the stipulations of the final documents of the Ministerial Meeting of the Co-ordinating Bureau of the Movement of Non-Aligned Countries, held at Harare from 17 to 19 May 1989,^b particularly paragraphs 10 to 13 of the Economic Declaration,

Emphasizing the special importance of the purposes and principles proclaimed in the Declaration on the Right to Development,

Taking into account Commission on Human Rights resolutions 1989/15 of 2 March 1989 and 1989/45 of 6 March 1989,

Reaffirming the importance of furthering the activities of the organs of the United Nations in the field of human rights in conformity with the principles of the Charter,

Emphasizing that Governments have the duty to ensure respect for all human rights and fundamental freedoms,

1. Reiterates its request that the Commission on Human Rights should continue its current work on overall analysis with a view to further promoting and strengthening human rights and fundamental freedoms, including the question of the programme and working methods of the Commission, and on the overall analysis of the alternative approaches and ways and means for improving the effective enjoyment of human rights and fundamental freedoms, in accordance with the provisions and concepts of General Assembly resolution 32/130 and other relevant texts;

2. Affirms that a primary aim of international co-operation in the field of human rights is a life of freedom, dignity and peace for all peoples and for every human being, that all human rights and fundamental freedoms are indivisible and interrelated and that the promotion and protection of one category of rights should never exempt or excuse States from promoting and protecting the others;

3. Reaffirms that equal attention and urgent consideration should be given to the implementation, promotion and protection of civil and political rights and of economic, social and cultural rights;

4. Reaffirms also that it is of paramount importance for the promotion of human rights and fundamental freedoms that Member States should assume specific obligations by acceding to or ratifying international instruments in this field and, consequently, that the work within the United Nations system of setting standards

^a A/44/551-S/20870.

^b A/44/409-S/20743 & corr.1,2.

in the field of human rights and universal acceptance and implementation of the relevant international instruments should be encouraged;

5. Reiterates or again that the international community should accord, or continue to accord, priority to the search for solutions to mass and flagrant violations of human rights of peoples and individuals affected by situations such as those mentioned in paragraph 1 (e) of General Assembly resolution 32/130, paying due attention also to other situations of violations of human rights;

6. Reaffirms its responsibility for achieving international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all, and expresses its concern at serious violations of human rights, in particular mass and flagrant violations of those rights, wherever they occur;

7. Expresses concern at the present situation as regards the achievement of the objectives and goals for the establishment of the new international economic order, and at its adverse effects on the full realization of human rights, in particular the right to development;

8. Reaffirm that the right to development is an inalienable human right;

9. Reaffirms also that international peace and security are essential elements for achieving full realization of the right to development;

10. Recognizes that all human rights and fundamental freedoms are indivisible and interdependent;

11. Considers it necessary for all Member States to promote international co-operation on the basis of respect for the independence, sovereignty and territorial integrity of each State, including the right of every people to choose freely its own socio-economic and political system, with a view to solving international economic, social and humanitarian problems;

12. Expresses concern at the disparity existing between established norms and principles and the actual situation of all human rights and fundamental freedoms in the world;

13. Urges all States to co-operate with the Commission on Human Rights in the promotion and protection of human rights and fundamental freedoms;

14. Reiterates the need to create, at the national and international levels, conditions for the full promotion and protection of the human rights of individuals and peoples;

15. Reaffirms once again that, in order to facilitate the full enjoyment of all human rights without diminishing personal dignity, it is necessary to promote the rights to education, work, health and proper nourishment through the adoption of measures at the national level, including those that provide for the right of workers to participate in management, as well as the adoption of measures at the international level, including the establishment of the new international economic order;

16. Decides that the approach to future work within the United Nations system on human rights matters should also take into account the content of the Declaration on the Right to Development and the need for the implementation thereof;

17. Decides to include in the provisional agenda of its forty-fifth session the item entitled "Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms".

General Assembly resolution 44/63

8 December 1989 Meeting 78 129-1-25 (recorded vote)

Approved by Third Committee (A/44/799) by recorded vote (113-1-25), 20 November (meeting 49): 37-nation draft (A/C.3/44/L.39); agenda item 96. Meeting numbers. GA 44th session: 3rd Committee 34, 35, 43, 49; plenary 78.

Recorded vote in Assembly as follows:

In favour: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Byelorussian SSR, Cameroon, Cape Verde, Central African Republic, Chad, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Gabon, Gambia, German Democratic Republic, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Poland, Qatar, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian SSR, USSR, United Arab Emirates, United-Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: United States.

Abstaining: Australia, Austria, Belgium, Canada, Chile, Denmark, Finland, France, Germany Federal Republic of, Greece, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Malta, Netherlands, Norway, Philippines, Portugal, Spain, Sweden, Turkey, United Kingdom.

National institutions for human rights protection

Report of the Secretary-General. In response to a 1987 General Assembly request,(3) the Secretary-General submitted to the Commission at its 1989 session an updated report(4) on national institutions for the promotion and protection of human rights, prepared further to his 1987 report on the subject.(5) The updated report analysed information received from seven Governments as at 15 February 1989 with regard to various models of institutions and their functioning, including legislative organs and organs established to examine the constitutionality of law, judicial organs, administrative organs and the ombudsman, as well as the role of NGOs. Annexed to the report was a list of national institutions.

Human Rights Commission action. On 7 March, the Commission reaffirmed(6) the importance of developing national institutions for the promotion and protection of human rights and of maintaining their independence and integrity. It encouraged Member States to exchange information and experience as well as to develop funding and other strategies concerning the establishment and operation of such institutions. The Commission also affirmed the role of national institutions as focal points for the dissemination of human rights materials and other public information activities under UN auspices, and requested the Secretary-General to assist Member States in that regard.

Note of the Secretary-General. In a 22 September note,⁽⁷⁾ the Secretary-General informed the General Assembly that, pursuant to its 1987 request, (3) the Centre for Human Rights was in the process of preparing his updated report for publication as a UN handbook in the six official languages, to be distributed world wide.

GENERAL ASSEMBLY ACTION

On 8 December, on the recommendation of the Third Committee, the Assembly adopted resolution 44/64 without vote.

National institutions for the protection and promotion of human rights

The General Assembly,

Recalling the relevant resolutions concerning national institutions for the protection and promotion of human rights, notably its resolution 41/129 of 4 December 1986 and Commission on Human Rights resolutions 1987/40 of 10 March 1987 and 1988/72 of 10 March 1988, and taking note of Commission resolution 1989/52 of 7 March 1989,

Emphasizing the importance of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments for promoting respect for and observance of human rights and fundamental freedoms,

Affirming that priority should be accorded to the development of appropriate arrangements at the national level to ensure the effective implementation of international human rights standards,

Conscious of the significant role that institutions at the national level can play in protecting and promoting human rights and fundamental freedoms and in developing and enhancing public awareness of those rights and freedoms,

Recognizing that the United Nations can play a catalytic role in assisting the development of national institutions by acting as a clearing-house for the exchange of information and experience,

Mindful in this regard of the guidelines on the structure and functioning of national and local institutions for the protection and promotion of human rights endorsed by the General Assembly in its resolution 33/46 of 14 December 1978,

Noting the diverse approaches adopted throughout the world for the protection and promotion of human rights at the national level, and recognizing the value of such approaches,

1. Takes note of the note by the Secretary-General;
2. Reaffirms the importance of developing, in accordance with national legislation, effective national institutions for the protection and promotion of human rights and of maintaining their independence and integrity;
3. Encourages Member States to establish or, where they already exist, to strengthen national institutions for the protection and promotion of human rights and to incorporate those elements in national development plans;
4. Welcomes the increase in the number of national institutions for the protection and promotion of human rights in various countries around the world;

5. Encourages initiatives on the part of Governments and regional, international, intergovernmental and non-governmental organizations intended to strengthen existing national institutions and to establish such institutions where they do not exist;

6. Notes with appreciation the action taken by the Centre for Human Rights of the Secretariat to co-operate with regional and national institutions for the protection and promotion of human rights;

7. Encourages all Member States to take appropriate steps to promote the exchange of information and experience concerning the establishment and operation of such national institutions;

8. Requests the Secretary-General to prepare, with the assistance of experts, if necessary, and incorporating materials submitted by Governments, a report containing conceptual models of national institutions for the protection and promotion of human rights, to be submitted to the Commission on Human Rights at its forty-seventh session;

9. Also requests the Secretary-General to respond favourably to requests from Member States for assistance in the establishment and strengthening of national institutions as part of the programme of advisory services and technical assistance in the field of human rights;

10. Invites the Secretary-General to include in an updated report all the information provided by Governments and any additional information that Governments may wish to provide, giving particular emphasis to the functioning of various models of national institutions in the implementation of international standards on human rights, as well as a list of existing national institutions with contact points and a bibliography of relevant materials;

11. Affirms the role of national institutions as agencies for the dissemination of human rights materials and other public information activities under the auspices of the United Nations;

12. Recognises the constructive role that non-governmental organizations can play in relation to national institutions;

13. Requests the Secretary-General to report to the General Assembly at its forty-sixth session on the implementation of the present resolution.

General Assembly resolution 44/64

8 December 1989 Meeting 78 Adopted without vote

Approved by Third Committee (A/44/799) without vote, 20 November (meeting 49): 18-nation draft (A/C.3/44/L.43); agenda item 96 (a).

Meeting numbers. GA 44th session: 3rd Committee 34, 35, 43, 49; plenary 78.

UN machinery

Commission on Human Rights

The Commission on Human Rights held its forty-fifth session at Geneva from 30 January to 10 March 1989 and adopted 75 resolutions and 14 decisions. In addition, it recommended 8 draft resolutions and 20 draft decisions for adoption by the Economic and Social Council.

On 24 May, by decision 1989/157, the Council took note of the Commission's report on its forty-fifth session.⁽⁸⁾

With regard to the organization of its work, the Commission decided(9) to set up informal open-ended working groups on the question of a convention on the rights of the child; on the rights of persons belonging to national, ethnic, religious and linguistic minorities; and on the drafting of a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms.

On 6 March, the Commission, having considered a report(10) of its Sub-Commission's Chairman on the implementation of the guidelines for organizing the Sub-Commission's work set out by the Commission in 1988,(11) noted the steps taken by the Sub-Commission to rationalize and streamline its work. The Sub-Commission was encouraged to continue that process, and further guidelines were recommended. The Chairman of the Sub-Commission was requested to report to the Commission on their implementation.

On 7 March, the Commission emphasized(13) the need to increase the effectiveness of its monitoring mechanisms, and requested the Secretary-General to consider convening a meeting of its special rapporteurs and representatives, and representatives of other mechanisms established by the Commission, as well as its Chairman and the Chairman and rapporteurs of the Sub-Commission, to discuss ways of improving the monitoring procedures. It decided to examine the meeting's recommendations no later than at its forty-seventh (1991) session.

Organization of work of the 1990 session

On 7 March, the Commission decided,(14) subject to the approval of the Economic and Social Council, to set up a live-member working group to examine particular human rights violations that might be referred to it at its 1990 session by the Sub-Commission under the confidential procedure governed by a 1970 Council resolution.(15)

On 24 May, by decision 1989/144, the Council approved the Commission's decision. By decision 1989/155 of the same date, the Council, on the Commission's recommendation,(16) authorized 30 fully serviced additional meetings for the Commission's forty-sixth (1990) session. It noted that the Commission had requested its Chairman to make every effort to organize the session's work within the time normally allotted, with additional meetings to be held only if absolutely necessary.

Enlargement of the Commission

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/167 by recorded vote.

Enlargement of the Commission on Human Rights and the further promotion of human rights and fundamental freedoms

The General Assembly,

Recalling Economic and Social Council resolutions 845(XXXII) of 3 August 1961, 1147(XLI) of 4 August 1966 and 1979/36 of 10 May 1979,

Appreciating the contribution made by the Commission on Human Rights to the cause of human rights and recognizing the need to reinforce the Commission,

Reaffirming that the Commission on Human Rights shall be guided by the standards in the field of human rights laid down in the various international instruments in that field,

Emphasizing the importance of further improving the effective functioning of the Commission on Human Rights and the participation therein by Member States at a high level,

Taking note of the relevant section of the final documents of the Ninth Conference of Heads of State or Government of Non-Aligned Countries adopted at Belgrade on 7 September 1989,a in which it is recognized that, in order to strengthen the role and efficiency of the United Nations and to reinforce United Nations mechanisms so as to allow for efficient co-ordination of the Organization's activities, there is an urgent need, *inter alia*, for an overall review of the current distribution of membership in the various United Nations bodies and commissions, with a view to achieving a more equitable geographical distribution,

1. Decides to recommend that the Economic and Social Council take the necessary steps, at its first regular session of 1990, to expand the membership of the Commission on Human Rights, on the basis of the principle of equitable geographical distribution, for the further promotion of human rights and fundamental freedoms;

2. Calls upon the Economic and Social Council to conclude deliberations on this question with urgency;

3. Requests the Commission on Human Rights to examine ways and means of making its work more effective and to submit its recommendations thereon to the Economic and Social Council.

^a A/44/551-S/20870.

General Assembly resolution 44/167

15 December 1989 Meeting 82 151-2-2 (recorded vote)

Approved by Third Committee (A/44/8480 by recorded vote (133-3), 29 November (meeting 62); draft by Malaysia, for Group of 77 (A/C.3/44/L.88); agenda item 12.

Meeting numbers. GA 44th session: 3rd Committee 48, 50-62; plenary 82.

Recorded vote in Assembly as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Byelorussian SSR, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Finland, France, Gabon, Gambia, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Italy, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome

and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian SSR, USSR, United Arab Emirates, United Kingdom, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe.

Against: Israel, United States.

Abstaining: Japan, Zaire.

Later advised the Secretariat it had intended to vote in favour

Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Sub-Commission on Prevention of Discrimination and Protection of Minorities held its forty-first session at Geneva from 7 August to 1 September 1989;(17) it adopted 47 resolutions and 13 decisions. It also recommended 14 draft resolutions and 4 draft decisions for adoption by the Commission on Human Rights, its parent body.

On 25 August, by a roll-call vote of 14 to 6, with 4 abstentions, the Sub-Commission suspended(18) its rule of procedure concerning the method of voting, so as to allow for voting by secret ballot on decisions considered under the confidential procedure governed by a 1970 Economic and Social Council resolution.(15) By another decision,(19) adopted by a roll-call vote of 14 to 6, with 3 abstentions, the Sub-Commission provisionally suspended the same rule of procedure with regard to decisions relating to human rights violations, including policies of racial discrimination and segregation and of apartheid, with particular reference to colonial and other dependent countries and territories. It also decided,(20) by 15 votes to 2, with 7 abstentions, that its Working Group on Communications, acting under the 1970 Council resolution,(15) should not consider a communication unless the Government concerned had had five months to submit a reply from the day on which the communication was transmitted to the Government.

On 30 August, the Sub-Commission, noting the organizational guidelines recommended by the Commission on Human Rights in March (see above), decided(21) to examine in 1990 ways of rationalizing proposals for studies, as well as the possibility of drawing up a medium-term programme that would ensure participation of the greatest number of Sub-Commission members in this programme. The Secretary-General was requested to submit a list of the studies already undertaken and the names of those who prepared them. On the same date, the Sub-Commission decided(22) to continue the review of its work at its forty-second (1990) session and to establish at that session a five-member working group to prepare an overview of proposals for improving the Sub-Commission's functioning in dealing with human rights violations. On 1 September, the Sub-Commission approved(23) the composition of its working groups on communications, slavery, and indigenous populations, each representing five

regions (Africa, Asia, Eastern Europe, Latin America, and Western Europe and others).

Strengthening the Centre for Human Rights

On 7 March, the Commission on Human Rights expressed(24) its support for the Secretary-General's efforts to enhance the role of the Centre for Human Rights as a co-ordinating unit for bodies dealing with the protection of human rights, and invited him to request Governments, UN specialized agencies and intergovernmental and non-governmental organizations to express their views on strengthening the Centre's activities.

Programme and budgetary questions

On 21 April, the Secretary-General submitted to the Committee for Programme and Co-ordination (CPC) a report(25) on the in-depth evaluation of the UN human rights programme. The report described basic characteristics of the programme, provided observations on the programme as a whole and evaluated its four subprogrammes: implementation of international standards, instruments and procedures; elimination and prevention of discrimination and protection of minorities and vulnerable groups; advisory services, technical assistance in the field of human rights and publications; and standard-setting, research and studies. It set forth 17 recommendations for the subprogrammes and for programme management, which included improving the reporting systems for human rights instruments and monitoring and response capacity; ensuring that financial problems did not hamper the functioning of the supervisory systems; enhancing co-ordination of activities to combat racism and racial discrimination and to protect and assist vulnerable groups; strengthening national capacity through enhanced advisory services and technical assistance projects; enhancing publicity, information dissemination and education; improving procedures for drafting new instruments, the use of results from research and studies, and programmatic co-ordination; rationalizing meetings of human rights bodies; and increasing the resources of the Centre for Human Rights.

In May,(26) CPC took note of the Secretary-General's report and recommended that he ensure the balanced implementation of international human rights instruments and strengthen co-ordination between the UN Secretariat's Department of Public Information (DPI) and the Centre for Human Rights. The Committee also considered the proposed programme budget in the field of human rights for the biennium 1990-1991 and recommended it for adoption by the General Assembly.

GENERAL ASSEMBLY ACTION

On 21 December, the General Assembly, on the recommendation of the Fifth (Administrative

and Budgetary) Committee, adopted resolution 44/201 B, section XI, without vote.

(The General Assembly...)

Section 23. Human rights

1. Decides that additional requirements for those new mandates emanating from decisions of the Economic and Social Council which are outside the scope of the perennial activities included in section 23 are to be treated in accordance with the provisions for the use and operation of the contingency fund;

2. Requests the Secretary-General to include the question of the relationship between the treatment of perennial activities in the programme budget and the use of the contingency fund in the report that he is to prepare in the light of the experience gained with regard to the contingency fund during the implementation of the programme budget for the biennium 1990-1991;

General Assembly resolution 44/201 B, section XI
21 December 1989 Meeting 84 Adopted without vote

Approved by Fifth Committee (A/44/905) without vote, 19 December (meeting 59); draft by Vice-Chairman (A/C.5/44/L.25); agenda item 123.

Meeting numbers. GA 44th session: 5th Committee 31, 32, 59; plenary 84.

Public information activities

On 19 January, the Secretary-General submitted to the Commission a report⁽²⁷⁾ on the development of public information activities in the human rights field, with special emphasis on commemoration of the fortieth anniversary of the 1948 Universal Declaration of Human Rights⁽²⁸⁾ in 1988⁽²⁹⁾ as well as activities carried out by the Centre for Human Rights and DPI.

In addition, the report provided an outline of the World Public Information Campaign for Human Rights, launched by the General Assembly in 1988,⁽³⁰⁾ including its aims and scope; envisaged responsibilities of the UN system, Member States and NGOs; target audiences; co-ordination and financing; and planned activities.

Activities focused on organization of workshops and training courses on human rights issues, provision of fellowships and internships, and dissemination of information on UN activities through publications, audio-visual materials, briefings and radio and television interviews. The report paid special attention to the Human Rights Day (10 December) activities and to co-ordination and co-operation within and outside the UN system. It also noted the establishment of a new dissemination division within DPI to revise the Department's distribution methods, and the creation by the Centre for Human Rights of a consolidated computerized list of addresses for the dissemination of information.

The Secretary-General emphasized the role of the 67 UN information centres (UNICs) in the

dissemination of information, and pointed out that their directors had been instructed to undertake special programmes to draw the attention of national communities to human rights observances. He further noted that DPI had continued to reprint and distribute basic reference works and UN materials for UNICs and that it had produced and distributed the Universal Declaration in some 86 languages, while the Centre for Human Rights had finalized a teaching booklet, *ABC Teaching Human Rights*, and begun worldwide distribution.

Human Rights Commission action. On 7 March, the Commission supported⁽³¹⁾ the general thrust of the proposed programme for the World Public Information Campaign, reaffirmed the need to tailor information materials on human rights to regional and national requirements and specific target audiences, and urged the Secretariat to ensure further production and dissemination of such materials in national and local languages. It emphasized the need to harmonize UN public information activities in the human rights field with organizations such as the International Committee of the Red Cross (ICRC), the Office of the UN High Commissioner for Refugees (UNHCR) and the UN Educational, Scientific and Cultural Organization (UNESCO). It asked the Centre to co-ordinate World Campaign activities within the UN system.

The Commission encouraged Member States to publicize UN human rights activities and give priority to disseminating international instruments in their national and local languages, and urged them to include in their educational curricula materials relevant to a comprehensive understanding of human rights. The Secretary-General was requested to draw the attention of Member States to the booklet on teaching human rights, to complete the establishment of collections of basic UN information and reference materials on human rights at each UNIC by the end of 1989, to ensure adequate funding for the World Campaign and other public information activities in that field, and to report on those activities in 1990.

Report of the Secretary-General. In response to a 1988 General Assembly request,⁽³⁰⁾ the Secretary-General reported⁽³²⁾ on activities of the Centre for Human Rights and DPI. He noted that efforts for the promotion of human rights within the framework of the World Campaign were grouped into five major areas: preparation and dissemination of printed public information and reference materials; workshops, seminars and training courses; fellowships and internships; special human rights observances; and coverage and promotion activities (see also below, under "Advisory services").

The report noted that the Centre continued to publish its Fact Sheet series, the Newsletter on Human Rights, the Bulletin on Human Rights and a series of ad hoc publications on human rights issues. On 12 April, the Centre convened an inter-agency meeting to identify potential areas of co-operation in human rights information and education as well as advisory services and technical assistance.

The Department of Public Information co-sponsored a symposium on the World Campaign (New York, 19 October) and launched a comprehensive education campaign for teachers and students on global issues, including human rights issues, and UN activities. The Department ensured that UN information centres and services intensified direct and systematic communication exchange with local media, informational and educational institutions and NGOs.

UNICS promoted coverage of UN activities in the local and national press as well as on radio and television, and organized or co-sponsored numerous seminars, symposia, workshops, lectures, exhibitions, film festivals, concerts and round tables to generate public discussion on human rights issues.

Annexed to the Secretary-General's report was a list of national focal points for the World Campaign designated by Governments as at 31 August.

GENERAL ASSEMBLY ACTION

On 8 December, on the recommendation of the Third Committee, the General Assembly adopted resolution 44/61 without vote.

Development of public information activities in the field of human rights

The General Assembly,

Reaffirming that activities to improve public knowledge in the field of human rights are essential to the fulfilment of the purposes of the United Nations set out in Article 1, paragraph 3, of the Charter of the United Nations and that carefully designed programmes of teaching, education and information are essential to the achievement of lasting respect for human rights and fundamental freedoms,

Recalling the resolutions adopted on this subject, in particular its resolution 43/128 of 8 December 1988, and taking note of Commission on Human Rights resolution 1989/53 of 7 March 1989,

Recognizing the catalytic effect of initiatives of the United Nations on national and regional public information activities in the field of human rights,

Recognizing also the valuable role that non-governmental organizations can play in those endeavours,

Believing that the World Public Information Campaign on Human Rights is a valuable complement to the activities of the United Nations further to promote and to protect human rights world-wide,

1. Takes note of the report of the Secretary-General on the development of public information activities in the field of human rights;

2. Reaffirms the need for information materials on human rights to be carefully designed in clear and accessible form, to be tailored to regional and national requirements and circumstances with specific target audiences in mind and to be effectively disseminated in national and local languages and in sufficient volume to have the desired impact, and for effective use also to be made of the mass media, in particular radio and television and audio-visual technologies, in order to reach wider audiences, with priority being given to children, other young people and the disadvantaged, including those in isolated areas;

3. Appreciates the measures taken by the Secretariat to update, increase stocks and extend the language versions of human rights information materials, especially those on the basic United Nations human rights instruments and institutions, and urges the Secretariat to take measures to ensure the further production and effective dissemination of such documents in national and local languages, in co-operation with regional, national and local organizations as well as with Governments, making full and effective use of the United Nations information centres;

4. Encourages all Member States to make special efforts to provide, facilitate and encourage publicity for the activities of the United Nations in the field of human rights and to accord priority to the dissemination, in their respective national and local languages, of the texts of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international conventions, as well as to information and education on the practical ways in which the rights and freedoms enjoyed under those instruments can be exercised;

5. Urges all Member States to include in their educational curricula materials relevant to a comprehensive understanding of human rights issues, and encourages all those responsible for training in law and its enforcement, the armed forces, medicine, diplomacy and other relevant fields to include appropriate human rights components in their programmes;

6. Requests the Secretary-General to draw the attention of Member States to the teaching booklet on human rights, which could serve as a broad and flexible framework adaptable to national circumstances for the structuring and development of the teaching of human rights;

7. Notes the special value, under the advisory services and technical assistance programme, of regional and national training courses and workshops, in co-operation with Governments, regional and national organizations and non-governmental organizations, in promoting practical education and awareness in the field of human rights, and welcomes the priority given to the organization of such activities by the Centre for Human Rights of the Secretariat;

8. Requests the Secretary-General to ensure the fullest effective deployment of the skills and resources of all concerned units of the Secretariat and to make available, within existing resources, and in particular from the budget of the Department of Public Information of the Secretariat, adequate funding for developing practical and effective human rights information activities, including those within the programme of the World Public Information Campaign for Human Rights;

9. Calls upon the Centre for Human Rights, which has primary responsibility within the United Nations

system in the field of human rights, to co-ordinate the substantive activities of the World Campaign pursuant to the direction of the General Assembly and the Commission on Human Rights, and to serve as liaison with Governments, regional and national institutions, non-governmental organizations and concerned individuals in the development and implementation of the activities of the World Campaign;

10. Calls upon the Department of Public Information, which has primary responsibility for public information activities, to co-ordinate the public information activities of the World Campaign and, in its responsibility as secretariat to the Joint United Nations Information Committee, to promote co-ordinated system-wide information activities in the field of human rights;

11. Stresses the need for close co-operation between the Centre for Human Rights and the Department of Public Information, *inter alia*, in the implementation of the aims established for the World Campaign and the need for the United Nations to harmonize its activities in the field of human rights with those of other organizations, including the International Committee of the Red Cross, with regard to the dissemination of information on international humanitarian law, and the United Nations Educational, Scientific and Cultural Organization, with regard to education for human rights;

12. Requests the Secretariat, in the implementation of the World Campaign, to take advantage, as much as possible, of the collaboration of non-governmental organizations for, *inter alia*, the dissemination of human rights materials, with a view to increasing universal awareness of human rights and fundamental freedoms;

13. Requests the Commission on Human Rights, at its forty-sixth session, on the basis of the report of the Secretary-General, to give priority consideration to this question with a view to providing appropriate guidance on the aims and activities of the World Campaign;

14. Requests the Secretary-General to submit to the General Assembly at its forty-fifth session a comprehensive report on the implementation of the present resolution for consideration under the item entitled "Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms".

General Assembly resolution 44/61

8 December 1989 Meeting 78 Adopted without vote

Approved by Third Committee (A/44/799) without vote, 20 November (meeting 49); 24-nation draft (A/C.3/44/L.37), orally corrected; agenda item 96 (c).

Meeting numbers. GA 44th session: 3rd Committee 34, 35, 43, 49; plenary 78.

Advisory services

In 1989, under the UN programme of advisory services and technical assistance in human rights established in 1955,(33) the Centre for Human Rights organized a seminar on the effects of racism and racial discrimination on social and economic relations between indigenous peoples and States (Geneva, 16-20 January), subregional and national workshops on human rights issues (Quito, Ecuador, 8-12 May; Manila, Philippines, 31 July-4 August), and an international seminar on cultural

dialogue between countries of origin and host countries of migrant workers (Athens, Greece, 17-26 September). Training courses were held on the application of international human rights standards (Conakry, Guinea, 17-22 April; Moscow, 27 November-1 December), human rights and the administration of justice (Rome, Italy, 11-22 September; Buenos Aires, Argentina, 9-13 October; Antigua, Guatemala, 23-27 October), and UN monitoring mechanisms, humanitarian law and national legislation (Lima, Peru, 2-6 October). The Centre assisted the African Commission on Human and Peoples' Rights of the Organization of African Unity (OAU), inaugurated on 12 June, in organizing a training course on developing national strategies and mechanisms for human rights promotion and protection in Africa (Banjul, Gambia, 24 April-2 May). It also provided assistance to the newly established Arab Institute of Human Rights in Tunis, and continued to strengthen co-operation with the Inter-American Commission on Human Rights and the Inter-American Institute of Human Rights, the Strasbourg Institute of Human Rights (France) and a number of other academic and research institutes.

Under a co-operative project to strengthen legal institutions in the Gambia, launched in 1989, a feasibility study was carried out on the establishment of an African Centre for Democracy and Human Rights Studies at Banjul, and advisory services were rendered in the revision of national laws. The Centre also continued its technical assistance programmes to Colombia and Guatemala. Most of those activities were financed by the UN Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights (see below).

In addition, the Centre granted training fellowships to 31 individuals and one NGO, and awarded 36 internships to outstanding graduate students. Within the UN system, the Centre co-operated, *inter alia*, with the World Health Organization (WHO) in organizing a global consultation on AIDS and human rights (Geneva, 26-28 July); with UNESCO in exploring the development of educational curricula on human rights and distribution of materials through UNESCO national channels; with the UN Children's Fund (UNICEF) in the envisaged follow-up to the adoption of the Convention on the Rights of the Child (see below, under "Other human rights questions"); and with the Crime Prevention and Criminal Justice Branch of the UN Centre for Social Development at Vienna in considering the development of human rights training materials for African countries, strengthening of legal aid services in Latin America, organization of training workshops for the judiciary and activities related to the administration of justice.

During the year, requests for advisory services and technical assistance in human rights were received from 43 Governments.

Reports of the Secretary-General. The Secretary-General presented a report⁽³⁴⁾ to the Commission in 1989 on advisory services and technical assistance in the field of human rights, which covered 1988 activities involving country programmes and projects; training courses, workshops and seminars; expert services; and fellowships and internships. The report also described the programme development under the UN Voluntary Fund for Advisory Services and Technical Assistance, and outlined a plan of future activities.

In another report,⁽³⁵⁾ the Secretary-General communicated to the Sub-Commission an additional request from a State and a list of requests for technical assistance to strengthen legal institutions, received as at 19 June 1989 from States in response to a 1987 Sub-Commission resolution.⁽³⁶⁾

Human Rights Commission action. On 8 March, the Commission recommended that expert assistance and other activities to assist Governments in developing necessary infrastructures to meet international human rights standards should continue to increase, and requested the Secretary-General to: pursue his efforts for a medium-term plan for advisory services and technical assistance, as well as continue to facilitate the flow of bilateral assistance; explore further possibilities for co-operation between the Centre for Human Rights and the UN Development Programme (UNDP), UNHCR and other UN bodies and agencies, as well as ICRC; ensure close co-ordination between activities financed under the regular programme and by the Voluntary Fund; bring the need for further technical legal assistance to the attention of the relevant UN bodies and agencies; draw the attention of Governments, within the framework of the World Public Information Campaign for Human Rights (see above, under "Public information activities"), to the availability of advisory services and technical assistance; and report to the Commission in 1990 on progress made in implementing the programme of advisory services.

The Commission requested its special rapporteurs and representatives, as well as the Working Group on Enforced or Involuntary Disappearances, to inform Governments of the availability of advisory services, and invited competent UN bodies to make proposals for their implementation. It also appealed to Member States to consider organizing national training courses for government personnel on the application of international human rights standards, and encouraged Governments in need of technical assistance to take ad-

vantage of the advisory services of experts in the field of human rights.

Voluntary Fund for Advisory Services

In 1989, the UN Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights, established pursuant to a 1987 Commission resolution⁽³⁸⁾ endorsed by the Economic and Social Council,⁽³⁹⁾ financed eight training courses and workshops, projects of assistance to the OAU African Commission on Human and Peoples' Rights, and country programmes in Colombia, Guatemala and the Gambia, including the provision of 21 fellowships and the advisory services of 17 experts. As at 31 December 1989, contributions to the Fund totalled \$1,035,404, and an additional \$361,730 had been pledged.

Human Rights Commission action. On 8 March, the Commission called for voluntary contributions to the Fund, and recommended that activities under the Fund be directed towards expert assistance to Governments. It also recommended that the Secretary-General continue implementing through the Fund those projects that could catalyse the realization of international human rights standards, paying due attention to the needs of developing countries. It requested him to bring to the attention of Governments and competent human rights organs the availability of advisory services and technical assistance under the Fund, elaborate guidelines on the use and allocation of resources, and report annually to the Commission on the operation and administration of the Fund.

Equatorial Guinea

Human Rights Commission action. On 8 March, the Commission on Human Rights, taking note of the Secretary-General's report⁽⁴¹⁾ on the situation in Equatorial Guinea, recommended⁽⁴²⁾ to the Government of that country that it consider becoming a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁽⁴³⁾ and requested it to consider implementing the plan of action for full restoration of human rights, proposed by the United Nations in 1981,⁽⁴⁴⁾ taking particular account of the recommendations and proposals submitted by the Secretary-General's appointed Expert, Fernando Volio Jiménez (Costa Rica), in 1985.⁽⁴⁵⁾ A report on progress in implementing the plan was requested for submission to the Commission in 1990.

On 24 May, by decision 1989/151, the Economic and Social Council approved the Commission's decision to consider the Expert's report on the manner in which Equatorial Guinea intended to implement the plan of action.

Further developments. On behalf of the Expert on Equatorial Guinea, Consultant Arnaldo Ortiz Lopez (Costa Rica) visited the country from 20 to 26 November and held discussions with the President, other senior government officials and members of the judiciary. The Consultant observed that the Government had agreed to comply with and implement the UN plan of action. It undertook to establish immediately a drafting committee to prepare an up-to-date codification of fundamental laws that could be adapted to the country's ethnic and cultural composition. A media campaign was under way to increase public awareness of the importance of law and courts as well as an education programme on values and advantages of a democratic government and of harmonization with the indigenous cultural heritage. A training programme in public administration was being offered at the School of Public Administration with expert assistance from the UN Secretariat's Department of Technical Co-operation for Development, and training to encourage popular participation in electoral processes and democratic decision-making had been initiated.

The Consultant further noted that the Government was prepared to co-operate in implementing other recommendations of the plan of action, including the training of lawyers and court staff and the establishment of codification commissions to draft penal and civil codes, codes of civil and criminal procedure and a judicial power organization act. A general labour bill was already under consideration by the Government. The Consultant made a number of recommendations to the Government concerning the need to set up a Special Review Commission to monitor implementation of the plan of action; promulgate a General Associations Act for the establishment and registration of political parties other than the official party; and develop a free press, including the installation of a printing press, which the country currently lacked. He also noted the President's willingness to consider relevant constitutional amendments in accordance with the plan of action.

In December 1989, Equatorial Guinea decided to issue a decree, based on international human rights instruments, to indicate the fundamental rights and freedoms of its citizens.

Guatemala

In his report on advisory services to Guatemala,⁽⁴⁶⁾ submitted to the Commission on 20 January, Expert Hector Gros Espiell (Uruguay) reviewed the legal framework and the current human rights situation in that country, summarized the results of his three visits undertaken in 1988, and described activities under the technical assistance programme to Guatemala for 1988-1989, financed by the Voluntary Fund for Advisory Services. He

concluded that, while the human rights situation had generally improved, the continuing climate of violence, coupled with problems of indigenous populations and severe deficiencies regarding respect for economic, social and cultural rights, as well as other negative factors, prevented the Government from ensuring full safeguards and respect for human rights. The Expert recommended continuation of the broad programme of assistance, particularly support for courses and seminars for the judiciary, police and armed forces as well as human rights courses at all levels of education.

Human Rights Commission action. On 8 March, the Commission recognized⁽⁴⁷⁾ that the Government of Guatemala was committed to guaranteeing and promoting the protection of human rights, and encouraged it to continue examining the situation of its indigenous populations and to take into account their demands and proposals. At the same time, the Commission expressed its serious concern at the persistent harmful conditions which placed severe limitations on the process of improving the human rights situation in that country, and urged Guatemala to intensify efforts to ensure that all authorities and security forces respected the rights and freedoms of its citizens. The Secretary-General was requested to continue providing advisory services and other assistance to Guatemala and to renew for one year the mandate of the Expert, who was asked to report in 1990.

By decision 1989/153 of 24 May, the Economic and Social Council approved the request to extend the Expert's mandate.

Sub-Commission action. On 31 August, the Sub-Commission encouraged⁽⁴⁸⁾ Guatemala to adopt measures for improving the economic, social and political conditions of its indigenous populations and to create conditions for a safe return of refugees, urged it to apply energetic measures to prevent human rights violations, and recommended that the Expert, in his forthcoming report, give particular attention to the existing obstacles to the full realization of human rights in that country, and indicate ways to remedy the situation.

Further developments. The Expert on Guatemala visited that country twice in 1989, in May and from 22 October to 3 November. He held meetings with the President and other senior government officials, the Procurator for Human Rights, and the Chairwoman of the Ad Hoc Committee for Aid to Returnees, as well as with members of the judiciary, the Human Rights Commission of Congress, the National Reconciliation Commission, and public figures.

Haiti

In his report on advisory services to Haiti,⁽⁴⁹⁾ submitted to the Commission on 6 February, Expert Philippe Texier (France) reviewed the history

of events in Haiti from 7 February 1986 to 31 December 1988, described the legal framework and the current human rights situation, and summarized the results of his December 1988 visit. He concluded that, despite signs of an awareness of the need to ensure respect for human rights, the current Government—brought to power in a military take-over on 17 September 1988—had not been able to prevent human rights violations from occurring on a daily basis, nor had any measures been devised to conduct inquiries into past violations and punish the culprits. Among obstacles to the improvement of the situation were an ineffective judiciary, the militarization of rural areas, failure to separate the army and police forces, the failure to put on trial those responsible for past massacres, and the military and economic power of paramilitary forces.

The Expert asserted that the situation could not change without the firm will to ensure respect for the rule of law, which would involve the prompt entry into force of Haiti's 1987 Constitution and speedy restoration of the electoral process. He recommended that the Commission consider appointing a special rapporteur to study the human rights situation in Haiti and examine whether conditions had been met for that country to continue receiving UN advisory services. Should such assistance be maintained, the Expert recommended that efforts focus on holding free elections, strengthening and improving the judiciary, planning a general policy for development and assistance for the poorest communities, and fostering the organization of civilian police forces trained in human rights. He also recommended involving all human rights organizations in any training programmes.

Human Rights Commission action. The human rights situation in Haiti was considered by the Commission in closed session under the agenda item on the study of situations that appeared to reveal a consistent pattern of gross human rights violations. In an 8 March resolution,⁽⁵⁰⁾ the Commission noted with concern that the basic causes of human rights violations in Haiti had not been eradicated; urged the Haitian authorities to take measures without delay for the rapid investigation of violations that had occurred before 17 September 1988 and to ensure that the commission of inquiry was enabled to single out the culprits for arrest and trial; expressed the hope that the Haitian Government would fulfil its pledge to restore as early as possible a constitutional regime freely chosen by the people; and encouraged it to pursue contacts with democratic forces in the country so as to expedite the resumption of the electoral process.

The Commission appealed for international assistance to Haiti and requested the Secretary-

General to provide advisory services and other assistance in order to encourage the régime's democratic development, with emphasis on strengthening the independence of the judiciary and promoting the organization of civilian police trained in human rights. The Secretary-General was also requested to extend the Expert's mandate for one year and to give him all necessary assistance; the Expert was asked to encourage implementation of the assistance programme, to make recommendations to the Government for the full restoration of human rights, and to report to the Commission in 1990, including in his report information on the development of the human rights situation in Haiti.

On 24 May, the Economic and Social Council, by decision 1989/152, approved the Commission's request that the Secretary-General extend the Expert's mandate and give him all necessary assistance.

Note of the Secretary-General. In response to a 1988 Sub-Commission request,⁽⁵¹⁾ the Secretary-General submitted a note⁽⁵²⁾ on 28 April informing the Sub-Commission of the action taken by the Commission on Human Rights with regard to the situation in Haiti.

Further developments. During 1989, major developments in Haiti included the establishment of an Electoral Council, a decision to undertake a thorough reform of the justice system, and elaboration of an electoral timetable providing for municipal and legislative elections in July 1990 and presidential elections in October/November 1990. The 1987 Constitution was partially restored in March, but the nature of the reservations meant that the power of the head of State was unchanged. An attempted military take-over in April failed, and there were subsequent violent confrontations between the Presidential Guard and elements of the military. In September, an independent public body for prison administration was established. An intensification of repression and a new deterioration in the human rights situation occurred in November with the arrest of several trade union and political leaders, and the use of torture and illegal searches.

The Expert on Haiti visited the country from 25 July to 3 August to renew contact with authorities as well as with democratic forces and NGOs, to monitor developments and assess the human rights situation, and to offer special assistance to the Government concerning human rights and the electoral process.

Paraguay

On 31 August, the Sub-Commission, bearing in mind the acknowledged progress in the field of human rights in Paraguay as well as the request by the Paraguayan authorities for co-operation in

that field, recommended that the Commission adopt a resolution encouraging Paraguay to further democratization and advances in the field of human rights. It also requested the Secretary-General to provide advisory services and other assistance in the human rights field to Paraguay.

International human rights instruments

Human rights treaty bodies

There were six human rights treaty instruments in force in 1989, the implementation of which was monitored by expert bodies established under each treaty. Those instruments and their respective treaty bodies were: the 1965 International Convention on the Elimination of All Forms of Racial Discrimination(54) (Committee on the Elimination of Racial Discrimination); the 1966 International Covenant on Civil and Political Rights(55) (Human Rights Committee); the 1966 International Covenant on Economic, Social and Cultural Rights(55) (Committee on Economic, Social and Cultural Rights); the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid(56) (Group of Three); the 1979 Convention on the Elimination of All Forms of Discrimination against Women (57) (Committee on the Elimination of Discrimination against Women); and the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment(43) (Committee against Torture).

On 2 February, the Secretary-General submitted to the Commission on Human Rights a note(58) containing conclusions and recommendations of the second meeting of persons chairing the treaty bodies, held in 1988.(59)

Human Rights Commission action. On 6 March, the Commission welcomed(60) the meeting's recommendations aimed at enhancing the effectiveness of the human rights treaty bodies, acknowledged the need to ensure financing and adequate staffing resources for their operations, suggested alleviating their financial difficulties by allocating advances from the UN regular budget against contributions to be received within the same budget year, and urged States parties to the human rights instruments to meet their financial obligations under those instruments. The Secretary-General was requested to report regularly to the Commission on possible technical assistance projects identified by the treaty bodies, to entrust an independent expert with preparing a study on long-term approaches to enhancing the effectiveness of existing and prospective treaty bodies and to report on that matter to the General Assembly in 1989 and to the Commission in 1990.

On 24 May, the Economic and Social Council, by decision 1989/143, approved the Commission's request for the study.

Sub-Commission action. On 31 August, by 15 votes to 2, with 3 abstentions, the Sub-Commission recommended(61) that the Commission adopt a resolution emphasizing the need to enhance the effectiveness of and co-ordination between the human rights monitoring mechanisms, and requesting the Secretary-General to consider convening, not later than 1991, an international meeting of experts on issues related to international monitoring in the field of human rights.

Note of the Secretary-General. By an 8 November note,(62) the Secretary-General transmitted to the General Assembly the study called for by the Commission in March.(60) The study provided an overview of the rapidly changing environment within which the treaty bodies were functioning, reviewed reporting procedures under the human rights instruments (see below), examined financial and administrative aspects as well as substantive issues related to the functioning of treaty bodies, and considered a long-term perspective on standard-setting as well as other long-term issues. It set forth a number of recommendations, proposing, inter alia, to change the method of financing of treaty bodies from funding by States parties to regular budget funding temporarily, while other options were explored; to better publicize activities of treaty bodies; and to prepare an inventory of international human rights standard-setting activities, to be updated on a regular basis.

(For General Assembly action, see resolution 44/135 below.)

Reporting obligations of States parties

By a 3 February note,(63) the Secretary-General transmitted to the Assembly the report of the second meeting of persons chairing the human rights treaty bodies. The meeting made proposals for remedial action concerning harmonization and consolidation of reporting guidelines, co-ordination of reporting, measures for expediting consideration of reports, and projects for technical assistance and advisory services to help States parties fulfil their reporting obligations.

The study on enhancing the effectiveness of treaty bodies (above) noted the problem of overlapping reporting requirements under different instruments and suggested using cross-references in reports to different bodies to reduce such duplication. The question of reporting procedures was also considered in 1989 by the Committee on Economic, Social and Cultural Rights (see above, under "Economic, social and cultural rights"), which had before it the Secretary-General's report(64) on the nature and extent of overlapping under the six human rights instruments.

Human Rights Commission action. On 6 March, the Commission endorsed(60) recommen-

dations of the second meeting aimed at streamlining, rationalizing and improving reporting procedures, and requested the Secretary-General to report to the General Assembly in 1989 and to the Commission in 1990 on progress in that regard. On the same date, it requested⁽⁶⁵⁾ him to appoint a task force to prepare a study on computerizing the work of the treaty bodies in relation to reporting, to give it all possible assistance and to report to the Commission in 1990 on the results.

By decision 1989/142 of 24 May, the Economic and Social Council approved the Commission's request for establishment of the task force.

Report of the Secretary-General. In a 6 October report⁽⁶⁶⁾ to the Assembly, the Secretary-General reviewed specific actions as well as views and suggestions by relevant UN bodies concerning the effective implementation of international human rights instruments, including reporting obligations of States parties. He summarized activities of the newly appointed task force on computerization of work of the treaty bodies and noted that several of those bodies had already approved consolidated guidelines governing the initial part of reports of States parties and had decided to appoint individual rapporteurs or establish pre-session working groups to expedite consideration of reports. In addition, a detailed manual to assist States in fulfilling their reporting obligations was expected to be finalized by the end of the year.

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/135 without vote.

Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

The General Assembly,

Recalling its resolution 43/115 of 8 December 1988, as well as its other relevant resolutions,

Taking note of Commission on Human Rights resolutions 1989/46 and 1989/47 of 6 March 1989,

Reaffirming that the effective implementation of United Nations instruments on human rights is of major importance to the efforts made by the Organization, pursuant to the Charter of the United Nations and to the Universal Declaration of Human Rights, to promote universal respect for and observance of human rights and fundamental freedoms,

Consideration that the effective functioning of treaty bodies established pursuant to United Nations instruments on human rights is indispensable for the effective implementation of such instruments,

Reaffirming its responsibility to ensure the proper functioning of the treaty bodies established pursuant to instruments adopted by the General Assembly and, in this connection, further reaffirming the importance of:

(a) Ensuring the effective functioning of systems of periodic reporting by States parties to these instruments;

(b) Addressing the problem of securing sufficient financial resources, which continues to hamper the proper functioning of human rights treaty bodies, and of providing sufficient resources to ensure their effective functioning;

(c) Addressing the question of reporting obligations and that of financial implications whenever considering the possibility of establishing any further instruments on human rights,

Recognizing that the effective implementation of instruments on human rights, involving periodic reporting by States parties to the relevant treaty bodies and the efficient functioning of the treaty bodies themselves, not only enhances international accountability in relation to the promotion and protection of human rights, but also provides States parties with a valuable opportunity to review policies and programmes affecting the promotion and protection of human rights and to make any appropriate adjustments,

Expressing concern about the continuing and increasing backlog of reports on implementation by States parties of United Nations instruments on human rights and about delays in consideration of reports by the treaty bodies,

Taking note of the report of the Secretary-General on progress achieved in enhancing the effective functioning of the treaty bodies, pursuant, *inter alia*, to the conclusions and recommendations of the meeting of persons chairing the human rights treaty bodies, held at Geneva from 10 to 14 October 1988,

Taking note with appreciation of the study on possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations instruments on human rights, prepared by an independent expert pursuant to the above-mentioned resolutions,

1. Endorses the recommendations of the meeting of persons chairing the human rights treaty bodies aimed at streamlining, rationalizing and otherwise improving reporting procedures, and supports the continuing efforts in this connection by the treaty bodies and the Secretary-General within their respective spheres of competence;

2. Welcomes the appointment by the Secretary-General of a task force to prepare a study on computerizing, as far as possible, the work of the treaty-monitoring bodies, with a view to increasing efficiency and facilitating compliance by States parties with their reporting obligations and the examination of reports by the treaty bodies;

3. Takes note of the report of the Secretary-General to the Committee on Economic, Social and Cultural Rights showing the extent of overlapping of issues dealt with in international instruments on human rights, which will assist efforts to reduce, as appropriate, duplication in the supervisory bodies of issues raised with respect to any given State party;

4. Encourages the Secretary-General to proceed with the planned finalization of the draft detailed reporting manual to assist States parties in the fulfilment of their reporting obligations, as well as with its circulation to the various treaty bodies by the end of 1989;

5. Again urges States parties to make every effort to meet their reporting obligations and to assist, individually and through meetings of States parties, in identifying and implementing ways of further streamlining and

improving reporting procedures as well as enhancing co-ordination and information flow between the treaty bodies and with relevant United Nations bodies, including specialized agencies;

6. Welcomes the emphasis placed by the meeting of persons chairing the human rights treaty bodies and by the Commission on Human Rights on the importance of technical assistance and advisory services and, therefore:

(a) Endorses the request of the Commission that the Secretary-General report regularly to it on possible technical assistance projects identified by the treaty bodies;

(b) Invites the treaty bodies to give priority attention to identifying such possibilities in the regular course of their work of reviewing the periodic reports of States parties;

7. Endorses the recommendations of the meeting of persons chairing the human rights treaty bodies on the need to ensure financing and adequate staffing resources for the operations of the treaty bodies and, with this in mind:

(a) Reiterates its request that the Secretary-General review the need for adequate staffing resources in regard to the various treaty bodies;

(b) Requests that he report on this question to the Commission on Human Rights at its forty-sixth session and to the General Assembly at its forty-fifth session;

8. Calls upon all States parties to meet fully and without delay their financial obligations under the relevant instruments on human rights, and requests the Secretary-General to consider ways and means of strengthening collection procedures and making them more effective;

9. Requests the Secretary-General, as a matter of priority, to consider administrative and budgetary measures to alleviate the current financial difficulties of the treaty bodies and thus guarantee their regular functioning, and to report on these measures to the Commission on Human Rights at its forty-sixth session;

10. Emphasizes that the adoption of such administrative and budgetary measures shall not prejudice the duty of States parties under United Nations human rights instruments to meet all their financial obligations pursuant to such instruments;

11. Invites the persons chairing the human rights treaty bodies to maintain communication and dialogue with each other on common issues and problems and, to this end, requests the Secretary-General, within existing resources, to convene a meeting of the persons chairing the treaty bodies in 1990;

12. Expresses its satisfaction with the study by the independent expert on possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations instruments on human rights, which contains several recommendations on reporting and monitoring procedures, servicing and financing of supervisory bodies and long-term approaches to human rights standard-setting and implementation mechanisms, and which will be presented to the Commission on Human Rights for detailed consideration at its forty-sixth session;

13. Decides to give priority consideration at its forty-fifth session to the conclusions and recommendations of the independent expert, in the light of the deliberations of the Commission on Human Rights and those of the meeting of persons chairing the treaty bodies,

under an item entitled "Effective implementation of United Nations instruments on human rights and effective functioning of bodies established pursuant to such instruments".

General Assembly resolution 44/135

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/849) without vote, 29 November (meeting 60); 17-nation draft (A/C.3/44/L.73), orally revised; agenda item 109. Meeting numbers. GA 44th session: 3rd Committee 48, 50-60; plenary 82.

International Covenants on Human Rights

Human Rights Commission action. On 2 March, the Commission adopted a resolution (67) on the 1966 International Covenants on Human Rights, (55) which corresponded largely to resolutions adopted by the Economic and Social Council and the General Assembly later in the year (see below). The Commission appealed for the application of uniform standards in the implementation of the Covenants, invited the Secretary-General to assist States with their ratification of or accession to those instruments, and requested him to consider ways of assisting States parties to prepare their reports. The Secretary-General was also requested to report in 1990 on the status of the Covenants and the work of the Committee on Economic, Social and Cultural Rights.

ECONOMIC AND SOCIAL COUNCIL ACTION

On 24 May, the Economic and Social Council adopted resolution 1989/81 without vote.

International Covenants on Human Rights

The Economic and Social Council,

Bearing in mind its important responsibilities in relation to the co-ordination of activities to promote the International Covenants on Human Rights,

Mindful that the International Covenants on Human Rights constitute the first all-embracing and legally binding international treaties in the field of human rights and, together with the Universal Declaration of Human Rights, form the core of the International Bill of Human Rights,

Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol to the International Covenant on Civil and Political Rights, and reaffirming that all human rights and fundamental freedoms are indivisible and interrelated and that the promotion and protection of one category of rights should never exempt or excuse States from the promotion and protection of the other rights,

Recognizing the important role of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in promoting and implementing the International Covenants on Human Rights,

Taking note with appreciation of the report of the Committee on Economic, Social and Cultural Rights on its third session, as well as the general comments of the Human Rights Committee on article 24 of the International Covenant on Civil and Political Rights, adopted by the Committee at its thirty-fifth session,

Emphasizing the importance of General Assembly resolution 43/128 of 8 December 1988, by which the Assembly decided to launch a World Public Information Campaign on Human Rights,

Convinced of the continuing need to promote the universal observance and enjoyment of human rights, which contributes to peaceful and friendly relations among nations,

1. Reaffirms the central importance of the International Covenants on Human Rights in international efforts to promote universal respect for and observance of human rights and fundamental freedoms, and recognizes these instruments as a basis for any standard setting and codification in the field of human rights, bearing in mind General Assembly resolution 41/120 of 4 December 1986;

2. Appeals strongly to all States that have not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and to consider acceding to the Optional Protocol to the International Covenant on Civil and Political Rights, so that those instruments may acquire genuine universality;

3. Emphasizes the importance of the strictest compliance by States parties to the Covenants with their obligations under the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and, where applicable, the Optional Protocol to the International Covenant on Civil and Political Rights;

4. Invites the States parties to the International Covenant on Civil and Political Rights to consider making the declaration provided for in article 41 of the Covenant;

5. Stresses the importance of avoiding the erosion of human rights by derogation, and the necessity for strict observance of all the agreed conditions and procedures for derogation, under article 4 of the International Covenant on Civil and Political Rights;

6. Reaffirms the important role of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights with respect to the implementation by States parties of the International Covenants on Human Rights, and expresses its satisfaction with the serious and constructive manner in which those Committees are carrying out their functions;

7. Welcomes the general comments of the Human Rights Committee on article 24 of the International Covenant on Civil and Political Rights;

8. Also welcomes the decision of the Committee on Economic, Social and Cultural Rights to consider articles 22 and 23 of the International Covenant on Economic, Social and Cultural Rights, as well as to continue to focus on article 11, with a view to developing general comments at its fourth session, so as to encourage States parties to the Covenant to take appropriate steps to ensure the implementation of that article;

9. Further welcomes the relevant activities of the Commission on Human Rights in the field of effective implementation of economic, social, cultural, civil and political rights, and the promotion of universal adherence to the International Covenants on Human Rights;

10. Urges the Secretary-General, in conjunction with the World Public Information Campaign on Human Rights, to publicize the work of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights and to ensure sufficient administrative

and related support of their meetings and activities to enable them to carry out their respective functions effectively;

11. Encourages all Governments to publicize the texts of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights in as many languages as possible and to distribute them and make them known as widely as possible in their territories;

12. Decides to include in the agenda of its first regular session of 1990 an item entitled "International Covenants on Human Rights" and to consider under that item the general comments of the Human Rights Committee and the report of the Committee on Economic, Social and Cultural Rights on its fourth session;

13. Also decides to transmit the report of the Committee on Economic, Social and Cultural Rights on its third session to the General Assembly at its forty-fourth session for consideration under the agenda item entitled "International Covenants on Human Rights".

Economic and Social Council resolution 1989/81

24	May	1989	Meeting	16	Adopted	without	vote
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Approved by Second Committee (E/1989/88) without vote, 19 May (meeting 22); 14-nation draft (E/1989/C.2/L.19); agenda item 9.

Report of the Secretary-General. In response to a 1988 Assembly request,(68) the Secretary-General reported(69) on 11 August 1989 on the status of the International Covenants as at 1 August, as well as on questions related to their implementation (see also above, under "Civil and political rights" and "Economic, social and cultural rights").

GENERAL ASSEMBLY ACTION

On 15 December, on the recommendation of the Third Committee, the General Assembly adopted resolution 44/129 without vote.

International Covenants on Human Rights

The General Assembly,

Recalling its resolutions 33/51 of 14 December 1978, 34/45 of 23 November 1979, 35/132 of 11 December 1980, 36/58 of 25 November 1981, 37/191 of 18 December 1982, 38/116 and 38/117 of 16 December 1983, 39/136 and 39/138 of 14 December 1984, 40/115 and 40/116 of 13 December 1985, 41/32 of 3 November 1986, 41/119 and 41/121 of 4 December 1986, 42/103 and 42/105 of 7 December 1987 and 43/114 of 8 December 1988, and taking note of the general comments adopted by the Human Rights Committee at its 891st meeting, on 5 April 1989, under article 40, paragraph 4, of the International Covenant on Civil and Political Rights,

Mindful that the International Covenants on Human Rights constitute the first all-embracing and legally binding international treaties in the field of human rights and, together with the Universal Declaration of Human Rights, form the core of the International Bill of Human Rights,

Taking note of the report of the Secretary-General on the status of the International Covenant on Economic,

Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol to the International Covenant on Civil and Political Rights,

Recalling the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and reaffirming that all human rights and fundamental freedoms are indivisible and interrelated and that the promotion and protection of one category of rights should never exempt or excuse States from the promotion and protection of the other,

Recognizing the important role of the Human Rights Committee in the implementation of the International Covenant on Civil and Political Rights and the Optional Protocol thereto,

Also recognizing the important role of the Committee on Economic, Social and Cultural Rights in the implementation of the International Covenant on Economic, Social and Cultural Rights,

Bearing in mind the important responsibilities of the Economic and Social Council in relation to the International Covenants on Human Rights,

Welcoming the submission to the General Assembly of the annual report of the Human Rights Committee and the report of the Committee on Economic, Social and Cultural Rights on its third session,

Considering that the effective functioning of treaty bodies established in accordance with the relevant provisions of international instruments on human rights plays a fundamental role and hence represents an important continuing concern of the United Nations,

Noting with concern the critical situation with regard to overdue reports from States parties to the International Covenants on Human Rights,

Recalling with satisfaction the results of the meeting of persons chairing human rights treaty bodies, held at Geneva from 10 to 14 October 1988,

1. Takes note with appreciation of the report of the Human Rights Committee on its thirty-fourth, thirty-fifth and thirty-sixth sessions, including the suggestions and recommendations of a general nature approved by the Committee;

2. Also takes note with appreciation of the report of the Committee on Economic, Social and Cultural Rights on its third session, including its suggestions and recommendations;

3. Expresses its satisfaction with the serious and constructive manner in which both Committees are carrying out their functions;

4. Urges States parties to the International Covenants on Human Rights to pay active attention to the protection and promotion of civil and political rights, as well as economic, social and cultural rights;

5. Expresses its appreciation to the States parties to the International Covenant on Civil and Political Rights that have submitted their reports to the Human Rights Committee under article 40 of the Covenant and urges States parties that have not yet done so to submit their reports as speedily as possible;

6. Urges those States parties to the International Covenant on Civil and Political Rights that have been requested by the Human Rights Committee to provide additional information to comply with that request;

7. Commends the States parties to the International Covenant on Economic, Social and Cultural Rights that

have submitted their reports under article 16 of the Covenant and urges States parties that have not yet done so to submit their reports as soon as possible;

8. Notes with satisfaction that the majority of States parties to the International Covenant on Civil and Political Rights and an increasing number of States parties to the International Covenant on Economic, Social and Cultural Rights have been represented by experts in the presentation of their reports, thereby assisting the respective monitoring bodies in their work, and hopes that all States parties to both Covenants will arrange such representation in the future;

9. Again urges all States that have not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and to consider acceding to the Optional Protocol to the International Covenant on Civil and Political Rights;

10. Invites the States parties to the International Covenant on Civil and Political Rights to consider making the declaration provided for in article 41 of the Covenant;

11. Emphasizes the importance of the strictest compliance by States parties with their obligations under the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and, where applicable, the Optional Protocol to the International Covenant on Civil and Political Rights;

12. Stresses the importance of avoiding the erosion of human rights by derogation, and underlines the necessity of strict observance of the agreed conditions and procedures for derogation under article 4 of the International Covenant on Civil and Political Rights, bearing in mind the need for States parties to provide the fullest possible information during states of emergency, so that the justification for and appropriateness of measures taken in these circumstances can be assessed;

13. Appeals to States parties to the Covenants that have exercised their sovereign right to make reservations in accordance with relevant rules of international law to consider whether any such reservation should be reviewed;

14. Urges States parties to the International Covenant on Economic, Social and Cultural Rights, the specialized agencies and other relevant United Nations bodies to extend their full support and co-operation to the Committee on Economic, Social and Cultural Rights;

15. Requests the Secretary-General to keep the Human Rights Committee and the Committee on Economic, Social and Cultural Rights informed of the relevant activities of the General Assembly, the Economic and Social Council, the Commission on Human Rights, the Commission on the Status of Women, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee against Torture and, where appropriate, other functional commissions of the Economic and Social Council and the specialized agencies, and also to transmit the annual reports of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to those bodies;

16. Also requests the Secretary-General, within existing resources, to ensure that the Human Rights Committee and the Committee on Economic, Social and Cul-

tural Rights are able to hold the necessary sessions and are provided with administrative support and summary records;

17. Further requests the Secretary-General to ensure that the Centre for Human Rights of the Secretariat effectively assists the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in the implementation of their respective mandates;

18. Again urges the Secretary-General, taking into account the suggestions of the Human Rights Committee, to take determined steps, within existing resources, to give more publicity to the work of that Committee and, similarly, to the work of the Committee on Economic, Social and Cultural Rights;

19. Encourages all Governments to publish the texts of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights in as many languages as possible and to distribute them and make them known as widely as possible in their territories;

20. Requests the Secretary-General to submit to the General Assembly at its forty-fifth session, under the item entitled "International Covenants on Human Rights", a report on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights.

General Assembly resolution 44/129

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/824) without vote, 22 November (meeting 52); 24-nation draft (A/C.3/44/L.46); agenda item 98.

Meeting numbers. GA 44th session: 3rd Committee 36-43, 50, 52; plenary 82.

Electoral processes

Human Rights Commission action. On 7 March, the Commission recommended,(70) through the Economic and Social Council, that the General Assembly adopt the framework for future efforts to enhance the effectiveness of the principle of periodic and genuine elections proposed by the Commission. The framework emphasized such aspects as universal and equal suffrage; the right to take part in the government of one's country, directly or through freely chosen representatives; the right to equal access to public service; the need for a secret vote or equivalent free voting procedures; freedoms of peaceful assembly, of association and of opinion and expression, including the freedom to seek, receive and impart information and ideas; the right of citizens to change their governmental system through appropriate constitutional means; equal opportunity for all citizens to become candidates for public office; and the right of candidates to put forward their political views. National institutions should ensure universal and equal suffrage and impartial administration, with particular emphasis on independent supervision, appropriate voter registration, reliable balloting

procedures and methods for preventing electoral fraud and resolving disputes. It was also stressed that the country holding elections might wish to invite observers or seek advisory services, either from regional organizations or from the UN system.

By decision 1989/145 of 24 May, the Economic and Social Council took note of the Commission's resolution and recommended that the Assembly adopt the annexed framework for future efforts. The framework was transmitted to the Assembly by a 16 August note(71) of the Secretary-General.

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/146 without vote.

Enhancing the effectiveness of the principle of periodic and genuine elections

The General Assembly,

Aware of its obligations under the Charter of the United Nations to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples and to promote and encourage respect for human rights and fundamental freedoms for all,

Reaffirming the Universal Declaration of Human Rights, which provides that everyone has the right to take part in the government of his or her country, directly or through freely chosen representatives, that everyone has the right of equal access to public service in his or her country, that the will of the people shall be the basis of the authority of government, and that this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures,

Noting that the International Covenant on Civil and Political Rights provides that every citizen shall have the right and the opportunity, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, to take part in the conduct of public affairs, directly or through freely chosen representatives, to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors, and to have access, on general terms of equality, to public service in his or her country,

Condemning the system of apartheid and any other denial or abridgement of the right to vote on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Considering that the tricameral parliament established under the system of apartheid is a gross violation of the principle of universal and equal suffrage and has been overwhelmingly rejected by the international community,

Recalling that all States enjoy sovereign equality and that each State has the right freely to choose and develop its political, social, economic and cultural systems,

Recognizing that there is no single political system or electoral method that is equally suited to all nations and their people,

Recalling its resolution 43/157 of 8 December 1988,

Taking note of Commission on Human Rights resolution 1989/51 of 7 March 1989,

1. Underscores the significance of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which establish that the authority to govern shall be based on the will of the people, as expressed in periodic and genuine elections;

2. Stresses its conviction that periodic and genuine elections are a necessary and indispensable element of sustained efforts to protect the rights and interests of the governed and that, as a matter of practical experience, the right of everyone to take part in the government of his or her country is a crucial factor in the effective enjoyment by all of a wide range of other human rights and fundamental freedoms, embracing political, economic, social and cultural rights;

3. Declares that determining the will of the people requires an electoral process that provides an equal opportunity for all citizens to become candidates and put forward their political views, individually and in co-operation with others within the constitution and national legislation;

4. Recognizes that the efforts of the international community to enhance the effectiveness of the principle of periodic and genuine elections should not call into question each State's sovereign right freely to choose and develop its political, social, economic and cultural systems, whether or not they conform to the preferences of other States;

5. Underscores the duty of each member of the international community to respect the decisions taken by other States in freely choosing and developing their electoral institutions;

6. Reaffirms that apartheid must be abolished, that the systematic denial or abridgement of the right to vote on the grounds of race or colour is a gross violation of human rights and an affront to the conscience and dignity of mankind, and that the right to participate in a political system based on common and equal citizenship and universal franchise is essential for the exercise of the principle of periodic and genuine elections;

7. Rejects the tricameral parliament established under the system of apartheid as an abhorrent expression of a fundamentally oppressive and flagrantly inhuman political system;

8. Calls upon the Commission on Human Rights, at its forty-sixth session, to continue its consideration of appropriate ways and means of enhancing the effectiveness of the principle of periodic and genuine elections, in the context of full respect for the sovereignty of Member States, and to report to the General Assembly at its forty-fifth session, through the Economic and Social Council;

9. Decides to include in the provisional agenda of its forty-fifth session the item entitled "Enhancing the effectiveness of the principle of periodic and genuine elections".

General Assembly resolution 44/146

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/828 & Corr.1) without vote, 27 November (meeting 56); 25-nation draft (A/C.3/44/L.59), orally revised, and amended by 10 nations (A/C.3/44/L.72); agenda item 114.

Meeting numbers. GA 44th session: 3rd Committee 36-43, 50, 54, 56; plenary 82.

On the same date, the Assembly, also on the recommendation of the Third Committee, adopted resolution 44/147 by recorded vote.

Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes

The General Assembly,

Reaffirming the purposes of the United Nations to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples and to take other appropriate measures to strengthen universal peace,

Recalling its resolution 1514(XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Also recalling its resolution 2625(XXV) of 24 October 1970, by which it approved the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,

Further recalling the principle enshrined in Article 2, paragraph 7, of the Charter of the United Nations, which establishes that nothing contained in the Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the Charter,

Reaffirming the legitimacy of the struggle of the oppressed people of South Africa for the elimination of apartheid and for the establishment of a society in which all the people of South Africa as a whole, irrespective of race, colour or creed, will enjoy equal and full political and other rights and participate freely in the determination of their destiny,

Also reaffirming the legitimacy of the struggle of all peoples under colonial and foreign domination, particularly the Palestinian people, for the exercise of their inalienable right to self-determination and national independence, which will enable them to decide freely on their own future,

Recognizing that the principles of national sovereignty and non-interference in the internal affairs of any State should be respected in the holding of elections,

Also recognizing that there is no single political system or single model for electoral processes equally suited to all nations and their peoples, and that political systems and electoral processes are subject to historical, political, cultural and religious factors,

1. Reiterates that, by virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right, freely and without external interference, to determine their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect that right in accordance with the provisions of the Charter;

2. Affirms that it is the concern solely of peoples to determine methods and to establish institutions regarding the electoral process, as well as to determine the ways for its implementation according to their constitution and national legislation;

3. Also affirms that any extraneous activities that attempt, directly or indirectly, to interfere in the free development of national electoral processes, in particular in the developing countries, or that intend to sway the

results of such processes, violate the spirit and letter of the principles established in the Charter and in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations;

4. Urges all States to respect the principle of non-interference in the internal affairs of States and the sovereign right of peoples to determine their political, economic and social system;

5. Strongly appeals to all States to abstain from financing or providing, directly or indirectly, any other form of overt or covert support for political parties or groups and from taking actions to undermine the electoral processes in any country;

6. Condemns any act of armed aggression or threat or use of force against peoples, their elected Governments or their legitimate leaders;

7. Solemnly declares that only the total eradication of apartheid and the establishment of a non-racial, democratic society based on majority rule, through the full and free exercise of adult suffrage by all the people in a united and non-fragmented South Africa, can lead to a just and lasting solution to the explosive situation in South Africa;

8. Reaffirm once again the legitimacy of the struggle of all peoples under colonial and foreign domination, particularly the Palestinian people, for the exercise of their inalienable right to self-determination and national independence, which will enable them to determine their political, economic and social system, without external interference;

9. Calls upon the Commission on Human Rights, at its forty-sixth session, to give priority to the review of the fundamental factors that negatively affect the observance of the principle of national sovereignty and non-interference in the internal affairs of States in their electoral processes, and to report to the General Assembly at its forty-fifth session, through the Economic and Social Council;

10. Requests the Secretary-General to report to the General Assembly at its forty-fifth session on the implementation of the present resolution under the item entitled "Enhancing the effectiveness of the principle of periodic and genuine elections".

General Assembly resolution 44/147

15 December 1989 Meeting 82 113-23-11 (recorded vote)

Approved by Third Committee (A/44/828 & Corr.1) by recorded vote (100-24-11), 27 November (meeting 56); 14-nation draft (A/C.3/44/L.60/Rev.1), orally revised; agenda item 114.

Meeting numbers. GA 44th session: 3rd Committee 36-43, 50, 54, 56; plenary 82.

Recorded vote in Assembly as follows:*

In favour: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Byelorussian SSR, Cameroon, Cape Verde, Central African Republic, Chad, China, Colombia, Congo, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Dominica, Dominican Republic, Ecuador, Ethiopia, Gabon, Gambia, German Democratic Republic, Ghana, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Peru, Philippines, Qatar, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Tunisia, Uganda, Ukrainian SSR, USSR,

United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe.

Against: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Federal Republic of, Greece, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, United Kingdom, United States.

Abstaining: Chile, Egypt, El Salvador, Fiji, Grenada, Hungary, Malta, Poland, Sierra Leone, Trinidad and Tobago, Turkey,

*Costa Rica announced that it was not participating in the vote.

Regional arrangements

In 1989, the Commission had before it the Secretary-General's report(72) on regional arrangements for the promotion and protection of human rights in the Asian and Pacific region, submitted pursuant to a 1988 Commission resolution.(73) As requested by the Commission, the Secretary-General continued to encourage the Executive Secretary of the Economic and Social Commission for Asia and the Pacific (ESCAP) to pursue the establishment of a depository centre for UN human rights materials at Bangkok, Thailand, to collect, process and disseminate such materials in the Asian and Pacific region. The report noted, however, that there had been no substantive change in the ESCAP mandate that would enable it to establish the centre. It also stated that UN development agencies in the region had been informed of the Commission's particular interest in promoting regional arrangements and of the Secretary-General's readiness to assist them in that regard, and had been asked to forward their comments on the matter to the Centre for Human Rights.

Human Rights Commission action. On 7 March, the Commission requested(74) the Secretary-General to continue to assist the ESCAP Executive Secretary in establishing the depository centre, to ensure a continuing flow of human rights materials to the ESCAP library for their dissemination in the region, and to report in 1990 on the progress achieved. UN development agencies in the region were encouraged to co-ordinate with ESCAP their efforts to promote the human rights dimension in their activities.

Further developments. On 23 November, the Secretary-General reported(75) to the Commission that in April ESCAP had adopted a resolution requesting its Executive Secretary to pursue the establishment of the centre, following which the ESCAP library was designated as depository centre for UN human rights materials. Its dissemination capacity, however, was limited to distribution of bibliographies, references and reading lists; for the library to become a disseminating centre would necessitate development of a clearing-house operation, which would require sufficient additional resources. The Secretary-General noted that the Centre for Human Rights had provided the ESCAP library with an initial stock of its human rights information and reference materials issued to date.

Responsibility to promote and protect human rights

Working group activities. The working group on a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms met at Geneva from 23 to 30 January and on 27 February.⁽⁷⁶⁾ It discussed various elements of chapters III and IV of the draft declaration, and provisionally adopted, at first reading, paragraph 1 of chapter IV. Annexed to the group's report was a compilation of all the texts showing the state of the whole draft declaration.

Human Rights Commission action. On 8 March, the Commission decided⁽⁷⁷⁾ to continue work at its 1990 session on the elaboration of the draft declaration and to make meeting time available to the working group prior to and during that session.

ECONOMIC AND SOCIAL COUNCIL ACTION

On 24 May, the Economic and Social Council, on the recommendation of its Second Committee, adopted resolution 1989/80 without vote.

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

The Economic and Social Council,

Recalling Commission on Human Rights resolution 1989/60 of 8 March 1989,

1. Authorizes an open-ended working group of the Commission on Human Rights to meet for a period of eight working days prior to the forty-sixth session of the Commission, in order to continue the elaboration of a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognised human rights and fundamental freedoms;

2. Requests the Secretary-General to extend all facilities to the working group for its meetings prior to and during the forty-sixth session of the Commission and in order to enable it to continue its work on the elaboration of the draft declaration, to transmit the report of the working group that met prior to and during the forty-fifth session of the Commission, together with the annexes thereto, to all Member States in advance of the next meeting of the working group.

Economic and Social Council resolution 1989/80

24 May 1989 Meeting 16 Adopted without vote

Approved by Second Committee (E/1989/88) without vote, 19 May (meeting 22); draft by Commission on Human Rights (E/1989/20); agenda item 9.

International co-operation in human rights

On 7 March, the Commission called⁽⁷⁸⁾ on all States to implement fully the international standards for the promotion and protection of human rights, and urged them to co-operate fully with the relevant UN bodies and human rights treaty bod-

ies. It also invited Governments and international organizations to submit to the Secretary-General their comments and views on ways of strengthening international co-operation in solving international problems of a social, cultural and humanitarian character, and in promoting universal respect for, and observance of, human rights and fundamental freedoms. Governments were also invited to co-operate closely with special rapporteurs of the Commission.

World conference on human rights

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/156 without vote.

World conference on human rights

The General Assembly,

Noting the progress made by the United Nations over the past twenty years towards achieving its goal of promoting respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Noting also that there are still areas in which further progress could be made towards this goal,

Considering that, in view of the progress made and the new challenges that lie ahead, it would be appropriate to conduct a review of what has been accomplished through the human rights programme and what remains to be done,

1. Requests the Secretary-General to seek the views of Governments, specialized agencies, non-governmental organizations and United Nations bodies concerned with human rights on the desirability of convening a world conference on human rights for the purpose of dealing at the highest level with the crucial questions facing the United Nations in connection with the promotion and protection of human rights;

2. Also requests the Secretary-General to submit to the General Assembly at its forty-fifth session a report on this question;

3. Decides to consider the report of the Secretary-General at its forty-fifth session.

General Assembly resolution 44/156

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/848) without vote, 29 November (meeting

60); 43-nation draft (A/C.3/44/L.75); agenda item 12.

Meeting numbers. GA 44th session: 3rd Committee 48, 50-60; plenary 82.

Human rights based on solidarity

On 15 December, on the recommendation of the Third Committee, the Assembly adopted resolution 44/148 without vote.

Human rights based on solidarity

The General Assembly,

Reaffirming the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other international instruments adopted by the United Nations concerning human rights,

Stressing that respect for the inherent dignity and for the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Convinced that the severe suffering of innumerable human beings throughout the world, particularly those in conditions of extreme poverty, calls for the strengthening of a common sense of human solidarity,

1. Request the Commission on Human Rights to obtain from States, the specialized agencies and organizations of the United Nations system, as well as from other international organizations, including non-governmental organizations, their views and to study the question;

2. Decides to include in the provisional agenda of its forty-sixth session an item entitled "Human rights based on solidarity".

General Assembly resolution 44/148

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/829) without vote, 27 November (meeting 56); draft by Colombia (A/C.3/44/L.61/Rev.1); agenda item 115.

Meeting numbers. GA 44th session: 3rd Committee 36-43, 50, 54, 56; plenary 82.

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Human rights violations

In 1989, alleged violations of human rights on a large scale in several countries were examined by

the General Assembly, the Economic and Social Council and the Commission on Human Rights, as well as by special bodies and appointed officials. In addition, alleged human rights violations involving the self-determination of peoples were discussed with regard to Afghanistan, Kampuchea, South Africa, Western Sahara and the Palestinian people (see above, under "Civil and political rights").

Under a procedure established by the Economic and Social Council in 1970(1) to deal with communications alleging denial or violation of human rights, the Working Group on Communications of the Sub-Commission on Prevention of Discrimination and Protection of Minorities met from 24 July to 4 August 1989. After consideration of the Working Group's confidential report, the Sub-Commission referred to the Commission for consideration situations which appeared to reveal a consistent pattern of gross human rights violations. It decided to defer action on certain communications until 1990 and to take no action on certain others.

On 7 March 1989, the Commission Chairman announced that the Commission had examined, in closed session, the human rights situations in Brunei Darussalam, Haiti, Honduras, Iraq, Paraguay, Somalia, the Syrian Arab Republic and Zaire, referred to it by the Sub-Commission at its 1988 session. He also announced that the situations in Honduras, Iraq, the Syrian Arab Republic and Zaire were no longer under consideration under the 1970 procedure.

Africa

South Africa and Namibia

Working Group activities. On 31 January, the six-member Ad Hoc Working Group of Experts on southern Africa, established by the Commission on Human Rights in 1967,(2) reported(3) to the Commission on recent developments in South Africa and Namibia. It described, in particular, the results of its 1988 fact-finding mission,(4) during which the Group held 24 meetings and heard 59 witnesses.

Developments dealt with in the report concerned the right to life, physical integrity and protection from arbitrary arrest and detention; apartheid, including bantustanization and forced population removals; the right to education, health and freedom of expression and of movement; and the right to work and freedom of association, including the situation of black workers and trade union activities in both South Africa and Namibia. Issues relating to Namibia also included human rights violations affecting individuals, such as capital punishment, and other manifestations of policies and practices constitut-

ing a violation of human rights, as well as the situation of refugees. The report also noted that the Group had not received sufficient information during the period under review to determine the responsibilities of persons suspected of being guilty of the crime of apartheid or of a serious human rights violation. Annexed to the report was a list of known political detainees in South Africa from January to May 1988.

The Working Group observed that the extension of the state of emergency in South Africa continued to cause new outbreaks of violence, while the extremely broad powers granted to the police and armed forces gave rise to abuses of authority. The Group pointed to the persistence of massive repression against students and trade union members, resumption of forced population removals, new restrictions on freedom of expression, and a growing number of arrests and detentions without trial of political prisoners, as well as cases of torture and ill-treatment, in particular against children (see above, under "Civil and political rights"). Accordingly, the Working Group was of the opinion that discrimination continued to be the rule in South Africa as apartheid remained institutionalized, despite indications that the Government envisaged reviewing its policy. With regard to Namibia, the Group, while underscoring the continuing illegal occupation of the Territory by South Africa characterized by repression and flagrant human rights violations, noted recent efforts towards implementing the UN plan for the independence of Namibia (see PART FOUR, Chapter III).

The report set forth a number of recommendations for action by the Commission.

In pursuance of its mandate, the Group carried out a mission of inquiry to London from 14 to 18 August, to gather information on policies and practices violating human rights in South Africa and Namibia, on the situation of children and on trade union rights in South Africa. It also undertook a joint mission with the Special Rapporteur on summary and arbitrary executions (see above, under "Civil and political rights") to collect on-the-spot information concerning violations of the right to life. The Group heard 18 witnesses with respect to the situation in South Africa and 6 witnesses with respect to the situation in Namibia. On 14 August, it decided to postpone its on-the-spot investigation of living conditions in Namibia and the treatment of its people by South Africa, requested by the Commission earlier in the year (see below).

Human Rights Commission action. On 23 February, by a roll-call vote of 35 to 3, with 5 abstentions, the Commission strongly condemned⁽⁵⁾ the escalation of human rights violations in South Africa since the imposition of the state of emer-

gency in June 1986,⁽⁶⁾ the widespread detention and incarceration of children and pregnant women, the use of torture and other ill-treatment against political opponents and indiscriminate use of force against unarmed demonstrators. It demanded that South Africa immediately abolish the system of apartheid in all its forms, and denounced the policies of "bantustanization" and denationalization, the forced removals of the black population and so-called "voluntary" removals. The Commission rejected South Africa's so-called reforms, which fell short of terminating the state of emergency, abolishing apartheid laws, dismantling the "bantustans", lifting bans on political organizations and parties and on the return of political exiles and freedom fighters, and ensuring the unconditional release of political prisoners.

The Commission demanded that South Africa desist from its brutal repression, torture and harassment of organizations and individuals opposed to apartheid and from the abduction and assassination of political refugees and members of liberation movements based in neighbouring States, and called on it to respect international standards on trade union rights and to desist from harassing, intimidating, arresting and maltreating black trade union leaders. It also demanded that South Africa repeal its ban on political organizations, release unconditionally all political prisoners and ensure that all South Africans were afforded access to a unified, free educational system. It condemned South Africa for its military pressures and other destabilization policies towards the front-line States.

Urging all States to stop any assistance to South Africa, the Commission called on the Security Council to impose mandatory sanctions against the South African régime, and endorsed, pending the adoption of sanctions, other measures adopted by certain countries, including prohibition of the transfer of technology; cessation of exports, sales or transport of oil and oil products as well as of any co-operation with South Africa's oil industry; cessation of further investments, financial loans and credit guarantees or support for trade; prohibition of the sale of krugerrand and other coins minted in South Africa; prohibition of imports from South Africa; termination of visa-free entry and of the promotion of tourism to South Africa; termination of air and shipping links; cessation of academic, cultural, scientific and sports relations; suspension or abrogation of agreements and termination of double taxation agreements; and a ban on government contracts with majority-owned South African companies.

The Commission strongly recommended to the Economic and Social Council that a year be declared as Academic Year against Apartheid and that the subject of the evils of apartheid be taught

in educational institutions world wide, so as to sensitize public opinion to the realities of that system. It endorsed recommendations of the Ad Hoc Working Group of Experts on southern Africa, renewed its mandate and decided that the Group should continue to study human rights violations in South Africa and Namibia, as well as infringements of trade union rights in South Africa. The Group was requested to continue bringing to the Commission Chairman's attention particularly serious violations and, in co-operation with the Special Committee against Apartheid, to continue investigating cases of torture, ill-treatment and deaths of detainees in South Africa. The Group Chairman was also authorized to participate in events connected with action against apartheid organized under the Special Committee's auspices.

In connection with the Group's on-the-spot investigations of living conditions in South African and Namibian prisons and the treatment of prisoners, the Commission requested South Africa to guarantee the Group free and confidential access to any current or former prisoner or detainee or any other persons, and to grant those persons immunity from any State action arising from their participation in the investigation. It also requested the Secretary-General to provide the Group with all possible assistance, and asked the Group to submit its interim report to the Commission in 1990 and its final report in 1991.

In another resolution,⁽⁷⁾ adopted on 23 February by a roll-call vote of 32 to none, with 10 abstentions, the Commission reaffirmed the Namibian people's inalienable right to self-determination and independence under conditions determined by the Security Council in 1978,⁽⁸⁾ which it said remained the only internationally accepted basis for a peaceful and definitive settlement of the Namibian problem, and reiterated that South Africa's illegal occupation of Namibia was an act of aggression. It condemned South Africa for the militarization of Namibia; the use of mercenaries; the recruitment and training of Namibians for tribal armies; the proclamation of a so-called security zone in Namibia; forcible displacement of Namibians from their homes; torture and brutality against the population and captured freedom fighters in particular; the military conscription of Namibians; the exploitation and depletion of Namibia's natural resources; and the use of Namibia as a supply base for armed groups based in Angola.

The Commission denounced South Africa's schemes to achieve a neo-colonial solution to the Namibian problem, as well as its attempts to separate parts of the Territory from the rest of Namibia; it urged States to reject such schemes and not to recognize any administration in Namibia that did not ensue from free elections conducted

under UN auspices. It strongly urged the immediate holding of free and fair elections in Namibia, called for support to and co-operation with the UN Transition Assistance Group, appealed to the Security Council to adopt measures for implementing the UN plan for the independence of Namibia, and demanded that South Africa co-operate with the United Nations in bringing about Namibia's independence (see also above, under "Civil and political rights", and PART FOUR, Chapter III). The Commission also demanded that South Africa terminate the curfew in Namibia and release unconditionally all Namibian political prisoners; discontinue its military build-up and military conscription there as well as the torture and murder of innocent Namibians; accord prisoner-of-war status to captured freedom fighters and apply international humanitarian law to the liberation struggle in Namibia; and account for all "disappeared" Namibians. In that regard, it declared South Africa to be liable for compensating the victims, their families and the future lawful Government of an independent Namibia for losses sustained.

The Commission called for the unimpeded return of all Namibian refugees and exiles and urged international assistance in their repatriation. It requested the Ad Hoc Working Group of Experts to make an on-the-spot investigation in 1989 of living conditions in Namibia and the treatment of Namibians by the South African régime, to bring to the Commission Chairman's attention human rights violations in Namibia and to report to the Commission in 1990. The Secretary-General was asked to provide the Group with all necessary assistance.

By decision 1989/136 of 24 May, the Economic and Social Council approved the Commission's decision to renew the Working Group's mandate and its request to the Secretary-General to provide the Group with all possible assistance.

Sub-Commission action. On 31 August, the Sub-Commission reaffirmed⁽⁹⁾ that apartheid was a crime against humanity and demanded the immediate lifting of the state of emergency, the cessation of all acts of brutality by the South African army and security forces, and the release of all political prisoners. Urging South Africa to lift promptly the ban on anti-apartheid organizations, the Sub-Commission strongly condemned it for the recent imposition of capital punishment on 66 opponents of apartheid; the continuing acts of international terrorism and destabilization carried out against the front-line and other neighbouring States; and the decision to proceed with local government elections organized along racial lines. It reaffirmed the right of all persons to refuse service in military or police forces used to enforce apartheid, appealed for international pressure on South

Africa not to proceed with the execution of apartheid opponents, and requested the Chairman of the Commission on Human Rights to transmit that appeal urgently to the South African Government. The Sub-Commission urged States to provide assistance to the people of South Africa and Namibia, and called on them to assist the front-line States and to continue efforts towards the apartheid régime's total economic, cultural and political isolation.

Condemning all collaboration with South Africa and any breach or circumvention of the international sports boycott against apartheid, the Sub-Commission called on States, particularly Equatorial Guinea and Israel, to cut all military links with that country. It also called for immediate and complete disinvestment from South Africa and urged the foreign companies concerned to ensure that benefits that had accrued to the black labour force were fully respected.

1973 Convention against apartheid

As at 31 December 1989,(10) the number of parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid, which was adopted by the General Assembly in 1973(11) and entered into force in 1976,(12) remained at 88. In a 9 August report(13) to the Assembly on the status of the Convention, the Secretary-General provided a list of States that had signed, ratified or acceded to it as at 1 August.

Activities of the Group of Three. The Group of Three (Ethiopia, German Democratic Republic, Mexico)—established under article IX of the Convention to consider reports by States parties on measures taken to implement the Convention's provisions—held its twelfth session at Geneva from 23 to 27 January.(14)

The Group examined, in the presence of representatives of the reporting States, an initial report from Trinidad and Tobago; the second periodic report from Romania; the third periodic reports from Peru and Rwanda; the fourth periodic report from Yugoslavia; the fifth periodic reports from Bulgaria, the German Democratic Republic and Qatar; and the sixth periodic reports from Cuba and the USSR. It agreed to postpone consideration of the report from Czechoslovakia to its 1990 session.

The Group also continued to consider whether actions of transnational corporations (TNCs) operating in South Africa and Namibia came under the definition of the crime of apartheid. It had before it a note(15) by the Secretary-General transmitting the views of three States parties, as well as previously expressed views of States parties, specialized agencies and NGOs. The Group reiterated its view that such TNCs exhausted South African and Namibian natural resources, exploited the

region's labour force with the single aim of making larger profits, and strengthened the apartheid régime. It endorsed the conclusion that, by their complicity, those TNCs must be considered, in conformity with article III (b) of the Convention, accomplices in the crime of apartheid and must be prosecuted for their responsibility in continuing that crime. However, the Group was of the opinion that further examination of the extent and nature of that responsibility was needed.

Noting the recommendations of the second meeting of persons chairing the human rights treaty bodies, held in 1988(16) (see also above, under "Advancement of human rights"), the Group authorized its Chairman to request the 38 States parties that had not yet submitted their initial reports to do so for its consideration in 1990. It also recommended that the Commission on Human Rights extend the periodicity of reporting by States parties from two to four years. The Group had before it the Secretary-General's note(17) indicating the status of submission of reports; noting with concern that more than 190 reports were overdue as at 31 December 1988, the Group urged those parties to fulfil their reporting obligations. It made a further number of recommendations for action by the Commission.

Human Rights Commission action. On 23 February, by a roll-call vote of 32 to 1, with 10 abstentions, the Commission urged(18) States that had not done so to ratify or accede to the 1973 Convention against apartheid without delay and to ratify the 1948 Convention on the Prevention and Punishment of the Crime of Genocide(19) (see below, under "Genocide"), and requested States parties to the former Convention to submit their initial reports not later than two years after the Convention's entry into force for them, and their periodic reports at four-year intervals. It reiterated its recommendations that parties take into account the general guidelines for submission of reports, laid down by the Group of Three in 1978,(20) and that States parties be represented during the Group's consideration of their reports.

The Commission requested the Group to continue examining the extent and nature of TNCs' responsibility for the continued existence of the apartheid system as well as legal action that could be taken against TNCs whose operations came under the crime of apartheid, and to report in 1990. The Secretary-General was requested to invite the comments of States parties on that matter. He was further asked to invite States parties, specialized agencies and NGOs to provide the Commission with relevant information on the forms of the crime of apartheid, as described in article II, committed by TNCs operating in South Africa. The Commission decided on the time-frame for the Group's 1990 meeting and requested the

Secretary-General to provide it with all necessary assistance. He was also asked to intensify his efforts to disseminate information on the Convention and its implementation.

The Commission further called on States parties whose TNCs continued to do business with South Africa to terminate their dealings with South Africa and Namibia and to strengthen co-operation in implementing UN decisions aimed at preventing, suppressing and punishing the crime of apartheid. States, UN bodies, specialized agencies and NGOs were asked to step up their activities in enhancing public awareness by denouncing the crimes committed by the South African régime.

ECONOMIC AND SOCIAL COUNCIL ACTION

In May, the Economic and Social Council adopted decision 1989/137 by vote.

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

At its 16th plenary meeting, on 24 May 1989, the Economic and Social Council, taking note of Commission on Human Rights resolution 1989/8 of 23 February 1989, approved the Commission's decision that the Group of Three of the Commission, established in accordance with article IX of the International Convention on the Suppression and Punishment of the Crime of Apartheid, should meet for a period of not more than five days before the forty-sixth session of the Commission to consider the reports submitted by States parties in accordance with article VII of the Convention. The Council also approved the Commission's request to the Secretary-General to provide all necessary assistance to the Group of Three.

Economic and Social Council decision 1989/137

39-1-13 (unrecorded vote)

Approved by Second Committee (E/1989/88) by recorded vote (40-1-13), 19 May (meeting 22); draft by Commission on Human Rights (E/1989/20); agenda item 9.

GENERAL ASSEMBLY ACTION

On 8 December, on the recommendation of the Third Committee, the General Assembly adopted resolution 44/69 by recorded vote.

Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid

The General Assembly,

Recalling its resolutions 41/103 of 4 December 1986, 42/56 of 30 November 1987 and 43/97 of 8 December 1988,

Mindful that the International Convention on the Suppression and Punishment of the Crime of Apartheid constitutes an important international treaty in the field of human rights and serves to implement the ideals of the Universal Declaration of Human Rights,

Reaffirming its conviction that apartheid is a crime against humanity and constitutes a total negation of the pur-

poses and principles of the Charter of the United Nations and a gross violation of human rights, seriously threatening international peace and security,

Strongly condemning the abhorrent policy and system of apartheid and the brutal repression it engenders, which continue to aggravate the situation in South Africa,

Emphasizing that the root cause of the conflict in southern Africa is apartheid and the racist régime's policy of aggression, State terrorism and destabilization against the front-line and other neighbouring States,

Condemning the continued collaboration of certain States and transnational corporations with the racist régime of South Africa in the political, economic, military and other fields as an encouragement to the intensification of its odious policy of apartheid,

Firmly convinced that the legitimate struggle of the oppressed peoples in southern Africa against apartheid, racism and colonialism and for the effective implementation of their inalienable right to self-determination and independence demands more than ever all necessary support by the international community and, in particular, further action by the Security Council in accordance with Chapter VII of the Charter,

Underlining that ratification of or accession to the Convention on a universal basis and the implementation of its provisions without any delay are necessary for its effectiveness and will therefore contribute to the eradication of the crime of apartheid,

1. Takes note of the report of the Secretary-General on the status of the International Convention on the Suppression and Punishment of the Crime of Apartheid,
2. Commends those States parties to the Convention that have submitted their reports under article VII thereof;

3. Appeals once again to those States that have not yet done so to ratify or to accede to the Convention without further delay, in particular those States that have jurisdiction over transnational corporations operating in South Africa and Namibia and without whose co-operation such operations could not be halted;

4. Underlines the importance of the universal ratification of the Convention, which would be an effective contribution to the fulfilment of the ideals of the Universal Declaration of Human Rights and other human rights instruments;

5. Recalls with satisfaction the report of the Group of Three of the Commission on Human Rights, which was set up under the Convention, and, in particular, the conclusions and recommendations contained in that report;

6. Once again draws the attention of all States to the opinion expressed by the Group of Three in its report that transnational corporations operating in South Africa and Namibia must be considered accomplices in the crime of apartheid, in accordance with article III (6) of the Convention;

7. Calls upon all States whose transnational corporations continue to do business with South Africa to take appropriate steps to terminate their dealings with South Africa;

8. Request the Commission on Human Rights to intensify, in co-operation with the Special Committee against Apartheid, its efforts to compile periodically the progressive list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention, as

well as those against whom or which legal proceedings have been undertaken;

9. Request the Secretary-General to circulate that list among all States parties to the Convention and all Member States and to bring such facts to the attention of the public by all means of mass communication;

10. Also requests the Secretary-General to invite the States parties to the Convention, the specialized agencies and non-governmental organizations to provide the Commission on Human Rights with relevant information concerning the forms of the crime of apartheid, as described in article II of the Convention, committed by transnational corporations operating in South Africa;

11. Notes the importance of measures to be taken by States parties in the field of teaching and education for fuller implementation of the Convention;

12. Appeals to all States, United Nations organs, the specialized agencies and international and national non-governmental organizations to step up their activities to enhance public awareness by denouncing the crimes committed by the racist régime of South Africa;

13. Requests the Secretary-General to intensify his efforts, through appropriate channels, to disseminate information on the Convention and its implementation with a view to promoting further ratification of or accession to the Convention;

14. Also requests the Secretary-General to include in his next annual report under General Assembly resolution 3380(XXX) of 10 November 1975 a special section concerning the implementation of the Convention.

General Assembly resolution 44/69

8 December 1989 Meeting 78 124-1-27 (recorded vote)

Approved by Third Committee (A/44/716) by recorded vote (110-1-28), 27 October (meeting 21); 33-nation draft (A/C.3/44/L.11); agenda item 100. Meeting numbers. GA 44th session: 3rd Committee 3-11, 15, 21; plenary 78.

Recorded vote in Assembly as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Byelorussian SSR, Cameroon, Cape Verde, Central African Republic, Chad, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Gabon, Gambia, German Democratic Republic, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian SSR, USSR, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: United States.

Abstaining: Australia, Austria, Belgium, Canada, Chile, Denmark, Fiji, Finland, France, Germany, Federal Republic of, Greece, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Malta, Netherlands, New Zealand, Norway, Paraguay, Portugal, Spain, Sweden, Turkey, United Kingdom.

Before adopting the text as a whole, the Assembly adopted paragraphs 6, 7 and 10 by recorded votes of 113 to 16, with 20 abstentions, 117 to 8, with 25 abstentions, and 120 to 15, with 15 abstentions, respectively. The Third Committee had approved the same paragraphs by recorded votes of 104 to 16, with 17 abstentions, 107 to 8, with 23

abstentions, and 106 to 15, with 16 abstentions. By a recorded vote of 115 to 15, with 19 abstentions, the Assembly retained the words "State terrorism" in the fifth preambular paragraph, as had the Committee by a recorded vote of 107 to 15, with 16 abstentions.

Foreign support to South Africa

Human Rights Commission action. On 23 February, by a roll-call vote of 31 to 8, with 4 abstentions, the Commission expressed its appreciation(21) to the Sub-Commission's Special Rapporteur, Ahmed Khalifa (Egypt), for his updated 1988 report(22) on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance to South Africa. It vigorously condemned assistance to South Africa by major Western countries and Israel, particularly in the military field, and demanded that such assistance, which it was convinced was a hostile action against the people of South Africa, Namibia and neighbouring States, be immediately terminated. Condemning the continuing nuclear collaboration of some Western States, Israel and others with South Africa, the Commission urged them to stop supplying it with nuclear equipment and technology, and called on Governments to end technological assistance or collaboration in the manufacture of arms and military supplies in South Africa and Namibia and to cease all nuclear collaboration with South Africa.

Reaffirming the right of the South African and Namibian peoples to dispose of natural resources in their territories and to obtain reparation for the exploitation, depletion, loss or depreciation of those resources, the Commission strongly condemned foreign economic activities in Namibia and demanded that TNCs exploiting Namibian resources immediately refrain from new investments or activities there, withdraw from the Territory and end their co-operation with the South African administration. It called on States to take measures to prevent nationals and corporations under their jurisdiction from trading, manufacturing and investment in South Africa and Namibia, and appealed for intensified international efforts to force the South African régime to comply with UN resolutions and decisions. In that regard, the Commission welcomed the General Assembly's request to the Security Council to consider complete and mandatory sanctions against South Africa, in particular the prohibition of technological assistance or collaboration in the manufacture of arms and military supplies; cessation of nuclear collaboration; prohibition of loans to and investment in South Africa, and the cessation of trade; and an embargo on the supply of petroleum, petroleum products and other strategic goods.

The Commission rejected all policies that encouraged the South African régime to intensify its repression of South Africans and Namibians and to escalate its aggression against neighbouring States, and demanded that South Africa cease all acts of aggression and destabilization against those States. It appealed to States, specialized agencies and NGOs to co-operate with the recognized liberation movements of southern Africa and to intensify, along with regional intergovernmental organizations, their campaign aimed at mobilizing public opinion to enforce economic and other sanctions against South Africa. The Commission urgently requested specialized agencies, particularly the International Monetary Fund (IMF), to refrain from granting loans or financial assistance to the South African regime, and called for contributions to the Action for Resisting Invasion, Colonialism and Apartheid Fund, as well as for measures to facilitate implementation of the Tripartite Agreement for Namibia's independence (see PART FOUR, Chapter III).

Also on 23 February, by a roll-call vote of 32 to 7, with 4 abstentions, the Commission recommended⁽²³⁾ a draft resolution for adoption by the Economic and Social Council (see below).

ECONOMIC AND SOCIAL COUNCIL ACTION

On 24 May, the Economic and Social Council adopted resolution 1989/73 by recorded vote.

Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa

The Economic and Social Council,

Recalling General Assembly resolutions 39/15 of 23 November 1984 and 41/95 of 4 December 1986,

1. Expresses its satisfaction to the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Mr. Ahmad Khalifa, for his updated report;

2. Expresses its thanks to all Governments and all organizations that have provided information to the Special Rapporteur;

3. Invites the Special Rapporteur:

(a) To continue to update, subject to annual review, the list of banks, transnational corporations and other organizations assisting the racist régime of South Africa, giving such details regarding enterprises listed as the Rapporteur may consider necessary and appropriate, including explanations of responses, if any, and to submit the updated report to the Commission on Human Rights, through the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

(b) To use all available material from other United Nations organs, Member States, specialized agencies and other relevant sources in order to indicate the volume, nature and adverse human consequences of the assistance given to the racist régime of South Africa;

(c) To intensify direct contacts with the United Nations Centre on Transnational Corporations and the

Centre against Apartheid of the Secretariat, with a view to consolidating mutual co-operation in updating his report;

4. Calls upon Governments:

(a) To co-operate with the Special Rapporteur in making the report even more accurate and informative;

(b) To disseminate the updated report and give its contents the widest possible publicity;

5. Invites the Sub-Commission to consider the updated report at its forty-first session;

6. Requests the Secretary-General, in accordance with General Assembly resolution 41/95, to make available to the Special Rapporteur two economists to help him to develop his work of analysis and documentation of certain specific cases of particular importance;

7. Also requests the Secretary-General to give the Special Rapporteur all the assistance that he may require in the exercise of his mandate, with a view to intensifying direct contacts with the United Nations Centre on Transnational Corporations and the Centre against Apartheid.

8. Further requests the Secretary-General to bring the updated report of the Special Rapporteur to the attention of Governments whose national financial institutions continue to deal with the régime of South Africa and to call upon them to provide the Special Rapporteur with any information or comments they may wish to present on the matter;

9. Invites the Secretary-General to continue to give the updated report of the Special Rapporteur the widest distribution and publicity as a United Nations publication;

10. Requests the Special Rapporteur to provide the Sub-Commission at its forty-first session with a concise note on the feasibility of consolidating the lists maintained by United Nations organs of enterprises doing business in South Africa;

11. Also requests the Special Rapporteur to provide the Sub-Commission at its forty-first session with a brief analysis of the partial disinvestment of foreign enterprises in South Africa, enumerating the various techniques employed to avoid total withdrawal from participation in the South African economy;

12. Decides that the Commission on Human Rights shall consider the updated report at its forty-sixth session under the agenda item entitled "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".

Economic and Social Council resolution 1989/73

24 May 1989 Meeting 16 38-7-8 (recorded vote)

Approved by Second Committee (E/1989/88) by recorded vote (39-7-7), 19 May (meeting 22); draft by Commission on Human Rights (E/1989/20); agenda item 9.

Recorded vote in Council as follows:

In favour: Bahamas, Belize, Bolivia, Brazil, Bulgaria, Cameroon, China, Colombia, Cuba, Czechoslovakia, Ghana, Guinea, Indonesia, Iran, Iraq, Jordan, Kenya, Lesotho, Libyan Arab Jamahiriya, Nicaragua, Niger, Oman, Poland, Rwanda, Saudi Arabia, Somalia, Sri Lanka, Sudan, Thailand, Trinidad and Tobago, Tunisia, Ukrainian SSR, USSR, Uruguay, Venezuela, Yugoslavia, Zaire, Zambia.

Against: France, Germany, Federal Republic of Italy, Netherlands, Portugal, United Kingdom, United States.

Abstaining: Canada, Denmark, Greece, Ireland, Japan, Liberia,* New Zealand, Norway.

*Later advised the Secretariat it had intended to vote in favour.

Report of the Special Rapporteur. On 11 and 12 July, the Special Rapporteur presented to the Sub-Commission an updated report and later addendum,(24) which analysed disinvestment trends in South Africa and listed TNCs, banks, insurance companies, firms and other enterprises giving direct or indirect military, economic and other assistance to that country. The report also provided comments on the subject from 12 States and 6 UN organs and specialized agencies, and noted that 3 regional intergovernmental organizations, 6 NGOs and a number of other bodies of the UN system had replied.

Sub-Commission action. On 31 August, the Sub-Commission recommended(25) that the Commission recommend to the Economic and Social Council a resolution requesting the Special Rapporteur to continue updating his report for annual review by the Sub-Commission and the Commission; calling on States to co-operate with the Rapporteur and to disseminate his report; requesting the Secretary-General to provide the Rapporteur with all necessary assistance and to bring the report to the attention of Governments concerned; and inviting him to give it wide distribution and publicity as a UN publication.

Trade union rights in South Africa

In 1989, the Ad Hoc Working Group of Experts on southern Africa (see above) continued to study alleged infringements of trade union rights in South Africa, as requested by the Economic and Social Council in 1988.(26) By a 3 April note,(27) the Secretary-General communicated to the Council sections of the Group's report(3) to the Commission containing its findings concerning labour legislation, freedom of association, restrictions under state-of-emergency regulations, as well as the situation of black workers, trade union activities, action against trade union movements, and sanctions and disinvestment in South Africa.

On 7 April, the Secretary-General informed(28) the Council that the International Labour Organisation (ILO) had in 1988 referred for Council consideration, in accordance with its 1950 resolution,(29) certain allegations of infringements of trade union rights in South Africa, addressed to ILO by the Congress of South African Trade Unions (COSATU). As South Africa was not a member of ILO, the Secretary-General had sought its Government's consent to having the allegations referred to the ILO Fact-Finding and Conciliation Commission on Freedom of Association. He provided a 14 February 1989 reply from South Africa, which stated that COSATU had not yet exhausted the available internal procedures to settle the complaint in question and that it would be premature to refer it to the ILO Commission.

ECONOMIC AND SOCIAL COUNCIL ACTION

On 24 May, the Economic and Social Council adopted resolution 1989/82 without vote.

Infringements of trade union rights in South Africa

The Economic and Social Council,

Recalling its resolution 1988/41 of 27 May 1988,

Having examined the relevant section of the report of the Ad Hoc Working Group of Experts on southern Africa of the Commission on Human Rights and having considered the complaint made by the Congress of South African Trade Unions against the South African régime concerning the infringement of the right of freedom of association, referred to the Council in accordance with its resolution 277(X) of 17 February 1950 and contained in annex II to the note by the Secretary-General on allegations regarding infringements of trade union rights,

Noting that the reply from the Government of South Africa addressed to the Secretary-General and contained in annex III to the note by the Secretary-General pre-dates the enactment of the legislation which constitutes the subject of the complaint,

Gravely concerned at the further deterioration of the situation as a result of the enactment of new legislation placing drastic restrictions on the exercise of trade union rights,

Noting with indignation that dehumanizing conditions imposed on black workers by the Government of South Africa and police intervention in industrial disputes, including mass arrests, banning and harassment of trade unionists, continue,

Aware of the ever-growing importance of the role of the independent black trade union movement in the struggle against apartheid,

1. Takes note of the relevant section of the report of the Ad Hoc Working Group of Experts on southern Africa of the Commission on Human Rights;
2. Condemns the increased repression of the independent black trade union movement by the Government of South Africa;
3. Demands once again that the persecution of trade unionists and repression of the independent black trade union movement cease;
4. Requests once again immediate recognition of the right of the entire population of South Africa to exercise freedom of association and to form and join trade unions without impediment or discrimination of any kind;
5. Demands the immediate unconditional release of all trade unionists imprisoned for exercising their legitimate trade union rights;
6. Requests the Ad Hoc Working Group of Experts to continue to study the situation and to report thereon to the Commission on Human Rights and the Council;
7. Also requests the Ad Hoc Working Group of Experts, in the discharge of its mandate, to consult with the International Labour Organisation and the Special Committee against Apartheid, as well as with international and African trade union confederations;
8. Decides to consider at its first regular session of 1990 the question of allegations regarding infringements of trade union rights in South Africa as a sub-item of the item entitled "Human rights";

9. Requests the Secretary-General to persist in his efforts to ensure referral of the complaint made by the Congress of South African Trade Unions to the Fact-finding and Conciliation Commission on Freedom of Association of the International Labour Organisation.

Economic and Social Council resolution 1989/82

24 May 1989 Meeting 16 Adopted without vote

Approved by Second Committee (E/1989/88) without vote, 19 May (meeting 22); draft by Burkina Faso, for African States (E/1989/C.2/L.20); orally amended by Lesotho in plenary; agenda item 9.

Asia and the Pacific

Afghanistan

Report of the Special Rapporteur. On 16 February 1989, Special Rapporteur Felix Ermacora (Austria) submitted to the Commission a report⁽³⁰⁾ on the human rights situation in Afghanistan. The Special Rapporteur visited that country and Pakistan in 1988, and again in 1989, from 27 January to 1 February (Pakistan) and from 2 to 5 February (Afghanistan).

He stated that the situation in Afghanistan was characterized by such factors as the decision to withdraw Soviet troops by 15 February 1989 (see PART TWO, Chapter III); efforts to establish a broad-based interim government including members of the current Government; and the continuation of the armed conflict. The human rights situation was adversely affected by government attempts to retain control over the areas formerly occupied by Soviet troops and by opposition attacks during the troop withdrawal, as well as retaliatory action, resulting in considerable civilian casualties and damage to property. At the same time, the Government accused the opposition of rejecting all its proposals to normalize the situation in the country, while the opposition claimed that the so-called policy of national reconciliation pursued by the Government had had no effect on either the return of refugees or the restoration of human rights in Afghanistan, due to continued bombing raids, arbitrary arrests and cases of torture and ill-treatment.

The Special Rapporteur continued to receive allegations concerning disappearances of persons, and was informed of cases of torture and ill-treatment which occurred during interrogation. Despite the Government's claim that only two interrogation centres existed in the country, he had obtained information that tended to confirm that other similar centres existed. He described the situation of prisoners awaiting trial as deplorable, and noted that Iranian and Pakistani prisoners had not benefited from general amnesties. He also pointed out that, whereas 16,110 prisoners had been released since 1986, 3,405 more persons were imprisoned during the same period; the official figure given for political prisoners was 3,500, but whether there were more prisoners in places other

than known detention centres could not be determined.

Following the rejection by the opposition of the Government's proposal for a cease-fire, the downward trend in casualties in combat areas had reversed. It had been asserted, the Rapporteur said, that the Soviet forces used military strength to safeguard their troop withdrawal and that government troops attacked areas recently vacated by the Soviet forces. The Special Rapporteur also underscored that neither the use of prisoners of war for bargaining or exchange nor their treatment in general met the provisions laid down in the Geneva Conventions of 1949. As a result of the conflict, the food supply had decreased dramatically, which had especially negative effects on lower strata of the population and children.

The number of Afghan refugees outside the country stood at some 5.5 million, with only 185,945 having returned from Iran and Pakistan. Despite the existence of 31 "peace guest houses", 4 receiving points, 12 receiving camps and 8 clinics for refugees, their return was impeded by continued fighting, the presence of mines and the absence of an Islamic government or a broad-based government without members of the current ruling party demanded by most refugees. In that regard, the report noted attempts by the opposition alliance to designate a traditional consultative body, *Shura*, to hold power until general elections. It also stressed that only a portion of the population accepted the type of government provided for in the Constitution of December 1987 and that the existence of such a high number of refugees, who had not had the opportunity to express themselves on the Constitution, created a major obstacle to the full exercise of the right to self-determination.

The Special Rapporteur concluded that the human rights situation in Afghanistan remained a matter of deep concern and that all parties to the conflict were responsible for ensuring the respect for human rights in areas under their control. He recommended that all parties strictly respect provisions of humanitarian law, increase efforts to solve the conflict by peaceful means, co-operate in facilitating the return of refugees, allow humanitarian NGOs (particularly ICRC) unrestricted access to all parts of the country and transmit to them the names of all political prisoners and detained Afghan soldiers, and release prisoners of war without delay or conditions of reciprocity. It was also recommended that all military commanders provide minefield plans to facilitate mine-clearing activities, that members of the armed forces and civil servants not be subjected to arbitrary justice but stand fair trial on an individual basis, that the fate of disappeared persons be thoroughly investigated, that no ban

on supplies of medicine and foodstuffs and other essential goods be declared as a means of pressure against the civilian population, and that international consensus be promoted to implement humanitarian projects in Afghanistan. The Special Rapporteur further suggested that, in implementation of those recommendations and in other respects, recourse might be had to the assistance provided under advisory services of the UN Centre for Human Rights.

Human Rights Commission action. On 8 March, the Commission noted⁽³¹⁾ with grave concern the continuation of the armed conflict in Afghanistan and urged efforts for a comprehensive political solution and for the creation of a situation permitting the full enjoyment of human rights in that country. It again called on parties to the conflict to respect provisions of international humanitarian law and to co-operate with humanitarian organizations by granting them unrestricted access to all parts of the country. The parties were urged to treat all prisoners in accordance with humanitarian law and to release all prisoners of war, while the Afghan authorities were called upon to investigate thoroughly the fate of disappeared persons. The Commission expressed its concern at the large number of political prisoners, conditions of prisoners awaiting trial and reports of ill-treatment and torture during interrogation by Afghan authorities, as well as at alleged atrocities committed against Afghan soldiers, civil servants and their families. It was also concerned at the number of refugees outside Afghanistan, and urged every effort possible to facilitate their return.

The Commission requested the Working Group on Enforced or Involuntary Disappearances (see above, under "Civil and political rights") to examine the cases of disappeared persons, a list of whom was annexed to the Special Rapporteur's report, and took note of his recommendation regarding the possibility of assistance from the Centre for Human Rights in respect of Afghanistan. The Commission decided to extend the Special Rapporteur's mandate for one year and to have him report to the General Assembly in 1989 and to the Commission in 1990, while the Secretary-General was asked to give him all necessary assistance. In addition, all parties concerned were urged not to place any ban on supplies of medicine, food and other essential goods and to extend their co-operation to the Commission and its Special Rapporteur.

On 24 May, the Economic and Social Council, by decision 1989/149, approved the Commission's decision to extend for one year the Special Rapporteur's mandate and its request that the Secretary-General give him all necessary assistance.

Interim report of the Special Rapporteur. On 30 October, the Secretary-General transmitted to

the Assembly an interim report⁽³²⁾ on the human rights situation in Afghanistan, prepared by the Special Rapporteur in response to the Commission's request. The report provided an evaluation of the current situation following the Special Rapporteur's visits to Pakistan from 9 to 16 September, to Afghanistan from 17 to 20 September and to Iran from 30 September to 5 October.

The Special Rapporteur reported that, in accordance with the Afghan Constitution, a state of emergency had been declared by the President of the Republic of Afghanistan on 19 February and a law was issued to that effect on 22 February. The parliament was suspended and State power concentrated in the hands of the President, who could suspend or limit by decree certain provisions of the Constitution concerning human rights; however, he had not yet used those powers. At the same time, far-reaching powers granted to the attorney for State security and a broad definition of crimes under the security law created a potential for violations of the right to freedom and security of the individual, and arrests for political activities continued. In the Special Rapporteur's opinion, prison conditions, despite some surface improvements, remained deplorable, including at the rehabilitation centre for adolescents in Dar-el-Taadib, where none of the minimum detention requirements were fulfilled. He also noted that a person sentenced to less than 10 years of imprisonment could not lodge an appeal and that an accused person could not choose his legal assistance, which contradicted international human rights standards. The Special Rapporteur pointed out that ICRC had access to convicted prisoners at Kabul and outside the capital, but regretted that no agreement had been reached on ICRC visits to prisoners awaiting trial.

The Special Rapporteur stated that the educational situation appeared to have improved and that the Government was pursuing a policy of combating illiteracy. The Special Rapporteur was informed that 400 of the 700 mosques destroyed during the past 10 years had been rebuilt. The enjoyment of economic rights was poor as a result of the war situation, and he stated that the population outside of towns could only survive with the help of the UN humanitarian programme and NGOs operating in Afghanistan (see PART THREE, Chapter III). Severe food shortages caused a reported exodus of farm families to cities in Afghanistan and Iran.

From March to August 1989, more than 7,431 war-wounded were registered at various hospitals in Afghanistan and Pakistan, while acts of terrorism committed between 15 February and 19 September caused the deaths of 2,249 civilians and wounded 5,269. The Rapporteur reiterated that the existence of minefields remained a particular cause for anxiety and fear. He further noted that

the fate of Soviet prisoners of war remained unclarified and that captured members of the opposition forces were treated not as prisoners of war but as terrorists and were submitted to the courts of State security.

As for the refugee situation, the Government reported that the number of returnees had risen from 185,945 at the end of January to 203,943 by the end of September. The Rapporteur estimated the number of refugees outside Afghanistan at more than 5 million, including some 2.3 million in Iran, and noted that no official statistics were available concerning internally displaced persons. At the same time, the living conditions of refugees had become increasingly difficult as international aid to them had diminished.

The Special Rapporteur reiterated recommendations made in his report to the Commission⁽³⁰⁾ and added that fighters should be recognized as combatants within the meaning of the Geneva Conventions of 1949; any use of weapons against the civilian population must be qualified as terrorism; humanitarian assistance to refugees should be reinforced; amnesty decrees should apply equally to foreign detainees, the conditions of prisoners awaiting trial should be improved and the waiting period should be shortened; and the right to self-determination should also be respected by the opposition forces.

GENERAL ASSEMBLY ACTION

On 15 December, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/161 without vote.

Situation of human rights in Afghanistan

The General Assembly,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the humanitarian rules set out in the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto, of 1977,

Aware of its responsibility to promote and encourage respect for human rights and fundamental freedoms for all and resolved to remain vigilant with regard to violations of human rights wherever they occur,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have freely undertaken under the various international instruments,

Recalling Economic and Social Council resolution 1984/37 of 24 May 1984, in which the Council requested the Chairman of the Commission on Human Rights to appoint a special rapporteur to examine the situation of human rights in Afghanistan, with a view to formulating proposals that could contribute to ensuring full protection of the human rights of the inhabitants of the country before, during and after the withdrawal of all foreign forces,

Recalling also its relevant resolutions as well as resolutions of the Commission on Human Rights and decisions of the Economic and Social Council,

Taking note in particular of Commission on Human Rights resolution 1989/67 of 8 March 1989, in which the Commission decided to extend the mandate of its Special Rapporteur for one year and requested him to report to the General Assembly at its forty-fourth session on the situation of human rights in Afghanistan,

Emphasizing the relevance of the Agreements on the Settlement of the Situation relating to Afghanistan, concluded at Geneva on 14 April 1988, which constitute an important step towards a comprehensive political solution,

Welcoming the completion, on 15 February 1989, of the withdrawal of Soviet troops from Afghanistan in accordance with the Agreements concluded at Geneva,

Welcoming also the co-operation that the Afghan authorities have extended in particular to the Co-ordinator for Humanitarian and Economic Assistance Programmes Relating to Afghanistan, and to international organizations such as the specialized agencies, the Office of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross,

Having examined the interim report of the Special Rapporteur on the situation of human rights in Afghanistan, a situation which remains a matter of great concern even after the withdrawal of Soviet troops,

Noting with deep concern that a situation of armed conflict persists in Afghanistan, leaving large numbers of victims and causing enormous suffering to the civilian population,

Noting with grave concern that the treatment of prisoners detained in connection with the conflict does not conform to the internationally recognized principles of humanitarian law,

Noting with equal concern that more than live million refugees are living outside Afghanistan, that many Afghans are displaced within the country and that in both cases the numbers have increased,

Aware that the main reasons given by the refugees for not returning to Afghanistan pending the achievement of a comprehensive political solution are the continued fighting in some provinces, the use of very destructive arms in the conflict, and the minefields that have been laid in many parts of the country,

Noting with concern that acts of terrorism have significantly increased,

1. Takes note with appreciation of the interim report of the Special Rapporteur on the situation of human rights in Afghanistan and of the conclusions and recommendations contained therein;

2. Welcomes the co-operation of the Afghan authorities with the Special Rapporteur;

3. Urges all parties concerned to work for the achievement of a comprehensive political solution based on the right of self-determination and for the creation of a situation that will permit the return of refugees and the full enjoyment of human rights by all Afghans;

4. Calls once again upon all parties to the conflict, in order to alleviate the serious suffering of the Afghan people, strictly to respect human life and the principles and provisions of international humanitarian law and to co-operate fully and effectively with international humanitarian organizations, especially the International Committee of the Red Cross, in particular by granting it unrestricted access to all parts of the country;

5. Notes with grave concern the continuation of the armed conflict, which threatens the life and security of innocent men, women and children;

6. Urges all parties to the conflict to respect the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto, of 1977, to halt the use of weapons against the civilian population, to transmit to humanitarian organizations, in particular to the International Committee of the Red Cross, the names of all political prisoners and detained Afghan soldiers, and to allow the International Committee of the Red Cross to visit all prisoners in accordance with its established criteria;

7. Also urges all parties to the conflict to release all prisoners of war in accordance with the internationally recognized principles of humanitarian law;

8. Expresses its concern at reports that the living conditions of refugees, especially those of women and children, are becoming increasingly difficult because of the decline in international humanitarian assistance;

9. Urges appeals to all Member States, humanitarian organizations and all parties concerned to co-operate fully, in co-ordination with the Office of the United Nations High Commissioner for Refugees, in order to facilitate the return of refugees and displaced persons in safety;

10. Urgently appeals also to all Member States and humanitarian organizations to promote the implementation of the projects envisaged by the Co-ordinator for Humanitarian and Economic Assistance Programmes Relating to Afghanistan and the programmes of the United Nations High Commissioner for Refugees;

11. Urges all parties to the conflict to treat all prisoners in their custody in accordance with the internationally recognized principles of humanitarian law and to protect them from all acts of reprisal and violence, including ill-treatment, torture and summary execution;

12. Notes with concern reports of the interrogation practices of the Afghan authorities, the large number of political prisoners and the conditions of prisoners awaiting trial;

13. Calls upon the Afghan authorities to investigate thoroughly fate of persons who have disappeared, to apply amnesty decrees equally to foreign detainees, to reduce the period during which prisoners await trial, to treat all prisoners, especially those awaiting trial or those in custody in juvenile rehabilitation centres, in accordance with the Standard Minimum Rules for the Treatment of Prisoners and to allow the International Committee of the Red Cross to visit them regularly in accordance with its established criteria;

14. Requests the Afghan authorities strictly to apply to all convicted persons article 14, paragraphs 3 (d) and 5, of the International Covenant on Civil and Political Rights;

15. Notes with concern the allegations of atrocities committed against Afghan soldiers, civil servants and captured civilians;

16. Urges all parties concerned to extend their full co-operation to the Commission on Human Rights and its Special Rapporteur;

17. Requests the Secretary-General to give all necessary assistance to the Special Rapporteur;

18. Decides to keep under consideration, during its forty-fifth session, the situation of human rights in Afghanistan in order to examine it anew in the light of

additional elements provided by the Commission on Human Rights and the Economic and Social Council.

General Assembly resolution 44/161

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/848) without vote, 29 November (meeting 60); 19-nation draft (A/C.3/44/L.82), orally revised; agenda item 12. Meeting numbers. GA 44th session: 3rd Committee 48, 50-60; plenary 82.

Iran

Report of the Special Representative. On 26 January, Special Representative Reynaldo Galindo Pohl (El Salvador) submitted to the Commission a report(33) on the human rights situation in Iran. He summarized discussions held with Iranian government representatives in New York and Geneva in November 1988 and January 1989, as well as information provided by the Government and the statements made during informal hearings at Geneva on 11 January by eight witnesses of alleged human rights violations. The report also contained written information pertaining to alleged violations of the right to life and the situation of the Baha'i religious community.

It stated that the Special Representative continued receiving persistent reports about a wave of executions of political prisoners; it alleged that there were several thousand victims. A list containing more than 1,000 names of victims made available to the Representative was annexed to his report. He also noted that the Special Rapporteur on summary and arbitrary executions (see above, under "Civil and political rights") had, from July to December 1988, transmitted to the Iranian Government allegations regarding the summary or arbitrary execution of several hundred persons, and sent urgent appeals concerning some 150 persons facing an imminent danger of execution. It was alleged that many of those serving prison sentences in Iran had had their sentences changed to the death penalty, in contravention of international human rights instruments to which Iran was a party.

The Special Representative received information concerning the execution of two members of the Baha'i community. The number of Baha'i prisoners continued to decrease and stood at 101 as at January 1989, including four detained without charges; the sentences of some Baha'i prisoners had reportedly been reduced and detention conditions of some had improved. Yet many Baha'is continued to be denied jobs in education and government or their pensions, and there was new information on persons who lost their jobs on the grounds of belonging to the Baha'i community or whose property had been confiscated.

Reports also continued to be received of ill-treatment and torture; arrests made in an intimidatory manner; investigation, trial and serving of sentence effected under duress; and detention incommunicado or in solitary confinement as a method of obtaining confessions or information.

The Special Representative examined such aspects of Iran's legal system as punishment and the death penalty, irregularities concerning investigation and trial, and available remedies. He noted the view of the Iranian Government that its Constitution was Islamic in nature, but pointed out that the upcoming revision of Iran's Penal Code provided the Government with a unique opportunity to bring its legal system in line with international human rights standards. Among incompatibilities between the current system and the human rights treaties to which Iran was a party were corporal punishment; a broad application of the death penalty; denial of the right of defendants to call defence witnesses or examine prosecution witnesses, as well as of the right of a convicted person to present statements with respect to his or her trial and conviction during the review of the sentence by a higher tribunal; and absence of legal recourse under which persons condemned to death could seek pardon or commutation of the sentence.

In addition, the Representative pointed to a recent judicial directive approving the imprisonment or exile for up to two years of anyone with a criminal record, even without evidence of further criminal acts, and to reported practices of detaining family members of persons accused of political crimes, detaining prisoners after the expiration of their sentence, and making arrests without an explanation of reasons to the prisoner. According to both oral and written information, political detainees did not receive legal assistance, nor were they given the opportunity to prepare their defence or communicate with a legal counsel. Hearings concerning political defendants were usually held without a lawyer, family members, the public or the press. The report also stated that, whereas Iranian laws provided judicial remedies against abuses of power and human rights violations, there was no known case of punishment of a government official for abuse of power nor of compensation for arbitrary arrest.

The Special Representative concluded that acts still occurred in Iran that were inconsistent with international human rights instruments and justified international concern, study and monitoring. He set forth a number of recommendations which were acted on by the Commission on Human Rights (below). He pleaded with the Iranian Government, *inter alia*, to limit the use of the death penalty strictly to the most serious crimes, to exempt from that penalty those under 18 years of age and to replace punishments involving torture by those compatible with international standards. The Special Representative also suggested that a national commission on human rights be set up and that Iran consider establishing a programme of information on human rights for law enforcement personnel and taking advantage of the tech-

nical assistance provided by the UN Centre for Human Rights.

Human Rights Commission action. On 8 March, by a roll-call vote of 20 to 6, with 12 abstentions, the Commission expressed its deep concern⁽³⁴⁾ about allegations of grave human rights violations in Iran, including summary executions and cases of ill-treatment and torture, and endorsed the Special Representative's conclusion that those acts were inconsistent with human rights instruments and justified international concern, study and monitoring. It also endorsed his concern about apparent flaws in Iran's legal system, in particular frequent irregularities regarding fair trial, the large number of arrests and poor conditions of imprisonment, and urged the Iranian Government to investigate and report in detail on all allegations of human rights violations; to ensure fair trial; to ensure that the prison régime conformed to international standards and that prisoners were not subjected to unjustified or unnecessary hardships; to suppress ill-treatment and torture; and to ensure that a firm policy of compliance with international human rights instruments was adopted and enforced by the highest competent officials.

Taking note of an amnesty declared on 11 February 1989, the Commission nevertheless expressed its deep concern at the existence of political prisoners and at allegations that persons could be jailed on the basis of mere suspicion of misdoing or on account of their political opinions or political criticism. It called on Iran immediately to provide detailed information concerning the allegations brought to its attention, and urged it to respect and ensure to all individuals within its territory and under its jurisdiction the rights recognized in the 1966 International Covenant on Civil and Political Rights,⁽³⁵⁾ to which it was party. The Commission also urged the Iranian Government to extend full co-operation to the Special Representative and to permit him to visit that country; decided to extend his mandate for another year; requested him to report to the General Assembly in 1989 and to the Commission in 1990; and asked the Secretary-General to give him all necessary assistance.

ECONOMIC AND SOCIAL COUNCIL ACTION

In May, the Economic and Social Council adopted decision 1989/148 by recorded vote.

Situation of human rights in the Islamic Republic of Iran

At its 16th plenary meeting, on 24 May 1989, the Economic and Social Council, taking note of Commission on Human Rights resolution 1989/66 of 8 March 1989, approved the decision of the Commission to extend the mandate of the Special Representative on the human rights situation in the Islamic Republic of Iran, as con-

tained in Commission resolution 1984/54 of 14 March 1984, for a further year. The Council also approved the Commission's request to the Secretary-General to give all necessary assistance to the Special Representative.

Economic and Social Council decision 1989/148

22-8-16 (recorded vote)

Approved by Second Committee (E/1989/88) by recorded vote (23-8-15), 19 May (meeting 22); draft by Commission on Human Rights (E/1989/20); agenda item 9.

Recorded vote in Council as follows:

In favour: Bahamas, Canada, Colombia, Denmark, France, Germany, Federal Republic of, Greece, Iraq, Ireland, Italy, Japan, Jordan, Lesotho, Netherlands, New Zealand, Norway, Portugal, Rwanda, Trinidad and Tobago, United Kingdom, United States, Venezuela.

Against: Cuba, Indonesia, Iran, Libyan Arab Jamahiriya, Nicaragua, Oman, Sri Lanka, Sudan.

Abstaining: Belize, Bolivia, Brazil, Cameroon, Ghana, Guinea, Kenya, Liberia, Niger, Saudi Arabia, Somalia, Thailand, Tunisia, Yugoslavia, Zaire, Zambia.

Sub-Commission action. In a resolution(36) adopted by secret ballot on 31 August by 17 votes to 3, with 4 abstentions, the Sub-Commission expressed its deep concern about grave human rights violations in Iran related to the right to life and to freedom from torture and other cruel, inhuman or degrading treatment or punishment; the right to liberty and security of person; and the right to a fair trial and to freedom of thought, conscience, religion and expression. It urged Iran to cease executions, particularly those of political prisoners, and to co-operate fully with the Special Representative, including by facilitating his visits to prisons and other places of detention. The Secretary-General was requested to inform the Sub-Commission in 1990 of the Special Representative's report and of relevant reports by other special rapporteurs or human rights bodies, and of steps taken by the UN system to prevent human rights violations in Iran.

Interim report of the Special Representative. On 2 November, the Secretary-General transmitted to the General Assembly an interim report(37) of the Special Representative, prepared in accordance with the Commission's request. The report summarized communications with the Iranian Government, in which Iran pointed, inter alia, to 140 forged names and particulars of persons included in the Special Representative's list as allegedly executed between July and September 1988, and questioned the credibility of his sources. The report provided further oral information obtained by the Representative during informal hearings of 15 witnesses on 10, 12 and 17 July 1989, as well as written information transmitted by Iran and received from other sources. The Special Representative also informed the Assembly of his meeting with a representative of the Government at Geneva on 19 and 22 September.

He noted that on 6 March, Iran had submitted its comments and views, stating that 2,000 persons had thus far been granted amnesty. With re-

gard to the study of human rights in Iran, the Government asked that UN organs take into account the situation in the country, particularly the eight years of international war and the revolutionary process, under harassment and threats from terrorist and subversive groups. Iran repeated its complaint that countries subjected to the scrutiny of the Commission on Human Rights were determined selectively, for political reasons, and called for equal treatment of all countries in similar situations. In its view, the United Nations did not give appropriate consideration to groups and organizations responsible for human rights violations which acted separately from and even against the Government. Iran further criticized the text of Commission resolutions, saying that they attempted to confer the status of a religious minority on Baha'is, which prevented the Government from co-operating fully with the Special Representative. However, it expressed its readiness to improve such co-operation.

In the meantime, the Special Representative continued to receive allegations of human rights violations in Iran and to communicate them to the Government. The allegations related to the right to life, to liberty and security of person and to a fair trial, as well as to freedom from torture or ill-treatment and freedom of conscience and religion. The Representative stated that the Government, which had disputed 140 cases of execution contained on his most recent list, had yet to reply to previous lists as well as to other allegations, and pointed to continuing reports of torture and ill-treatment in Iranian prisons, distressing conditions for prisoners, and the lack of procedural guarantees relating to fair trial and the legality of detention. He noted that no measures had been taken to rectify the situation, and expressed his conviction that the treatment of prisoners continued to be left to the initiatives of guards and that investigators used methods at variance with humanitarian principles to extract confessions or information.

The report stated that harassment of Baha'is had decreased and that many had been released from prison; they were being admitted to primary and secondary schools and were permitted to use their cemeteries, and some Baha'i businesses had been reopened. On the other hand, 14 Baha'is were still in prison and 4 had been executed, their access to universities remained blocked, and their right to travel freely was still denied. Regarding the recent amnesty, the Special Representative noted that there had been allegations that some of those released had subsequently disappeared, and politically motivated executions had again been reported, coupled with a dramatic increase in the number of executions for ordinary offences, in particular drug trafficking. He also reported the

public hanging of scores of men and women, carried out in various cities and in groups in implementation of a 21 January law making drug trafficking punishable by death.

The Special Representative concluded that the basic framework regarding human rights in Iran had not changed and that his recommendations to the Commission remained current and pertinent. He deemed it appropriate to renew the appeal to the Government for full co-operation with him, and maintained his conviction that acts committed in that country were incompatible with international human rights instruments binding on Iran and that the persistence of such acts justified both international concern and study and constant vigilance by the Assembly and the Commission.

Communication from Iran. On 24 November, Iran transmitted to the Secretary-General its Government's invitation to the Special Representative to visit the country.

GENERAL ASSEMBLY ACTION

On 15 December, on the recommendation of the Third Committee, the General Assembly adopted resolution 44/163 without vote.

Situation of human rights in the Islamic Republic of Iran

The General Assembly,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

1. Takes note with appreciation of the interim report of the Special Representative of the Commission on Human Rights;

2. Takes note of the view of the Special Representative that, in order to achieve full co-operation between the Government of the Islamic Republic of Iran and the Special Representative, there is a need to proceed to another stage in the discharge of his mandate;

3. Welcomes the invitation by the Islamic Republic of Iran to the Special Representative for him to visit that country;

4. Requests the Secretary-General to give all necessary assistance to the Special Representative;

5. Decides to continue its examination of the situation of human rights in the Islamic Republic of Iran during its forty-fifth session in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.

General Assembly resolution 44/163

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/848) without vote 28 November (meeting 58); draft by Chairman (A/C.3/44/L.84), based on informal consultations; agenda item 12.

Meeting numbers. GA 44th session: 3rd Committee 48, 50-58; plenary 82.

Kampuchea

On 6 March, by a roll-call vote of 35 to 7, with 1 abstention, the Commission, *inter alia* reiter-

ated⁽³⁹⁾ its condemnation of persistent flagrant violations of human rights in Kampuchea and reaffirmed that the continuing illegal occupation of Kampuchea by foreign forces constituted the primary violation of human rights in that country. It deplored military attacks against civilians by occupying forces as a violation of human rights, and reaffirmed its call for the unconditional withdrawal of such forces to enable the Kampuchean people to exercise their inalienable human rights in their totality.

Europe and the Mediterranean

Albania

Communication from Albania. By an 8 February note verbale,⁽⁴⁰⁾ Albania transmitted to the Commission information concerning the socialist democracy, rights and freedoms enjoyed by its citizens. It listed the rights and freedoms guaranteed under the Albanian Constitution and examined the functioning of the legal system to ensure their observance. It dealt in particular with the protection of minorities and the freedom of conscience, stating that the Government decreed neither the protection of religion nor its suppression by administrative measures and had never allowed any administrative infringement on religious sensibilities of believers. At the same time, Albania condemned those who had committed criminal acts under the cover of religion and religious rites.

Human Rights Commission action. On 8 March, by a roll-call vote of 23 to 3, with 13 abstentions, the Commission, noting with regret Albania's failure to respond to allegations of human rights violations transmitted to it by the Commission's Special Rapporteur on religious discrimination, reminded⁽⁴¹⁾ Albania of its obligation to co-operate with the Commission and called on it to provide information on its compliance with the provisions of the Universal Declaration of Human Rights⁽⁴²⁾ and to respond to the specific allegations concerning discrimination based on religion or belief. The Secretary-General was asked to invite the Albanian Government to provide the requested information and co-operation, and to report to the Commission in 1990.

Note and report of the Secretary-General. In a 22 June note and a later addendum,⁽⁴³⁾ the Secretary-General informed the Sub-Commission of his request for information from Albania concerning implementation of the Commission's March resolution and Albania's reply that, in its view, it had already complied with the request for co-operation with the Commission by submitting its note verbale in February (above).

He subsequently reported⁽⁴⁴⁾ to the Commission that Albania, on 27 July, had submitted to

the Sub-Commission a document(45) containing information on the guarantee of freedoms and rights to all its citizens and, on 30 August, had replied to allegations of human rights violations.

Cyprus

Human Rights Commission action. At its 1989 session, the Commission had before it the Secretary-General's 2 February report(46) describing developments in Cyprus relating to human rights. On 7 March, the Commission decided(47) to postpone consideration of the question of human rights in Cyprus until 1990, on the understanding that action required by its previous resolutions on the subject would remain operative, including its request to the Secretary-General to report to the Commission.

Report of the Secretary-General. The Secretary-General subsequently reported that the two sides in Cyprus had agreed on 29 June to complete an outline for an overall settlement; however, the Turkish Cypriot side subsequently expressed reservations about the process. He nevertheless believed that it should be possible for the two leaders to proceed expeditiously with their work on the outline. The Committee on Missing Persons held eight sessions between 1 December 1988 and 4 December 1989, while the UN Peace-keeping Force in Cyprus continued, under its mandate, to discharge humanitarian functions on behalf of the Greek Cypriots remaining in the northern part of the island, whose number stood at 611 at the beginning of December, as well as to make periodic visits to Turkish Cypriots living in the south. (See PART ONE, Chapter IV.)

Romania

On 9 March, by a roll-call vote of 21 to 7, with 10 abstentions, the Commission expressed its concern(49) at the allegations of serious human rights violations in Romania, as well as at the imposition of increasingly severe obstacles to the maintenance of cultural identity of Romania's national minorities, and noted that the Government's policy of rural systematization, which involved forcible resettlement and affected long-standing traditions, would, if implemented, lead to further human rights violations. It also noted with concern that Romanian nationals continued to seek protection and refuge in neighbouring countries for reasons related to serious violations of their human rights, and urged the Romanian Government to abide by its international obligations under human rights treaties.

The Commission requested its Chairman to appoint a special rapporteur to examine the human rights situation in Romania; authorized the Rapporteur to seek relevant information from Romania's Government, specialized agencies and inter-

governmental and non-governmental organizations; and requested him to report to it in 1990. Romania was urged to co-operate with the Commission and its Special Rapporteur, while the Secretary-General was asked to give him all necessary assistance.

ECONOMIC AND SOCIAL COUNCIL ACTION

In May, the Economic and Social Council adopted decision 1989/154 by recorded vote.

Human rights situation in Romania

At its 16th plenary meeting, on 24 May 1989, the Economic and Social Council taking note of Commission on Human Rights resolution 1985/75 of 9 March 1989, approved the decision of the Commission to request its Chairman to appoint a special rapporteur of the Commission with the mandate to examine the human rights situation in Romania. The Council also approved the Commission's request to the Secretary-General to provide all necessary assistance to the special rapporteur to enable him to carry out his mandate in the best possible conditions.

Economic and Social Council decision 1989/154

19-7-19 (recorded vote)

Approved by Second Committee (E/1989/88) by recorded vote (21-7-18), 19 May (meeting 22); draft by Commission on Human Rights (E/1989/20); agenda item 9.

Recorded vote in Council as follows:

In favour: Canada, Colombia, Denmark, France, Germany, Federal Republic of, Greece, Ireland, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Trinidad and Tobago, United Kingdom, United States, Uruguay, Venezuela, Yugoslavia.

Against: China, Cuba, Indonesia, Iran, Nicaragua, Somalia, Sri Lanka, Abstaining: Bahamas, Belize, Bolivia, Brazil, Cameroon, Ghana, Guinea, Iraq, Jordan, Kenya, Lesotho, Liberia, Niger, Oman, Rwanda, Sudan, Thailand, Zaire, Zambia.

Speaking prior to the vote, Romania stated that there were no ethnic or social problems in that country, where de jure and de facto equality existed among all inhabitants, and that the Commission's resolution and a draft decision before the Council amounted to attempts to sow discord among ethnic groups and dismember sovereign States. Accordingly, it rejected such attempts, as well as the methods of investigation and monitoring by "special rapporteurs", as incompatible with the principles of sovereignty of States and non-interference in their internal affairs, and considered those decisions null and void.

Activities of the Special Rapporteur. Special Rapporteur Joseph Voyame (Switzerland), appointed pursuant to the Commission's March resolution, reported(50) that he had, on 15 June, requested Romania to allow him to visit the country in implementation of his mandate. On 30 June, the Romanian authorities replied that they considered the Commission's resolution as well as any action to implement it null and void. The Rapporteur proceeded to collect information from available sources, including oral testimony from witnesses, and visited Hungary from 24 to 29 Sep-

tember. On 30 October, he transmitted to Romania a list of alleged human rights violations in that country as well as a list of requests for family reunification; updated versions were subsequently communicated to the Government on 11 December.

Later in December, however, revolutionary events in Romania brought about a new organization of power in that country, which was now headed by the Council of the National Salvation Front and a Government appointed by it, until elections in April 1990. On 23 December, the National Salvation Front announced the release of all political prisoners and the arrest of the President and his spouse, who were subsequently sentenced to death by a military court and executed on 25 December; on 29 December, the official name of the State was changed to "Romania"; and on 31 December, the Chairman of the Council of the National Salvation Front announced the abolition of the death penalty, introduction of a live-day work week and a programme to redistribute collectivized land to peasants. Measures were also adopted to repeal certain laws of the previous régime, to make arrangements for the distribution of food products and to set up emergency courts to try "terrorists".

Latin America and the Caribbean

Chile

Report of the Special Rapporteur (February). In a 17 February report⁽⁵¹⁾ to the Commission on the human rights situation in Chile, Special Rapporteur Fernando Volio Jiménez (Costa Rica) described his fourth visit to that country (October 1988), during which he observed the presidential plebiscite held on 5 October. The Special Rapporteur noted that he had been afforded full co-operation by the Government and given complete freedom of action.

At the same time, he received oral testimony from witnesses complaining of torture and ill-treatment during detention, arbitrary incommunicado detention, unlawful searches, illegal expropriation of property, irregularities in trial proceedings, threats and intimidation against the security of individuals, persecution of recent returnees from exile, detention for political reasons, convictions for illegal entry into Chile despite the lifting of any administrative ban on entry, lack of judicial independence, and the absence of co-operation between law enforcement agencies and the judiciary. The Special Rapporteur also received written information alleging violations of the rights to life, physical and moral integrity, liberty, security, freedom of expression and information and freedom of movement.

A number of complaints were brought up by defence lawyers against military prosecutors, dealing with the misuse of legal definitions, use of extrajudicial confessions for conviction, unlawful coercion to obtain confessions, improper use of measures to make detention more difficult, unjustified extension of investigatory powers of the magistrate, extension of pre-trial detention and impediments to trial proceedings and to the right to a defence. During his meetings with government officials, the Rapporteur also expressed his concern at apparent cases of bogus confrontations, which seemed actually to have been arbitrary executions, and at the difficulty created by the existence of legal incommunicado detention up to 10 days under the Anti-Terrorism Act. He was informed that an amendment to the Code of Penal Procedure to that effect was pending.

The Special Rapporteur drew attention to a number of unresolved cases of gross human rights violations, terrorist activities and grave deficiencies of the military justice system, which, in his view, constituted a serious obstacle to the enjoyment of human rights in Chile. Despite those negative developments, he nevertheless acknowledged that important progress had been made with regard to respect for human rights, and noted that the success of the 1988 plebiscite and the scheduling of presidential and parliamentary elections for the end of 1989 gave grounds for hope for further improvements. In that regard, he recommended that the National Congress Organization Act, governing the establishment of democratic institutions, be concluded without delay, and that maximum attention be devoted to outstanding cases of human rights violations, and assistance be provided by police authorities to judicial investigators. He said that efforts should be intensified to ensure respect for human dignity of detainees; eliminate torture, unlawful coercion and other ill-treatment; amend provisions for incommunicado detention and/or repeal the Anti-Terrorism Act; establish a judicial police force; and review the legislation concerning indigenous populations, particularly the division of land, to avert expulsions and observe proper respect for their culture.

Other recommendations dealt with the investigation of specific cases such as missing detainees and judicial proceedings brought against 29 journalists, as well as with the need for a drastic change in the conduct of those responsible for military justice. The Special Rapporteur concluded that the Government and people of Chile should make every effort to ensure the establishment of democratic institutions in their country, scheduled for March 1990.

Human Rights Commission action. On 8 March, the Commission took note⁽⁵²⁾ of the Chilean Government's decision to respect the results

of the 1988 referendum and of its partial response to the demands of various political and social elements in the country, and urged it to work for the re-establishment of a representative and pluralistic democracy based on the expression of popular sovereignty and on the full enjoyment of human rights. At the same time, the Commission expressed dismay at continued acts of extreme violence in Chile and concern at the persistence of serious human rights violations, and urged the Government to put an end to those situations and to continue adopting measures for the restoration of the rule of law, as well as to authorize publication of the 1966 International Covenants on Civil and Political Rights⁽³⁵⁾ and on Economic, Social and Cultural Rights.⁽⁵³⁾ The Government was particularly urged to promote reforms of the institutional framework so as to bring it into line with relevant international standards, to allow investigation of all complaints of human rights violations with a view to the trial and punishment of those responsible, to ensure the independence of the judiciary and the effectiveness of legal remedies, and to restore the full range of economic, social and cultural rights.

The Commission decided to extend the Special Rapporteur's mandate for one more year and to request him to report to the Assembly in 1989 and to the Commission in 1990, and recommended that the Economic and Social Council ensure provision of the necessary resources and staff.

On 24 May, the Council, by decision 1989/147, approved extension of the Special Rapporteur's mandate and the Commission's recommendation regarding appropriate financial and staff arrangements.

Note of the Secretary-General. In response to a 1988 Sub-Commission request,⁽⁵⁴⁾ the Secretary-General submitted a 24 July note⁽⁵⁵⁾ on the results of the Special Rapporteur's investigations as well as on General Assembly and Commission deliberations and resolutions. He noted in particular that the Government of Chile had informed him of its decision no longer to co-operate with *ad hoc* procedures for consideration of the human rights situation in that country, stating that its previous co-operation with the Rapporteur was not fully appreciated by UN human rights bodies, which continued to treat Chile in a discriminatory, selective and unfair manner, in contrast with the actual situation in the country. At the same time, the Government affirmed that it would continue to take part in universal and regular UN procedures to ensure fuller protection of human rights.

Report of the Special Rapporteur (October). On 17 October, the Secretary-General transmitted⁽⁵⁶⁾ to the General Assembly a report prepared by the Special Rapporteur in accordance with the Commission's March request.

The Special Rapporteur noted Chile's decision not to co-operate with the Commission's *ad hoc* monitoring procedures and stated that he had received no reply from the Chilean Government to his September request to visit the country. He summarized replies by the Government to previous complaints of human rights violations, communicated to him during his fourth visit, as well as a March 1989 government report on terrorist acts that had occurred in the country since October 1988. The Special Rapporteur also provided information on complaints of new human rights violations, alleged to have occurred between October 1988 and June 1989, concerning the rights to life, physical and moral integrity, liberty, security, and a fair trial and procedural guarantees. Another complaint involved allegations of ill-treatment, torture, unlawful detention and sexual abuse of minors, which had prompted government investigation.

The Rapporteur stated that the human rights situation in Chile had improved in the past six months, as manifested by constitutional reforms approved by Chileans on 30 July 1989 and aimed at ending the special powers of the President, ensuring respect for political pluralism and strengthening the rule of law and a representative political system. The movement towards representative democracy was to culminate in general elections in December 1989 and inauguration of the National Congress in March 1990. However, the democratic process could be jeopardized by certain situations which continued to have an adverse effect on the protection of basic freedoms in Chile, such as the persistence of torture, violations of the rights to life and to physical and moral integrity, irregularities concerning fair trial and procedural guarantees, and broad powers of military justice. Among other causes for concern were the lack of progress in the investigation of both new and long-standing cases of human rights violations, including disappearance; continuing judicial banishments of two trade union leaders; inadequate conditions of imprisonment and trial proceedings of those detained for offences against the security of State; the unsatisfactory situation of the indigenous population; and continuing terrorist acts. Government replies to previous complaints of human rights violations did not cover all the cases reported and were in some cases incomplete.

The Special Rapporteur reiterated the recommendations contained in his February report, emphasizing that the practice of torture must end immediately; investigations of past and recent violations, including forced disappearances, should be completed; and judicial banishments of trade union leaders should be repealed. He also recommended that the Government take measures to strengthen the civil justice system, give attention

to activities of groups apparently close to the Government which threatened or violated freedoms, and make the situation of indigenous peoples consistent with the enjoyment of human rights.

GENERAL ASSEMBLY ACTION

On 15 December, on the recommendation of the Third Committee, the General Assembly adopted resolution 44/166 by recorded vote.

Situation of human rights in Chile

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations and bearing in mind the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights,

Aware of its responsibility to promote and encourage respect for human rights and fundamental freedoms, and determined to remain vigilant with regard to violations of human rights wherever they occur,

Reiterating that the Government of Chile has the obligation to respect and protect human rights in accordance with the international instruments to which Chile is a party,

Bearing in mind that the concern of the international community about the situation of human rights in Chile has been expressed by the General Assembly in a number of resolutions, particularly resolution 33/73 of 20 December 1978, on disappeared persons, and resolution 43/158 of 8 December 1988,

Bearing in mind the pertinent resolutions of the Commission on Human Rights, particularly resolution 1989/62 of 8 March 1989, in which the Commission decided, *inter alia*, to extend the mandate of the Special Rapporteur for one year, to consider the question as a matter of high priority in view of the persistence of serious violations of human rights in Chile and to determine how the item was to be dealt with on the agenda of its forty-sixth session in the light of developments in the situation,

Regretting the decision of the Government of Chile to discontinue its co-operation with the Special Rapporteur,

Regretting also that the process of restoration of civil and political rights in Chile does not yet include the amendment of numerous laws that constitute an institutional and legal framework that makes violations of human rights possible,

1. Takes note with appreciation of the report of the Special Rapporteur submitted in accordance with Commission on Human Rights resolution 1989/62;

2. Congratulates the Chilean people on their peaceful progress towards the re-establishment of a representative and pluralist democracy based on respect for human rights and fundamental freedoms, and for reaffirming their will to achieve peace and national reconciliation through the restoration of justice;

3. Expresses its satisfaction at the progress of the Chilean electoral process which it considers an important step towards the rapid return of democracy in that country;

4. Welcomes, as a positive development, the decision by the Government of Chile to heed the demands of democratic sectors of the country and of the interna-

tional community with regard to reforming certain aspects of the institutional and legal framework harmful to civil and political rights;

5. Takes note with satisfaction of the decision by the Government of Chile to incorporate the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights into domestic law;

6. Welcomes the improvement of the situation of human rights in Chile noted by the Special Rapporteur during the six months covered by his report;

7. Regrets, nevertheless, the decision of the Government of Chile to discontinue its co-operation with the Special Rapporteur in the fulfilment of his mandate, and urges it to resume such co-operation in compliance with the resolutions of the General Assembly and the Commission on Human Rights;

8. Urges the Government of Chile to continue to make progress regarding respect for human rights and fundamental freedoms for all the Chilean people, including the indigenous peoples, especially by adapting the legal system to the relevant principles and provisions and refraining from making any more changes in national institutions without duly consulting the people, and to be guided by those principles and provisions in the exercise of its powers in the same way as the judiciary;

9. Also urges the Government of Chile for that purpose to ensure the independence of the judiciary and the effectiveness of judicial remedies, by respecting procedural guarantees, equality before the law and the right to defence in all cases;

10. Expresses its concern at acts of violence of any origin that continue to occur in Chile, thereby aggravating the climate of insecurity and rendering the return to democracy more difficult;

11. Again expresses its serious concern at the persistence of violations of human rights and fundamental freedoms in Chile involving, *inter alia*, cases of death, torture and ill-treatment, and at the Colonia Dignidad case, as described by the Special Rapporteur in his report;

12. Urges the Government of Chile to investigate all cases of serious violations of human rights that occurred in the past, bearing in mind the reports of special rapporteurs;

13. Invites the Commission on Human Rights to evaluate at its forty-sixth session the situation of human rights in Chile, bearing in mind the reports presented by special rapporteurs, to consider the mandate of the Special Rapporteur and also how the item is to be dealt with on the agenda in the light of developments in the situation, and to report to the General Assembly at its forty-fifth session.

General Assembly resolution 44/166

15 December 1989 Meeting 82 84-2-60 (recorded vote)

Approved by Third Committee (A/44/848) by recorded vote (80-2-50), 29 November (meeting 61); 14-nation draft (A/C.3/44/L.87), orally revised; agenda item 12.

Meeting numbers. GA 44th session: 3rd Committee 48, 50-61; plenary 82.

Recorded vote in Assembly as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Australia, Austria, Barbados, Belgium, Bolivia, Botswana, Bulgaria, Burkina Faso, Burundi, Byelorussian SSR, Canada, Cape Verde, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Denmark, Ecuador, Ethiopia, Finland, France, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Hungary, Iceland, Ireland, Italy, Jamaica, Kenya, Kuwait, Lao People's Democratic

Republic, Liberia, Luxembourg, Madagascar, Mali, Malta, Mauritania, Mexico, Mongolia, Mozambique, Netherlands, New Zealand, Nicaragua, Norway, Papua New Guinea, Poland, Portugal, Rwanda, Saint Kitts and Nevis, Saint Lucia, Samoa, Seychelles, Solomon Islands, Spain, Sri Lanka, Swaziland, Sweden, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian SSR, USSR, United Arab Emirates,* United Kingdom, United Republic of Tanzania, Vanuatu, Venezuela, Viet Nam, Yugoslavia, Zambia, Zimbabwe.

Against: Chile, Morocco.

Abstaining: Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Bhutan, Brazil, Brunei Darussalam, Cameroon, Central African Republic, Chad, China, Colombia, Côte d'Ivoire, Democratic Kampuchea, Djibouti, Dominica, Egypt, El Salvador, Fiji, Gambia, Grenada, Haiti, Honduras, India, Indonesia, Iraq, Israel, Japan, Jordan, Lebanon, Lesotho, Malaysia, Maldives, Mauritius, Myanmar, Nepal, Niger, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Qatar, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sudan, Suriname, Thailand, Turkey, United States, Uruguay, Yemen, Zaire.

*Later advised the Secretariat it had intended to abstain.

El Salvador

Report of the Special Representative (February). In a 2 February report(57) to the Commission on the human rights situation in El Salvador, covering mainly the events of 1988, Special Representative José Antonio Pastor Ridruejo (Spain) noted that the situation of economic, social and cultural rights continued to deteriorate as a result of the continuing armed conflict between the government troops and guerrilla forces of the Frente Farabundo Martí para la Liberación Nacional (FMLN), the absence of conditions safeguarding private investment, FMLN attacks on the economic infrastructure, alleged corruption in the administration of public funds, the world economic crisis and the prolonged drought. He drew particular attention to the difficult living conditions of some communities in resettled areas, which he had been able to observe during his October 1988 visit to the country. The Special Representative also noted complaints alleging violations of labour rights, including arrests, and ill-treatment, including summary execution and disappearance of trade union leaders, attacks on their offices and threats against them. He emphasized that FMLN's systematic attacks on the infrastructure also seriously undermined the enjoyment of economic, social and cultural rights, and provided a list of damage caused by recent violent acts.

As for civil and political rights, an alarming number of politically motivated summary executions, including mass executions, had been carried out by members of the State apparatus, particularly the armed forces, reversing the recent downward trend in such crimes. Many summary executions and other serious human rights violations were attributed to the so-called "death squads", allegedly linked to the army or security forces, while the guerrilla organizations persisted in the practice of *adjudiciamientos* of alleged collaborators with the armed forces, which was equivalent to summary execution, and revived the practice of indiscriminate urban terrorism. Cases of politically motivated disappearances also had been reported, as well as guerrilla abductions of individuals, in-

cluding young people and very young children. The Special Representative continued to report ill-treatment of political detainees during interrogation, although he did not believe that practice to be widespread and to represent a government policy. At the same time, activities of the criminal justice system to investigate serious human rights violations and punish those responsible remained highly unsatisfactory, which, combined with the promulgation and application of the Amnesty Act of October 1987, reinforced a climate of impunity.

The Special Representative provided information on civilian victims of indiscriminate attacks by both the army and guerrillas, stating that the guerrilla organizations continued to cause more deaths and injuries than the army as a result of contact mines. He also reported problems with evacuation from the country of wounded guerrilla fighters in need of humanitarian treatment. Acknowledging efforts to strengthen respect for human rights in El Salvador, including activities of the Salvadorian Human Rights Commission, the Special Representative expressed his belief that the Government continued to be committed to a policy of human rights observance, although its ability to exert efficient control over all State agencies was more limited than in previous years.

He appealed to El Salvador's political powers, agencies and forces to end completely attempts on the life and physical integrity of individuals, and recommended that the Government and FMLN create conditions for an open dialogue conducive to an early peaceful settlement of the conflict. The Special Representative reiterated his previous recommendations to the country's constitutional authorities, particularly adoption of measures to ensure efficient control of all State agencies, dismissal from service of those responsible for human rights violations, investigation of such violations as early as possible and punishment of offenders, urgent attention to health and food needs of peasant populations resettled in combat zones, and the use of the advisory services offered by the UN Centre for Human Rights (see above, under "Advancement of human rights"). He further recommended that FMLN and guerrilla organizations refrain from summary executions and indiscriminate urban terrorist acts, planting of contact mines in a manner incompatible with international humanitarian law, attacks on the country's economic infrastructure and prohibition of road traffic.

Human Rights Commission action. On 8 March, the Commission emphasized(58) the significance of the Special Representative's observation that the Government of El Salvador remained committed to a policy of respect for human rights, and expressed its confidence that the fulfilment of commitments under the agreement on procedures for the establishment of a firm and lasting peace

in Central America (see PART TWO, Chapter II) would lead to an improvement in the human rights situation in that country. However, the Commission expressed its deep concern at the increased number of politically motivated human rights violations in El Salvador, at continuing frequent breaches of international humanitarian law and at the unsatisfactory capacity of the judicial system to determine those responsible for human rights violations, and urged the authorities to implement reforms and measures for ensuring the efficiency of the system. It requested parties to the conflict in El Salvador to end attempts on the life and physical integrity of individuals as well as attacks on the economic infrastructure and other action constituting human rights violations; to continue applying agreements for the evacuation of those wounded or maimed in combat for medical attention; and to co-operate with humanitarian organizations concerned with alleviating the suffering of civilians.

The Commission also encouraged the parties to make all possible efforts to arrive at an early peaceful solution to the conflict, and reiterated its appeal to all States to refrain from intervening in the internal situation in El Salvador and to encourage dialogue until a just and lasting peace was achieved. Noting with satisfaction mass returns of refugees to resettle in rural areas, it urged the Salvadorian authorities to ensure assistance to returnees in meeting their basic health and food needs. The Commission repeated its request to the UN bodies and organizations to provide necessary advice and technical assistance to El Salvador in the human rights and legal fields upon its request, and decided to extend the Special Representative's mandate for another year and requested him to report to the Assembly in 1989 and to the Commission in 1990.

On 24 May, the Economic and Social Council, by decision 1989/150, approved extension of the Special Representative's mandate.

Note of the Secretary-General. In response to a 1988 Sub-Commission request,(59) the Secretary-General submitted on 15 June 1989 a note(60) on the results of the Special Representative's investigations as well as on General Assembly and Commission deliberations and resolutions.

Sub-Commission action. In a resolution(61) adopted by secret ballot on 31 August by 12 votes to 7, with 5 abstentions, the Sub-Commission expressed its deep concern at the continuing increase in the number of human rights violations in El Salvador and at the persistent failure to observe the fundamental norms of humanitarian law which hold that persons not participating directly in combat preserve their civilian character and must not be subjected to military attacks or prevented from receiving medical, food and material assistance.

It reminded the Government of its obligation to respect and give protection to the war-wounded and disabled, not to obstruct their evacuation by ICRC and not to punish health personnel for their medical activities. The Government was strongly urged to take measures to bring to trial those responsible for the murder of the Archbishop of San Salvador and to ensure the independence and effectiveness of the judicial system, compatibility of the Penal Code with the Universal Declaration of Human Rights(42) and respect for human rights by all military, paramilitary and police forces.

The Sub-Commission expressed the hope that parties to the conflict in El Salvador could develop a negotiation process to achieve a comprehensive political settlement and guarantee the full exercise of economic, political and social rights in the country. It repeated its request to the Special Rapporteur on human rights and disability to undertake all possible measures for the prompt and regular evacuation of the war-wounded and disabled and to report in 1990.

Report of the Special Representative (October). On 26 October, the Secretary-General transmitted(62) to the Assembly a report on the human rights situation in El Salvador, prepared by the Special Representative in accordance with the Commission's request.

The Special Representative visited El Salvador from 8 to 15 October, and reported that the armed conflict between government and guerrilla forces continued but did not prevent presidential elections from taking place on 19 March. Despite attempts by FMLN to disrupt the process, Alfredo Cristiani was elected and was inaugurated President of the Republic on 1 June. His subsequent efforts to resume dialogue with the country's various political parties culminated in talks held in September and October. At the same time, the economic situation continued to be adversely affected by the persistent climate of violence, including FMLN's systematic attacks on the infrastructure and the increasing government action against trade unions as well as peasant and other organizations, some of which the Government claimed answered to FMLN.

The Special Representative also received information regarding many cases of summary execution as well as arrests, abductions and disappearances attributed to both government forces and guerrilla organizations. There had been an increase in the number of political arrests during the first nine months of 1989, while the number of politically motivated summary executions carried out by the State apparatus was comparable to 1988. There were no reports of mass executions, however, and investigations and judicial proceedings had been instituted in some cases of summary executions.

The number of people detained for political offences had risen to 250 by 14 October 1989, much higher than the 45 political prisoners reported in October 1988, and the Representative believed that there were also more cases of torture during interrogation than in the previous year. As for the criminal justice system, the Special Representative noted that the Criminal Investigation Commission had closed investigation of 49 out of the 87 cases assigned to it between 1985 and 1989, that proceedings had been brought against some members of the armed forces accused of summary executions and that in September an army officer was sentenced for the crime of homicide. However, there had been no convictions or significant progress in the investigations of some other cases of human rights violations. The Representative concluded that the functioning of the criminal justice system remained highly unsatisfactory. He noted, however, new proposals for judicial reform by the Government and measures to improve the administration of justice, including the establishment of a National Council of the Judiciary and new criminal courts and a draft bill amending the Criminal Code.

He provided information regarding attacks by the armed forces on civilian communities and the number of civilian deaths as a result of military actions by the army and by guerrillas as well as explosion of contact mines. The Special Representative noted that civilian casualties caused by the army were not widespread and fewer than from summary executions, but stated that the army had killed medical and health personnel and patients when dismantling FMLN health facilities. No casualties from contact mines had been reported since July.

Among other important developments were a truce between parties to the conflict, agreed to on 5 March to facilitate child immunization in El Salvador; a unilateral cease-fire declared by FMLN in September; elaboration of plans for the repatriation of Salvadorian refugees in Honduras; and a special amnesty adopted on 6 October to enable the war-wounded and disabled to leave the country for medical treatment. In addition, 644 talks on human rights and international humanitarian law were reported to have been given to 32,200 members of the armed forces, which planned to establish an office for civilian affairs and human rights, and the Salvadorian Human Rights Commission continued its activities.

The Special Representative reiterated his appeal for a complete end to attempts on the life, physical integrity and dignity of individuals, and recommended that FMLN and guerrilla organizations refrain from indiscriminate urban operations and from planting contact mines, and that El Salvador's constitutional authorities ensure conformity of police interrogation of detainees to interna-

tional human rights standards and to the country's 1983 Constitution and persevere with the judicial, agrarian and other structural reforms.

In November, FMLN launched a heavy general offensive throughout the country, purportedly to put pressure on the armed forces to stop opposing the negotiations; as a result, a state of emergency was declared in accordance with the Constitution, and a curfew was proclaimed. On 8 December, the Legislative Assembly extended the state of emergency for another month.

GENERAL ASSEMBLY ACTION

On 15 December, on the recommendation of the Third Committee, the General Assembly adopted resolution 44/165 without vote.

Situation of human rights and fundamental freedoms in El Salvador

The General Assembly,

Guided by the principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the humanitarian rules laid down in the Geneva Conventions of 12 August 1949 and Additional Protocol II thereto, of 1977,

Deeply alarmed that, despite the encouraging signs offered by the meetings held by the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional, the aggravation of the conflict and the resurgence of violence have seriously affected the civilian population,

Reaffirming that it is the duty of the Governments of all Member-States to promote and protect human rights and fundamental freedoms and to fulfil the obligations that they have assumed under the relevant international instruments,

Recalling that, since 1980, it has been expressing its deep concern about the situation of human rights in El Salvador, as indicated in its resolution 43/145 of 8 December 1988,

Bearing in mind Commission on Human Rights resolution 32(XXXVII) of 11 March 1981, in which the Commission decided to appoint a special representative on the situation of human rights in El Salvador, and subsequent resolutions, and taking note of Commission resolution 1989/68 of 8 March 1989, in which it decided to extend the mandate of the Special Representative for another year and requested him to report to the General Assembly at its forty-fourth session and to the Commission at its forty-sixth session,

Considering that an armed conflict of a non-international character continues in El Salvador, in which the parties involved are under an obligation to apply the minimum standards of protection of human rights and humanitarian treatment provided for in article 3 common to the Geneva Conventions of 1949 and in Additional Protocol II thereto, of 1977,

Deeply concerned that, as the Special Representative has indicated in his report on the situation of human rights in El Salvador, the number of politically motivated serious violations of human rights continues to increase and, in particular, that there has been a resurgence of tor-

ture and an increase in arrests and that summary executions, disappearances, abductions, attacks on the economic infrastructure and violations of the humanitarian rules of war have remained at disturbing levels,

Concerned that many sources continue to attribute summary executions and other serious violations of human rights to the so-called "death squads",

Deeply disturbed by the collective assassination in cold blood, on 16 November 1989, of the Rector, five professors and two members of the service staff of the Central American University,

Expressing its concern that as a consequence of the current situation, acts of intimidation and harassment have been carried out against the church hierarchy, political and trade union leaders, members of humanitarian organizations belonging to various churches and the headquarters of political parties and trade unions, as well as against relatives of members of the armed forces and against civil servants and members of their families,

Considers that there has been no progress during 1989 in the judicial case of the assassination of Monsignor Romero, which took place in 1980, and that it is a matter of urgency that those responsible for many other recent violations of human rights, including the assassination of the Minister for the Presidency and the fatal collective attacks on a trade union federation, should be identified and punished,

Convinced that the strict fulfilment of the commitments assumed by the Government of El Salvador under the agreement on "Procedures for the establishment of a firm and lasting peace in Central America" concluded at the Esquipulas II summit meeting and the joint declarations of the Central American Presidents signed in Costa Rica, El Salvador and Honduras will contribute to the promotion, respect and realization of human rights and fundamental freedoms in El Salvador,

Recognizing the importance of the fact that, in the agreements adopted at Tela, Honduras, the five Central American Presidents expressed their firm belief in the necessity of an immediate and effective end to hostilities in El Salvador and therefore strongly urged the Frente Farabundo Martí para la Liberación Nacional to carry out a constructive dialogue for the purpose of achieving a just and lasting peace and, equally strongly, urged the Government of El Salvador to arrange, with full guarantees and in the spirit of the agreement concluded at the Esquipulas II summit meeting, the integration of members of the Frente Farabundo Martí para la Liberación Nacional into peaceful and institutional life,

Considering it necessary and urgent to return to the agreements of 15 September and 18 October 1989 signed at Mexico City and at San José, respectively, by the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional by which, inter alia, they undertook to maintain a process of ongoing dialogue not permitting unilateral withdrawal, in order that they might, in an effort to arrive at a negotiated understanding, manage to end the armed conflict by political means as soon as possible, promote the democratization of the country and reunify Salvadorian society and agreed on the need to create international verification mechanisms appropriate to the characteristics and realities of El Salvador to monitor the implementation of the agreements reached by them,

Considering that, under Additional Protocol II to the Geneva Conventions, the war-wounded and war-injured must be respected and protected, their evacuation by the International Committee of the Red Cross so that they may receive the medical care that they need must not be impeded and no one may be punished for carrying out medical activities compatible with medical ethics, regardless of the circumstances and the beneficiaries of such activities,

Taking note of the holding of the summit at San Isidro Coronado, Costa Rica, from 10 to 12 December 1989,

Aware that a negotiated political solution of the Salvadorian conflict can be cut short if external forces do not support the resumption of the dialogue but instead seek in different ways to spur the intensification or prolongation of the war, with ensuing grave effects on the situation of human rights and the possibilities of economic recovery in El Salvador,

1. Commends the Special Representative for his report on the situation of human rights in El Salvador, endorses the recommendations contained therein and requests him to update the report in the light of the serious events taking place in that country;

2. Expresses its deepest dismay at the aggravation of the conflict, the resurgence of violence, the bombings and the indiscriminate use of high-powered heavy weapons in densely populated areas, resulting in numerous civilian casualties and substantial material damage;

3. Expresses its deep concern about the systematic attacks on the country's economic infrastructure, which seriously undermine the present and future enjoyment by the Salvadorian people of important economic, social and cultural rights;

4. Urgently appeals to the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional to put an immediate end to the armed conflict and to work for a resumption of the currently suspended dialogue in order to reach agreements that would lead to the definitive cessation of all hostilities within an agreed time-frame;

5. Requests the parties to the conflict to guarantee respect for the international standards applicable to an armed conflict of a non-international character, in particular the protection of the civilian population and the war-wounded, to make possible the immediate evacuation of the war-wounded and war-injured, whether civilians or combatants, in order that they may receive the medical care that they need and, furthermore, to co-operate with humanitarian organizations working to alleviate the suffering of the civilian population in any part of the country in which such organizations are operating, and requests that medical and health personnel shall under no circumstances be penalized for carrying out their activities;

6. Supports fully the expressed readiness of the Secretary-General to help bring about, as the first stage of a political solution, an immediate agreement on the cessation of the armed conflict, and his decision taken last September to accept the invitation from the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional for him or his representatives to participate in their process of dialogue and negotiation, since all this forms part of the mission of good offices that he is performing to assist the Central American Governments in their efforts to achieve the

objectives set forth in the agreement concluded at the Esquipulas II summit meeting;

7. Expresses its firm support for the efforts of the Secretary-General of the Organization of American States to bring about a resumption of the political dialogue in El Salvador;

8. Urgently appeals to the parties to the conflict to respect and guarantee the security of the staff and official premises of international agencies;

9. Condemns the brutal assassination of the Rector and seven other members of the Central American University and hopes that the Government of El Salvador will fulfil its pledge to carry out an immediate investigation and to punish those responsible for such an abominable crime;

10. Expresses its deep concern about the persistence of and increase in politically motivated serious violations of human rights, such as summary executions, enforced disappearances, torture and abductions;

11. Also expresses its deep concern about the persistence of and increase in the alleged activities of the so-called "death squads", which are operating with impunity in El Salvador;

12. Renews its appeal to all States to refrain from intervening in the internal situation of El Salvador and, instead of seeking in different ways to spur the prolongation and intensification of the armed conflict, to stimulate dialogue until a firm and lasting peace is attained;

13. Expresses its profound concern at the fact that the capacity of the Salvadorian judicial system continues to be extremely unsatisfactory, despite the efforts made by the Government to determine the responsibility of the instigators of some violations of human rights, and consequently urges the competent authorities to accelerate the adoption of the measures necessary for ensuring the effectiveness of the system and its compatibility with the commitments made in the field of human rights;

14. Renews its appeal to the competent organs and organizations of the United Nations system that, on the basis of Commission on Human Rights resolution 1989/68 and General Assembly resolution 43/145, they provide the advice and assistance that the Government of El Salvador may request in order to enhance the promotion and protection of human rights and fundamental freedoms;

15. Requests the Commission on Human Rights at its forty-sixth session to consider the situation of human rights in El Salvador and the mandate of its Special Representative, taking into account the evolution of the situation of human rights in that country and the developments linked to the fulfilment of all the agreements signed by the Central American Presidents within the framework of the regional peace process and the agreements concluded by the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional at Mexico City and San José;

16. Urges, in accordance with the recommendations of the Special Representative, the Government of El Salvador and all the country's political powers, agencies and forces, including the Frente Farabundo Martí para la Liberación Nacional, to adopt immediate measures to put an end to attacks on the life, integrity and dignity of persons outside, during and as a result of combat situations;

17. Reiterates its call to the Government of El Salvador and the Frente Farabundo Martí para la Liberación Na-

cional to continue co-operating with the Special Representative of the Commission on Human Rights;

18. Decides to keep under consideration, during its forty-fifth session, the situation of human rights and fundamental freedoms in El Salvador in order to re-examine this situation in the light of the information provided by the Commission on Human Rights and the Economic and Social Council.

General Assembly resolution 44/165

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/848) by recorded vote (96-1-34), 29 November (meeting 61); 17-nation draft (A/C.3/44/L.86/Rev.1), orally revised; revised in plenary by Mexico (A/44/L.61); agenda item 12.

Meeting numbers. GA 44th session: 3rd Committee 48, 50-61; plenary 82.

Middle East

Lebanon

Human Rights Commission action. On 8 March, by a roll-call vote of 30 to 1, with 12 abstentions, the Commission strongly condemned(63) Israel for its continued violations of human rights in southern Lebanon, manifested by forced occupation of parts of that territory, bombardment of civilian populations, their arrest and detention, destruction of their property and their expulsion from the occupied area, as well as other arbitrary practices. It called on Israel to end such practices immediately, to liberate the detained Lebanese, to return those who were expelled to their homes, to stop expelling Palestinians arbitrarily to southern Lebanon, and to implement Security Council resolutions requiring Israel's immediate, total and unconditional withdrawal from all Lebanese territory and respect for Lebanon's sovereignty, independence and territorial integrity.

The Commission also called on Governments assisting Israel to exert pressure to end its aggressive and expansionist policy in southern Lebanon. The Secretary-General was requested to bring the Commission's resolution to the attention of Israel and to invite it to provide information on its implementation, and to report to the General Assembly in 1989 and to the Commission in 1990 on the results of his efforts.

Sub-Commission action. In a resolution(64) adopted by secret ballot on 31 August by 18 votes to 2, with 3 abstentions, the Sub-Commission expressed grave concern at the escalating violence in Lebanon and extensive loss of life and called on all parties in that country to initiate confidence-building measures towards restoring peaceful democratic processes. Considering that restoration of confidence was possible only through restoration of Lebanon's sovereignty and territorial integrity, it called for implementation of the relevant Security Council resolutions. The Sub-Commission underlined that humanitarian aid should reach all the civilian population in Lebanon without discrimination, and that it must not

be used selectively for political purposes. The Sub-Commission further recommended that the Commission consider in 1990 the human rights situation in Lebanon and the role of external Powers in aggravating that situation.

On 1 September, the Sub-Commission called(65) on all parties in Lebanon to release immediately and unconditionally all their detainees and hostages detained for political, religious, ethnic or other reasons inconsistent with human rights norms, and considered that a lasting solution to the tragedy of hostages in Lebanon should be sought primarily by helping that country to recover its sovereignty and legal authority and to re-establish the rule of law in its territory.

Report of the Secretary-General. In accordance with the Commission's request (above), the Secretary-General reported(66) to the Assembly in October that he had asked Israel in April for information on the implementation of the Commission's resolution; as at 6 October, he had received no reply.

Territories occupied by Israel

In 1989, the question of human rights violations in the territories occupied by Israel as a result of the 1967 hostilities in the Middle East was again considered by the Commission. Political and other aspects were considered by the General Assembly, its Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (Special Committee on Israeli practices), and other bodies (see PART TWO, Chapter IV).

Reports of the Secretary-General. As requested by the Commission in 1988,(67) the Secretary-General reported(68) to it on 24 January 1989 that he had brought the Commission's 1988 resolutions on human rights violations in the Israeli-occupied territories to the attention of Governments as well as General Assembly and Security Council members, the Special Committee on Israeli practices and the Committee on the Exercise of the Inalienable Rights of the Palestinian People; they had also been transmitted to the specialized agencies, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the Council of Europe, the Organization of African Unity, the Organization of American States and the League of Arab States, and had been brought to the attention of the ICRC and 24 other NGOs. Information on human rights in the Israeli-occupied territories, including relevant UN resolutions, was disseminated through UN press releases, publications, media information kits, audio-visual services, UN radio and television programmes as well as arrangements with television networks, fact-finding missions for media representatives, journalists' encounters on the

question of Palestine, and special activities held in observance of relevant international days and weeks. The UN Department of Public Information published a booklet on the rights of Palestinians in Arabic, English, French and Spanish and began revising its booklet on the work of the Special Committee on Israeli practices. It also established a project manager on the question of Palestine to co-ordinate public information activities.

Also in accordance with the 1988 Commission request,(67) the Secretary-General submitted(69) on 21 January a list of all UN reports issued since 11 March 1988 on the situation of the population of the occupied Arab territories.

Human Rights Commission action. On 17 February, by a roll-call vote of 32 to 8, with 2 abstentions, the Commission affirmed(70) that occupation itself was a gross violation of human rights, that Israel's violations of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War (fourth Geneva Convention) constituted war crimes under international law, and that practices of the Israeli occupation authorities amounted to serious violations of the principles of international law, human rights and fundamental freedoms. It condemned Israel for the gross violation of international conventions and called on it to withdraw from the Palestinian territories occupied by force and to desist from practices such as the killing of Palestinians, breaking of bones, imposition of curfews and military siege, throwing of gas bombs into houses as well as mosques and hospitals, savage beatings and maltreatment of pregnant women, torture of Palestinian detainees, imposition of collective punishment on towns and villages, forced deportation and expulsion of Palestinians, raiding and demolition of their houses and confiscation of their property.

The Commission also condemned the expropriation of Palestinian land and the establishment of Israeli settlements, attacks against holy places and obstruction of the freedom of worship and religious practices, attacks on and closure of educational institutions and obstruction of education. It further condemned Israel for annexing Jerusalem and altering its architectural character and demographic and structural composition as well as the institutional status of the occupied Palestinian territories, and considered such measures and their consequences null and void. The Secretary-General was requested to give the resolution wide publicity and to provide the Commission with all UN reports on the situation in the occupied territories issued between Commission sessions.

Also on 17 February, by a roll-call vote of 32 to 1, with 9 abstentions, the Commission, reaffirming the applicability of the fourth Geneva Convention to the territories, including Jerusalem,

strongly condemned(71) Israel for refusing to apply that Convention and for ill-treating and torturing Palestinian detainees and prisoners, urging it to grant prisoner-of-war status to all captured Palestinian fighters and to treat them accordingly. It also strongly condemned Israel for deporting Palestinians and called on it to desist from that policy and to comply with the UN resolutions demanding their return to their homeland. States parties to the fourth Geneva Convention were urged to make every effort to ensure respect for and compliance with its provisions in the occupied territories, including Jerusalem.

By another resolution,(72) adopted on the same day by a roll-call vote of 31 to 1, with 10 abstentions, the Commission strongly condemned Israel for persistently disregarding and defying UN resolutions regarding occupied Syrian Arab territory, and strongly deprecated its failure to end its occupation of and human rights violations in that territory. Demanding that Israel allow the Special Committee on Israeli practices access to the occupied Arab territories, the Commission declared once again that Israeli occupation of the Golan Heights and its 1981 decision(73) to impose its laws, jurisdiction and administration on the territory were acts of aggression, declared that decision null and void and without international legal effect as a violation of international law and the UN Charter and called on Israel to rescind it. The Commission condemned Israel's persistence in changing the Golan Heights' physical character, demographic composition, institutional structure and legal status and emphasized that evacuated persons must be allowed to return and recover their property. It further emphasized the need for Israel's total and unconditional withdrawal from the occupied Syrian and other Arab territories, including Jerusalem.

The Commission deplored the inhuman treatment, terror and other practices applied against Syrian citizens in the Golan Heights, including the imposition of Israeli citizenship and identity cards, which was a flagrant violation of international law and UN resolutions, and called on Israel to cease its acts of terrorism. It also condemned Israel for repressing educational institutions in the Golan Heights and imposing curricula promoting hatred, prejudice and religious intolerance, as well as for expropriating land in the occupied territory, establishing Israeli settlements, and depriving the Syrian Golan population of the right to export their agricultural products. The Commission called on all States to urge Israel to cease such practices and to facilitate the marketing of the Golan population's agricultural produce. It also reaffirmed its request to Member States not to recognize any jurisdiction, laws or measures established by Israel in the occupied territories, and

called on the specialized agencies and other international organizations to comply in their relations with Israel with the provisions of the Commission's resolution. The Secretary-General was requested to provide the Special Committee on Israeli practices with the resources necessary to visit the occupied territories and investigate Israeli policies and practices, and to give wide publicity to the resolution. He was also asked to report in 1990 on progress in implementing the resolutions and to bring them to the attention of Governments, UN organs and agencies, intergovernmental and international humanitarian organizations and NGOs.

Sub-Commission action. In a resolution(74) adopted by secret ballot on 31 August by 15 votes to 5, with 2 abstentions, the Sub-Commission reaffirmed that Israeli occupation constituted a gross violation of human rights in the occupied territories and that acts perpetrated by Israel that caused the death of or physical harm to Palestinians, as well as the obstruction of delivery of food and medical supplies to their cities, villages and camps, imposition of curfews and attacks on their houses, mosques and hospitals were grave violations of international law. It also affirmed the right of Palestinians to resist the occupation by all means, including the uprising, and reaffirmed their inalienable rights to return to their homeland, to self-determination and to the establishment of an independent and sovereign State, as well as the need to enable them to enjoy full sovereignty over their land without foreign interference. It reaffirmed that the fourth Geneva Convention was applicable to the occupied territories and that Israel's violations of its provisions, including torture and ill-treating Palestinian detainees, imposition of collective punishment and administrative detention, expelling and deportation of Palestinians and destruction of their properties, were crimes of war. The Sub-Commission condemned Israel for such practices and called on it to desist from them, and also to withdraw from the occupied territories. It called for the dismantlement of Israeli settlements in the occupied territories and confirmed that measures taken by Israel to alter the territories' political, cultural, religious and other characteristics were illegal, null and void.

The Sub-Commission also condemned Israel's occupation of the Golan Heights, its inhuman and terrorist practices against Syrians in that territory for their refusal of Israeli identity cards, and its 1981 decision(73) to impose its laws, jurisdiction and administration on that territory, which the Sub-Commission considered null and void. It requested States and international organizations not to recognize Israeli laws or jurisdiction in respect of the Golan Heights, and supported the call to convene an international peace conference on the Middle East to achieve a settlement in accordance

with the provisions of a 1967 Security Council resolution.(75) The Secretary-General was requested to provide the Sub-Commission in 1990 with an updated list of reports, studies, statistics and other documents and UN decisions and resolutions on the question of Palestine and other Arab territories.

Pursuant to a similar request made in 1988,(76) the Secretary-General presented such a list(77) on 19 May 1989.

Other alleged human rights violations

Burma (now Myanmar)

Human Rights Commission action. On 8 March, the Commission, concerned at allegations of human rights violations in Burma in 1988, encouraged(78) the Burmese authorities to take measures to assure fundamental freedoms, and, welcoming their undertaking to organize free and fair multiparty democratic elections, urged them to implement it as early as possible. The Burmese delegation was invited to continue providing the Commission with the necessary information on the subject.

China

Sub-Commission action. In a resolution(79) adopted by secret ballot on 31 August by 15 votes to 9, the Sub-Commission, concerned about recent events in China and their consequences in the field of human rights, requested the Secretary-General to transmit to the Commission information provided by the Chinese Government and other reliable sources, and made an appeal for clemency, in particular in favour of persons deprived of their liberty as a result of those events.

Further developments. On 1 December,(80) in its reply to the Secretary-General's note verbale of 30 October, China stated that a rebellion had occurred in Beijing in June which constituted an attempt to overthrow the legitimate Government through violent means, and that the Chinese Government had taken resolute measures to quell it. China considered the matter to be its internal affair and different in nature from the human rights question and declared its firm objection to the Sub-Commission's resolution, regarding it as an interference in its internal affairs and deeming it to be illegal, null and void.

Cuba

On 21 February, a six-member group, established in accordance with a 1988 Commission decision(76) and mandated to visit Cuba to observe the human rights situation, submitted a report(81) on its activities. The report noted that the group, headed by the Commission Chairman, held a total of five meetings and undertook a mission to Cuba

from 16 to 25 September 1988. In the course of its work, the group gathered written and oral information from individuals, organizations and the Cuban Government on various aspects of the human rights situation in the country.

The report contained comments by Cuban officials on questions put by the group, as well as testimony received from other sources, concerning constitutional and legal aspects of human rights in Cuba; civil and political rights; and economic, social and cultural rights. The group sought, in particular, the Government's comments with regard to compatibility of the Cuban Constitution with the Universal Declaration of Human Rights(42) and implementation of relevant provisions, as well as replies to specific complaints relating to the administration of justice and judicial protection of rights and freedoms; limit on freedoms recognized by the Constitution; states of emergency; guarantees of the freedom of movement, opinion and expression, the press, religion, education and conscience, and association and assembly; guarantees of the rights of citizenship and of asylum and of the right to life, liberty, physical integrity, security, privacy and political participation; and labour matters and social security, health, housing, education and culture.

Human Rights Commission action. On 21 February, the Commission decided(82) to discuss the group's report under a sub-item of the agenda item on further promotion and encouragement of human rights and fundamental freedoms. On 9 March, by a roll-call vote of 32 to 1, with 10 abstentions, the Commission took note(83) of the report; thanked the Government and people of Cuba for co-operating with the mission, and the Cuban authorities for reaffirming the desire to continue co-operation in the human rights sphere and to keep the Secretary-General informed; noted the Government's willingness to analyse the mission's observations and to take into account its assessments with regard to the exercise and enjoyment of human rights in Cuba; welcomed Cuba's willingness to maintain direct contact with the Secretary-General on issues and questions contained in the report; and emphasized the spirit of multilateral co-operation which characterized the fulfilment of the mission.

East Timor

In a resolution(84) adopted by secret ballot on 31 August by 12 votes to 9, with 3 abstentions, the Sub-Commission, considering repeated allegations of gross human rights violations in East Timor, requested the Secretary-General to continue his efforts to encourage co-operation of all parties concerned in achieving a durable solution, and took note of a communication addressed to the Secretary-General which called for a referendum

in East Timor (see PART FOUR, Chapter I). The Sub-Commission appreciated the Indonesian Government's new policy of openness in East Timor but regretted that more arrests, torture and summary executions were alleged to have taken place since the end of 1988, and hoped that the Government would allow representatives of human rights organizations to visit the territory. It further recommended that the Commission consider the human rights situation in East Timor at its 1990 session.

Iraq

Human Rights Commission action. On 8 March, by a roll-call vote of 17 to 13, with 9 abstentions, the Commission decided⁽⁸⁵⁾ not to take action on a draft resolution by which it would have expressed concern at the human rights situation in Iraq, including the reported killing of Kurdish civilians by military attacks with the use of chemical weapons, and would have urged the Government of Iraq to ensure full respect for human rights. The Commission also would have requested its Chairman to appoint a special rapporteur to study the human rights situation in that country.

Sub-Commission action. On 31 August, by secret ballot, the Sub-Commission decided⁽⁸⁶⁾ by 14 votes to 10, to take no action on a draft resolution by which it would have recommended that the Commission study at its 1990 session the evolution of the human rights situation in Iraq.

Mass exoduses

Human Rights Commission action. On 8 March, the Commission invited⁽⁸⁷⁾ Governments and international organizations to intensify their co-operation and assistance in efforts to address the causes of mass exoduses of refugees and displaced persons and the problems resulting from them, and requested States to ensure implementation of the relevant international instruments to avert new massive flows of refugees and displaced persons. It encouraged the Secretary-General to continue discharging responsibilities pursuant to the 1986 report of the Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees⁽⁸⁸⁾ and looked forward to his report to the General Assembly in 1989 on developments relating to the Group's recommendations. He was also urged to consolidate the system for early-warning activities in the humanitarian area by computerizing the UN Office for Research and the Collection of Information, serving as an inter-agency focal point for situation analysis and policy response, and by strengthening co-ordination within the UN system in that respect.

Report of the Secretary-General. In response to a 1988 General Assembly request⁽⁸⁹⁾ and the

Commission's resolution (above), the Secretary-General submitted a report⁽⁹⁰⁾ on 17 October 1989 on human rights and mass exoduses. The report summarized activities of the Office for Research and the Collection of Information, which continued to monitor and provide early warning of situations that had the potential to cause mass exoduses. The Office also continued its efforts to establish a computerized early-warning system, including elaboration of criteria and co-ordination measures necessary for the operation of such a system and the development of early-warning indicators and data systems. Consultations on the subject were held with specialized agencies and NGOs, and a preliminary study was begun on co-ordination of early-warning activities with regard to potential refugee outflows.

The report also provided views and information on the question of mass exoduses and related developments received from four Governments, three UN bodies and specialized agencies, and one intergovernmental organization.

GENERAL ASSEMBLY ACTION

On 15 December, on the recommendation of the Third Committee, the General Assembly adopted resolution 44/164 without vote.

Human rights and mass exoduses

The General Assembly,

Mindful of its general humanitarian mandate under the Charter of the United Nations to promote and encourage respect for human rights and fundamental freedoms,

Deeply disturbed by the continuing scale and magnitude of exoduses of refugees and displacements of population in many regions of the world and by the human suffering of millions of refugees and displaced persons.

Conscious of the fact that human rights violations are one of the multiple and complex factors causing mass exoduses of refugees and displaced persons, as indicated in the study of the Special Rapporteur of the Commission on Human Rights on this subject and also in the report of the Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees,

Aware of the recommendations concerning mass exoduses made by the Commission on Human Rights to its Sub-Commission on Prevention of Discrimination and Protection of Minorities and to special rapporteurs to be taken into account when violations of human rights in any part of the world are studied,

Deeply preoccupied by the increasingly heavy burden being imposed, particularly upon developing countries with limited resources of their own and upon the international community as a whole, by these sudden mass exoduses and displacements of population,

Stressing the need for international co-operation aimed at averting new massive flows of refugees while providing durable solutions to actual refugee situations,

Reaffirming its resolution 41/70 of 3 December 1986, in which it endorsed the conclusions and recommendations contained in the report of the Group of Govern-

mental Experts on International Co-operation to Avert New Flows of Refugees,

Bearing in mind its resolution 43/154 of 8 December 1988 and Commission on Human Rights resolution 1989/63 of 8 March 1989, as well as all previous relevant resolutions of the General Assembly and the Commission on Human Rights,

Welcoming the steps taken so far by the United Nations to examine the problem of massive outflows of refugees and displaced persons in all its aspects, including its root causes,

1. Reaffirms its support for the recommendation of the Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees that the principal organs of the United Nations should make fuller use of their respective competencies under the Charter of the United Nations for the prevention of new massive flows of refugees and displaced persons;

2. Again invites all Governments and intergovernmental and humanitarian organizations concerned to intensify their co-operation with and assistance to world-wide efforts to address the serious problems resulting from mass exoduses of refugees and displaced persons, and also the causes of such exoduses;

3. Requests all Governments to ensure the effective implementation of the relevant international instruments, in particular in the field of human rights, as this would contribute to averting new massive flows of refugees and displaced persons;

4. Invites the Commission on Human Rights to keep the question of human rights and mass exoduses under review with a view to supporting the early-warning arrangement instituted by the Secretary-General to avert new massive flows of refugees and displaced persons;

5. Takes note of the report of the Secretary-General on human rights and mass exoduses, and invites him to inform the General Assembly in future reports of the modalities of early warning activities to avert new and massive flows of refugees;

6. Specially encourages the Secretary-General to continue to discharge the task described in the report of the Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees;

7. Requests the Secretary-General to continue to develop the role of the Office for Research and the Collection of Information of the Secretariat as a focal point for the operation of an effective early-warning system and the strengthening of co-ordination of information-gathering and analysis among United Nations agencies with a view to preventing new massive flows of refugees and displaced persons;

8. Urges the Secretary-General to use available resources to consolidate and strengthen the system for undertaking early-warning activities in the humanitarian area by, inter alia, early computerization of the Office for Research and the Collection of Information and strengthened co-ordination among the relevant parts of the United Nations system, especially the Office for Research and the Collection of Information, the Office of the United Nations High Commissioner for Refugees, the Centre for Human Rights of the Secretariat and the relevant specialized agencies;

9. Requests the Secretary-General to report to the General Assembly at its forty-fifth session on the strengthened role that he is playing with regard to early-warning activities, especially in the humanitarian area,

as well as on any further developments relating to the recommendations contained in the report of the Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees;

10. Decides to continue consideration of the question of human rights and mass exoduses at its forty-fifth session.

General Assembly resolution 44/164

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/848) without vote, 29 November (meeting 60); 22-nation draft (A/C.3/44/L.85); agenda item 12.

Meeting numbers. GA 44th session: 3rd Committee 48, 50-60; plenary 82.

Genocide

On 2 March, the Commission strongly condemned(91) the crime of genocide and affirmed the necessity for international co-operation towards its elimination. It noted that many States had ratified or acceded to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide(19) and urged those that had not done so to become parties without delay.

Status of the 1948 Convention

As at 31 December 1989,(10) 102 States had ratified, acceded to or succeeded to the Convention. Three States—the Democratic People's Republic of Korea, the Libyan Arab Jamahiriya and Yemen—became parties in 1989. On 8 August, the Secretary-General reported(92) to the General Assembly on the status of the Convention as at 1 August 1989).

GENERAL ASSEMBLY ACTION

On 15 December, the Assembly, on the recommendation of the Third Committee, adopted resolution 44/158 without vote.

Status of the Convention on the Prevention and Punishment of the Crime of Genocide

The General Assembly,

Recalling its resolutions 40/142 of 13 December 1985, 41/147 of 4 December 1986, 42/133 of 7 December 1987 and 43/138 of 8 December 1988,

Recalling also Commission on Human Rights resolutions 1986/18 of 10 March 1986, 1987/25 of 10 March 1987 and 1988/28 of 7 March 1988, and taking note of Commission resolution 1989/16 of 2 March 1989,

Recalling further its resolution 260 A (III) of 9 December 1948, by which it approved and proposed for signature, ratification or accession the Convention on the Prevention and Punishment of the Crime of Genocide annexed thereto,

Reaffirming once again its conviction that genocide is a crime that violates the norms of international law and runs counter to the spirit and aims of the United Nations,

Convinced that international co-operation is necessary in order to liberate mankind from such an odious crime,

Recognizing that crimes of genocide have caused great losses to mankind,

Taking note of the report of the Secretary-General,

1. Once again strongly condemns the crime of genocide;
2. Reaffirms the necessity of international co-operation in order to liberate mankind from such an odious crime;
3. Notes with satisfaction that many States have ratified the Convention on the Prevention and Punishment of the Crime of Genocide or have acceded thereto;
4. Expresses its conviction that implementation of the provisions of the Convention by all States is necessary for the prevention and punishment of the crime of genocide;
5. Urges those States that have not yet become parties to the Convention to ratify it or accede thereto without further delay;
6. Invites the Secretary-General to submit to the General Assembly at its forty-fifth session a report on the status of the Convention.

General Assembly resolution 44/158

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/848) without vote, 29 November (meeting 60); 2-nation draft (A/C.3/44/L.79); agenda item 12.

Sponsors: Byelorussian SSR, Poland.

Meeting numbers. GA 44th session: 3rd Committee 48, 50-60; plenary 82.

Other aspects of human rights violations

Protection of journalists

In a resolution(93) adopted by secret ballot on 31 August by 15 votes to 6, with 2 abstentions, the Sub-Commission called on journalists and other mass media personnel to carry out their mission to expose gross human rights violations and to inform public opinion with maximum neutrality, fairness and objectivity, and requested Governments to protect their human rights and support their efforts to reveal human rights violations. It also requested Waleed Sadi (Jordan) to prepare for Sub-Commission consideration in 1990 a report on the feasibility of a study on ways of extending additional protection and assistance to journalists and mass media personnel.

Compensation for human rights violations

On 31 August, the Sub-Commission recommended(94) that the Commission recommend to the Economic and Social Council a resolution authorizing the Sub-Commission to entrust one of its members, Theo van Boven (Netherlands), with undertaking a study on the right to restitution, compensation and rehabilitation for victims of gross human rights violations, with a view to exploring the possibility of developing some basic principles and guidelines in that respect, and asking the Secretary-General to provide him with all necessary assistance. The Sub-Commission requested Theo van Boven to submit a preliminary report to it in 1990.

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Other human rights questions

Additional Protocols I and II to the 1949 Geneva Conventions

In a September 1989 report(1) on the status of the two 1977 Protocols Additional to the Geneva Conventions of 12 August 1949 for the protection of war victims,(2) the Secretary-General informed the General Assembly that 13 States had ratified or acceded to the Protocols since his 1988 report on the subject,(3) and provided a list of all States that had ratified or acceded to the Protocols as at 20 September 1989.

As at 31 December, 91 States and the United Nations Council for Namibia had ratified or acceded to Protocol I (on protection of victims of international armed conflicts), including 14 States—Algeria, Bulgaria, Byelorussian SSR, Côte d'Ivoire, Gambia, Greece, Hungary, Liechtenstein, Luxembourg, Mali, Malta, Peru, Spain, USSR—that did so in 1989.

All except 12 of the parties also adhered to Protocol II (on protection of victims of non-international conflicts). Two States—France and the Philippines—adhered only to Protocol II.

Sub-Commission action. On 31 August, the Sub-Commission recommended(4) that the Commission on Human Rights adopt a resolution calling on Governments to give particular attention to educating members of the police and armed forces in the international law of human rights and humanitarian law applicable in armed conflicts, including, *inter alia*, the Geneva Conventions of 1949 and the two 1977 Additional Protocols, and requesting them to submit information on the scope of such education.

Rights of the child

Convention on the Rights of the Child

The open-ended working group on a draft convention on the rights of the child met from 21 to 23 February 1989(5) and adopted the draft convention at the second reading.

On 8 March, the Commission on Human Rights decided(6) to adopt the draft convention(7) as submitted by the working group and to transmit it to the General Assembly through the Economic and Social Council.

By an 11 April note,(8) the Secretariat transmitted to the Council general comments adopted by the Human Rights Committee on 5 April concerning provisions of the 1966 International Covenant on Civil and Political Rights(9) relating to the rights of the child (see also above, under "Civil and political rights"). The Committee was of the view that, in so far as article 24 of the Covenant recognized the right of every child to receive the protection required by his or her status as a minor, its implementation entailed the adoption of special measures to protect children, in addition to those required for the protection of the rights of all persons. The Committee pointed out that some other provisions of the Covenant expressly indicated that minors should be afforded greater protection than adults.

ECONOMIC AND SOCIAL COUNCIL ACTION

On 24 May, the Economic and Social Council, on the recommendation of its Second Committee, adopted resolution 1989/79 without vote.

Question of a convention on the rights of the child
The Economic and Social Council,

Recalling General Assembly resolutions on the question of a convention on the rights of the child, in particular resolution 43/112 of 8 December 1988, in which the Assembly requested the Commission on Human Rights to submit a draft convention on the rights of the child, through the Council, to the Assembly at its forty-fourth session,

Expressing its appreciation to the Commission for having concluded the elaboration of a draft convention on the rights of the child,

Decides to submit the draft convention on the rights of the child and the report of the working group of the Commission on Human Rights to the General Assembly at its forty-fourth session, with a view to the adoption of the draft convention.

Economic and Social Council resolution 1989/79

24	May	1989	Meeting	16	Adopted	without	vote
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Approved by Second Committee (E/1989/88) without vote, 19 May (meeting 22); draft by Commission on Human Rights (E/1989/20); agenda item 9.

By a 16 October note,(10) the Secretary-General transmitted the text of the draft convention to the Assembly.

Sub-Commission action. On 1 September, the Sub-Commission expressed(11) concern that the current formulation of article 21 of the draft convention, concerning adoption of children, was open to differing interpretations, and the belief that the article should be revised to preclude the use of adoption as a source of profit. It also expressed deep concern at the participation of children in military training and hostilities in some countries, and recognized that no effort should be spared to prevent the militarization of children, as stipulated in article 38. The Secretary-General was requested to bring the Sub-Commission's resolution to the attention of the General Assembly and to submit to the Sub-Commission in 1990 a report on the adoption of children for commercial purposes and on their recruitment into armed forces and their participation in hostilities.

GENERAL ASSEMBLY ACTION

On 20 November, the General Assembly, on the recommendation of the Third Committee, adopted resolution 44/25 without vote.

Convention on the Rights of the Child

The General Assembly,

Recalling its previous resolutions, especially resolutions 33/166 of 20 December 1978 and 43/112 of 8 December 1988, and those of the Commission on Human Rights and the Economic and Social Council related to the question of a convention on the rights of the child,

Taking note, in particular, of Commission on Human Rights resolution 1989/57 of 8 March 1989, by which the Commission decided to transmit the draft convention on the rights of the child, through the Economic and Social Council, to the General Assembly, and Economic and Social Council resolution 1989/79 of 24 May 1989,

Reaffirming that children's rights require special protection and call for continuous improvement of the situation of children all over the world, as well as for their development and education in conditions of peace and security,

Profoundly concerned that the situation of children in many parts of the world remains critical as a result of inadequate social conditions, natural disasters, armed con-

flicts, exploitation, illiteracy, hunger and disability, and convinced that urgent and effective national and international action is called for,

Mindful of the important role of the United Nations Children's Fund and of that of the United Nations in promoting the well-being of children and their development,

Convinced that an international convention on the rights of the child, as a standard-setting accomplishment of the United Nations in the field of human rights, would make a positive contribution to protecting children's rights and ensuring their well-being,

Bearing in mind that 1989 marks the thirtieth anniversary of the Declaration of the Rights of the Child and the tenth anniversary of the International Year of the Child,

1. Expresses its appreciation to the Commission on Human Rights for having concluded the elaboration of the draft convention on the rights of the child;

2. Adopts and opens for signature, ratification and accession the Convention on the Rights of the Child contained in the annex to the present resolution;

3. Calls upon all Member States to consider signing and ratifying or acceding to the Convention as a matter of priority and expresses the hope that it will come into force at an early date;

4. Requests the Secretary-General to provide all the facilities and assistance necessary for dissemination of information on the Convention;

5. Invites United Nations agencies and organizations, as well as intergovernmental and non-governmental organizations, to intensify their efforts with a view to disseminating information on the Convention and to promoting its understanding;

6. Requests the Secretary-General to submit to the General Assembly at its forty-fifth session a report on the status of the Convention on the Rights of the Child;

7. Decides to consider the report of the Secretary-General at its forty-fifth session under an item entitled "Implementation of the Convention on the Rights of the Child".

ANNEX

Convention on the Rights of the Child

Preamble

The States parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due accounts of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

Part I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind,

irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including national-

ity, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (order public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

(b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or, if necessary, placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of the child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international co-operation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all.

(b) Encourage the development of different forms of secondary education, including general and vocational

education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational ac-

tivities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials,

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty

unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason

of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

- (i) To be presumed innocent until proven guilty according to law;
- (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
- (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
- (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
- (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
- (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
- (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State Party; or
- (b) International law in force for that State.

Part II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly that it request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

Part III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

General Assembly resolution 44/25

20 November 1989 Meeting 61 Adopted without Vote
Approved by Third Committee (A/44/736) without vote, 15 November (meeting 44); 72-nation draft (A/C.3/44/L.44); agenda item 108.

Sponsors: Argentina, Australia, Austria, Bangladesh, Bolivia, Bulgaria, Burkina Faso, Byelorussian SSR, Cameroon, Canada, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, German Democratic Republic, Germany, Federal Republic of Greece, Guatemala, Guinea-Bissau, Honduras, Hungary, Iceland, India, Indonesia, Italy, Jordan, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Mali, Malta, Mauritania, Mexico, Mongolia, Morocco, Nepal, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Samoa, Senegal, Spain, Sri Lanka, Suriname, Sweden, Tunisia, Ukrainian SSR, USSR, Uruguay, Venezuela, Viet Nam, Yugoslavia.
Financial implications. 5th Committee, A/44/743; S-G, A/C.3/44/L.47, A/C.5/44/28.

Meeting numbers. GA 44th session: 3rd Committee 36-44; 5th Committee 43; plenary 61.

Sale of children, child prostitution and child pornography

Human Rights Commission action. On 6 March, the Commission commended⁽¹²⁾ the Sub-Commission and its Working Group on Contemporary Forms of Slavery, noting that the Group's 1989-1991 work programme concerned, *inter alia*, the prevention of the sale of children, child prostitution and child pornography, as well as the eradication of child labour and of debt bondage. It requested interested specialized agencies and NGOs to gather and communicate to the Secretary-General information on the sale of children, including their observations on ways of preventing it, and asked the Secretary-General to submit his final report on the subject in 1989. Member States were urged to take measures to protect children and promote their rights, and to enact legislation making it a crime to produce, distribute or possess pornographic material involving children.

Note of the Secretary-General. In a 12 July note⁽¹³⁾ to the Sub-Commission, the Secretary-General stated that, pursuant to the Commission's

March resolution, he had requested Governments, UN organs, specialized agencies, intergovernmental organizations and NGOs to submit information relevant to the issue of the sale of children. By 1 July, replies had been received from four States, two intergovernmental organizations and three NGOs. Most communications, however, dealt with the general question of trafficking in human beings and not specifically the sale of children. The note provided a summary of replies and reviewed other developments that had occurred since the Secretary-General's 1988 report on the subject,⁽¹⁴⁾ including the 1988 activities of the Working Group on Contemporary Forms of Slavery.

The Secretary-General concluded that, in view of the paucity of replies, he was not in a position to produce a comprehensive final report on the sale of children, nor did the new communications add much to complement information previously submitted on the subject, in particular on organ transplants in the context of the sale of children. No information at all had been received on the foetus trade. He therefore suggested that the Sub-Commission consider the Working Group's recommendation that a special rapporteur be appointed to undertake an overall study of the question.

Working Group activities. The Working Group on Contemporary Forms of Slavery, at its fourteenth session⁽¹⁵⁾ (see also above, under "Civil and political rights"), examined, *inter alia*, issues related to the adoption of children for commercial purposes, child prostitution and child pornography and the exploitation of child labour and debt bondage. It recommended two draft resolutions for adoption by the Sub-Commission (see below), including a draft programme of action for prevention of the sale of children, child prostitution and child pornography. The draft programme proposed action in the areas of information and education, social measures and development assistance, legal measures and law enforcement, rehabilitation and reintegration for victims of sexual exploitation, and international co-ordination. The Working Group also called on the Sub-Commission to study the possibility of drafting model laws to combat the sale of children, child prostitution and child pornography, and recommended that requests for additional information on child labour and bonded labour be sent as early as possible to Governments, relevant intergovernmental organizations and NGOs competent in that field.

Sub-Commission action. On 1 September, the Sub-Commission endorsed⁽¹⁶⁾ the draft programme of action proposed by the Working Group and recommended that the Commission transmit it to Governments, specialized agencies and other intergovernmental as well as non-governmental or-

ganizations for comments, and that it examine the draft programme at its 1991 session. The Sub-Commission also recommended(17) that the Commission appoint for one year a special rapporteur on the sale of children, child prostitution and child pornography, including the adoption of children for commercial purposes, and request the rapporteur to report to it in 1991.

Youth and human rights

Note of the Secretary-General. By a 13 February note,(18) the Secretary-General informed the Commission that the Sub-Commission had, in 1988,(14) requested him to invoke the applicability of the 1946 Convention on the Privileges and Immunities of the United Nations(19) to ensure the completion of a report on human rights and youth, entrusted to Special Rapporteur Dumitru Mazilu (Romania) in 1985,(20) as the Romanian authorities had not permitted the Special Rapporteur to travel to Geneva to present his report at the 1988 session of the Sub-Commission. In case of non-concurrence by Romania with the applicability of the Convention, the matter was to be brought to the attention of the Commission on Human Rights.

Annexed to the note was an aide-mémoire transmitted by Romania to the UN Legal Counsel on 6 January 1989 and stating, *inter alia*, that Mr. Mazilu had applied for and received a disability pension due to ill health and was unable to prepare the report; that his term as a Sub-Commission member had expired at the end of 1987; that the applicability of the Convention was limited only to activities of experts while on mission, but not during their stay in the country of residence, and only to acts performed as part of that mission; and that the report should be prepared by the current Romanian expert serving on the Sub-Commission.

The Secretary-General noted that the Legal Counsel had made it clear that acceptance of the aide-mémoire for transmittal to the Commission did not mean his acceptance of its contents. The note also indicated that the Secretariat continued to collect information relating to the report and to seek Romania's assistance in establishing contact with the Special Rapporteur.

Human Rights Commission action. On 6 March, by a roll-call vote of 26 to 5, with 12 abstentions, the Commission recommended a resolution for adoption by the Economic and Social Council (see below On 8 March, the Commission reaffirmed(22) the role of youth in promoting the full and effective enjoyment of human rights and fundamental freedoms and called for legislative, administrative and other action to allow the exercise by young people of all

human rights, including the right to education and the right to work, so as to create conditions for their active participation in implementation of national development programmes.

ECONOMIC AND SOCIAL COUNCIL ACTION

On 24 May, the Economic and Social Council, on the recommendation of its Second Committee, adopted resolution 1989/75 by recorded vote.

Status of special rapporteurs

The Economic and Social Council,

Having considered resolution 1988/37 of 1 September 1988 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and Commission on Human Rights resolution 1989/37 of 6 March 1989,

1. Concludes that a difference has arisen between the United Nations and the Government of Romania as to the applicability of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 to Mr. Dumitru Mazilu as Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

2. Requests, on a priority basis, pursuant to Article 96, paragraph 2, of the Charter of the United Nations and in accordance with General Assembly resolution 89(I) of 11 December 1946, an advisory opinion from the International Court of Justice on the legal question of the applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations in the case of Mr. Dumitru Mazilu as Special Rapporteur of the Sub-Commission.

Economic and Social Council resolution 1989/75

24 May 1989 Meeting 16 24-8-19 (recorded vote)

Approved by Second Committee (E/1989/88) by recorded vote (26-9-16), 19 May (meeting 22); draft by Commission on Human Rights (E/1989/20); oral amendment by United States adopted in plenary; agenda item 9.

Recorded vote in Council as follows:

In favour: Bahamas, Belize, Bolivia, Brazil, Canada, Colombia, Denmark, France, Germany, Federal Republic of, Greece, Ireland, Italy, Japan, Kenya, Netherlands, New Zealand, Norway, Portugal, Trinidad and Tobago, United Kingdom, United States, Uruguay, Venezuela, Yugoslavia.

Against: Bulgaria, Cuba, Czechoslovakia, Iran, Libyan Arab Jamahiriya, Poland, Ukrainian SSR, USSR.

Abstaining: Cameroon, China, Ghana, Guinea, Indonesia, Iraq, Jordan, Lesotho, Liberia, Nicaragua, Niger, Oman, Rwanda, Sri Lanka, Sudan, Thailand, Tunisia, Zaire, Zambia.

Before adopting the resolution as a whole, the Council adopted, by a recorded vote of 17 to 9, with 22 abstentions, the United States oral amendment inserting the words "on a priority basis" in operative paragraph 2.

Speaking prior to the vote, Romania stated that the case in question involved incapacity for work, that it considered the efforts to transform a case of illness into a political and legal issue to be contrary to the purposes of the UN Charter, and that it did not agree that the alleged dispute should be referred to the International Court of Justice.

Report of the Special Rapporteur. In 1989, the Sub-Commission had before it a report(23) on human rights and youth, prepared by Special Rapporteur Dumitru Mazilu and transmitted to it on 10 July. In an introductory note, the Secretary-

General explained that the report was reproduced as received, as he had been unable to consult with the Special Rapporteur regarding its presentation and editing.

The report reviewed the situation of young people and the state of human rights in the world, examined the rights and freedoms of youth as an important component of human rights, and discussed the need to ensure the freedom of thought and expression and the enjoyment by youth of the right to life, education and work. It also suggested measures to be taken by Governments to ensure and promote the rights and freedoms of the younger generation, and proposed a charter of the rights and freedoms of youth. In an addendum, the Special Rapporteur discussed the situation of human rights and youth in Romania, including unprecedented aggression against the rights and freedoms of the younger generation and the destruction of their values and faith under political despotism.

The Special Rapporteur made a number of recommendations pertaining to the right of young people to life; creation of a healthy economic and social environment for youth; measures to attack the production of, demand for and use of illicit drugs; education, vocational training and employment programmes for young people; the establishment of non-exploitative working conditions; the use of science and technology to promote the rights and freedoms of youth; and the promotion of cultural exchanges and organization of seminars and conferences to stimulate public discussion of problems affecting youth.

Sub-Commission action. On 1 September, the Sub-Commission, by 12 votes to 4, with 2 abstentions, requested(24) the Special Rapporteur to update his report and invited him to present it in person to the Sub-Commission in 1990; the Secretary-General was asked to continue to provide him with information relevant to his report and to give the Special Rapporteur all necessary assistance. The Sub-Commission also expressed its deep concern at reports of the personal situation of Mr. Mazilu and his family and asked the Secretary-General to follow the matter closely. The Special Rapporteur on the human rights of UN staff members, experts and their families was requested to submit a note on the subject of Mr. Mazilu's situation to the Commission on Human Rights and to report to the Sub-Commission in 1990.

Traditional practices affecting the health of women and children

Human Rights Commission action. On 6 March, the Commission approved(25) the Sub-Commission's 1988 request(26) to Halima Em-

barek Warzazi (Morocco) to study recent developments with regard to traditional practices affecting the health of women and children and to report to the Sub-Commission in 1989, as well as its request to the Secretary-General to provide her with all necessary assistance.

Report of the Special Rapporteur. In a preliminary report(27) on the subject, transmitted to the Sub-Commission on 21 August, the Special Rapporteur summarized information received from 17 Governments, 3 UN bodies and 12 NGOs on traditional practices affecting health. In view of the small number of replies, she recommended the continuation of the study and measures to obtain more information and strengthen the report.

Sub-Commission action. On 31 August, the Sub-Commission recommended(28) to the Commission that the Special Rapporteur's mandate be extended for two years and that she undertake field missions, if possible to two countries where harmful traditional practices were prevalent; that seminars be held on such practices in Africa and Asia; that the Centre for Human Rights provide necessary support in preparation of the study, including a full-time professional assistant; and that the subject remain on the Sub-Commission's agenda for sustained follow-up.

Human rights and science and technology

On 15 December, on the recommendation of the Third Committee, the General Assembly adopted resolution 44/133 without vote.

Human rights and scientific and technological developments

The General Assembly,

Noting that scientific and technological progress is one of the decisive factors in the development of human society,

Recalling the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind, adopted by the General Assembly in its resolution 3384(XXX) of 10 November 1975,

Bearing in mind the relevant provisions of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Declaration on Social Progress and Development,

Conscious that it is only the creative genius of man that makes progress and the development of civilization possible in a peaceful environment and that human life must be recognized as supreme,

Recalling the fundamental importance of the right to life,

Convinced that in the era of modern scientific and technological progress, the resources of mankind and the activities of scientists should be used to promote the peaceful economic, social and cultural development of countries and to improve the living standards of all people,

Bearing in mind that the exchange and transfer of scientific and technological knowledge is one of the important ways to accelerate the social and economic development of the developing countries,

Recalling its relevant resolutions,

1. Reaffirms the value of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind in the promotion of human rights and fundamental freedoms;

2. Culls upon all States to make every effort to use the achievements of science and technology in order to promote peaceful social, economic and cultural development and progress;

3. Recalls the historic responsibility of the Governments of all countries of the world to preserve civilization and to ensure that everyone enjoys his or her inherent right to life, and calls upon them to do their utmost to assist in protecting the right to life through the adoption of appropriate measures at both the national and international levels;

4. Culls upon all States, appropriate United Nations bodies, the specialized agencies and intergovernmental and non-governmental organizations concerned to take the necessary measures to ensure that the results of scientific and technological progress and the material and intellectual potential of mankind are used for the benefit of mankind and for promoting and encouraging universal respect for human rights and fundamental freedoms;

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

6. Invites the Commission on Human Rights to assist the Sub-Commission on Prevention of Discrimination and Protection of Minorities in preparing the study requested by the Commission in its resolutions 1982/4 of 19 February 1982, 1984/29 of 12 March 1984, 1986/11 of 10 March 1986 and 1988/61 of 9 March 1988;

7. Decides to include in the provisional agenda of its forty-fifth session the item entitled "Human rights and scientific and technological developments".

General Assembly resolution 44/133

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/626) without vote, 22 November (meeting 52); 34-nation draft (A/C.3/44/L.55); agenda item 107.

Meeting numbers. GA 44th session: 3rd Committee 36-43, 50, 52; plenary 82.

Computerized personal files

Human Rights Commission action. On 6 March, the Commission, having considered the final report on guidelines for the regulation of computerized personal data files submitted by Special Rapporteur Louis Joinet (France) to the Sub-Commission in 1988,(29) recommended(30) a resolution for adoption by the Economic and Social Council.

ECONOMIC AND SOCIAL COUNCIL ACTION

On 24 May, on the recommendation of its Second Committee, the Council adopted resolution 1989/78 without vote.

Guidelines on the use of computerized personal files

The Economic and Social Council,

Taking note of resolution 1988/29 of September 1988 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and Commission on Human Rights resolution 1989/43 of 6 March 1989 on guidelines on the use of computerized personal files,

1. Expresses its appreciation to the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Mr. Louis Joinet, for his study on guidelines for the regulation of computerized personal data files;

2. Decides to transmit to the General Assembly the final report of the Special Rapporteur;

3. Requests the Secretary-General to draw the attention of all Governments to the final report of the Special Rapporteur and to invite them to communicate their comments to him before 1 September 1989;

4. Requests the Secretary-General to submit to the General Assembly at its forty-fourth session the final report of the Special Rapporteur and a report containing the views expressed thereon by Governments;

5. Recommends that the General Assembly consider, as a matter of priority, the adoption and publication of the guidelines on the use of computerized personal files.

Economic and Social Council resolution 1989/78

24 May 1989 Meeting 16 Adopted without vote

Approved by Second Committee (E/1989/88) without vote, 19 May (meeting 22); draft by Commission on Human Rights (E/1989/20); agenda item 9.

Report of the Secretary-General. In a 24 October report to the General Assembly and a later addendum,(31) the Secretary-General analysed replies from nine Governments containing general comments and suggestions on the draft guidelines, as well as comments and proposals for principles stating the minimum guarantees to be incorporated into national legislation.

GENERAL ASSEMBLY ACTION

On 15 December, the Assembly, on the recommendation of the Third Committee, adopted resolution 44/132 without vote.

Guidelines for the regulation of computerized personal data files

The General Assembly,

Bearing in mind Commission on Human Rights resolution 1989/43 of 6 March 1989 and Economic and Social Council resolution 1989/78 of 24 May 1989, entitled "Guidelines on the use of computerized personal data files",

1. Expresses its appreciation to the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Mr. Louis Joinet, for his report on the draft guidelines for the regulation of computerized personal data files;

2. Conveys its thanks to the Governments that have communicated to the Secretary-General their comments and suggestions on the draft guidelines;

3. Invites the Special Rapporteur to submit to the Commission on Human Rights at its forty-sixth session

a revised version of the draft guidelines, taking into account, ^{inter alia}, those comments and suggestions;

4. Requests the Commission on Human Rights to examine the revised draft guidelines and, once it has examined and, if necessary, modified them, to transmit them, through the Economic and Social Council, to the General Assembly at its forty-fifth session for final adoption.

General Assembly resolution 44/132

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/826) without vote, 22 November (meeting 52); 7-nation draft (A/c.3/44/L.54); agenda item 107.

Sponsors: France, Germany, Federal Republic of, Guatemala, Japan, Luxembourg, Morocco, United Kingdom.

Meeting numbers. GA 44th session: 3rd Committee 36-43, 50, 52; plenary 82.

Chemical weapons and the right to life

Report of the Secretary-General. In response to a 1988 Sub-Commission request,(32) the Secretary-General submitted a 17 August report(33) on chemical weapons and respect for the right to life. The report analysed substantive information received from 23 Governments, 3 UN bodies, and 10 NGOs and educational institutions. The information dealt with such topics as the definition of chemical weapons, their use and allegations of use, the importance and continuing validity of the Geneva Protocol of 1925 banning the use of asphyxiating, poisonous and other gases and analogous liquids as well as bacteriological weapons, and multilateral and national action to ban chemical weapons. The Secretary-General concluded that the use of chemical weapons constituted a violation of basic human rights, the right to life and to liberty and security of person, and that urgent and effective international measures should be undertaken to prevent their future use. The complete and effective prohibition of the development, production and stockpiling of all chemical weapons as well as their destruction should be pursued as a matter of continuing urgency, he said. Other conclusions dealt with the strict observance by States of the 1925 Geneva Protocol and mobilization of public opinion in favour of banning chemical weapons.

Sub-Commission action. On 1 September, the Sub-Commission took note(34) of the Secretary-General's report, called on States to abide strictly by their international obligations in that field, and decided to consider the matter further in 1990.

Human rights and the environment

On 31 August, the Sub-Commission concluded(35) that the information on human rights and the environment provided to it in 1989 by a number of NGOs and some of its members, together with the Environmental Perspective to the Year 2000 and Beyond adopted by the General Assembly in 1987,(36) justified consideration of a

study of the environment and its relation to human rights. Accordingly, the Sub-Commission asked one of its members, Fatma Ksentini (Algeria), to submit in 1990 a note on methodology for such a study. The Secretary-General was requested to seek relevant information and observations from Governments, UN bodies and specialized agencies, as well as intergovernmental and non-governmental organizations.

Movement and dumping of toxic and dangerous products and waste

Human Rights Commission action. On 6 March, the Commission requested(37) States producing toxic and dangerous wastes to ban their export to countries technically incapable of their environmentally sound disposal; abrogate existing agreements for the disposal of such wastes and products with those countries; and take measures to ensure that those wastes did not imperil human health and the ecosystem in their own as well as other countries. It also requested the United Nations Environment Programme (UNEP) to expedite elaboration of a global convention on the control of transboundary movements of hazardous wastes, and asked the Secretary-General to report on the matter to the Sub-Commission in 1989.

Report of the Secretary-General. In response to the Commission's March request, the Secretary-General reported(38) to the Sub-Commission on 19 June that a conference of plenipotentiaries, convened in Basel, Switzerland, by the Executive Director of UNEP, had adopted on 22 March 1989 the Final Act of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (see PART THREE, Chapter VIII). The Final Act provided, *inter alia* for the establishment of a technical working group to prepare draft guidelines on environmentally sound waste management aimed at minimizing the risk to human health, and urged States to take steps to stop illegal traffic in hazardous wastes, including by signing and becoming parties to the Convention. The Secretary-General informed the Sub-Commission that UNEP was in the process of finalizing a report to the General Assembly on illegal traffic of hazardous wastes, and that the Basel Convention addressed steps to prevent and respond to such traffic.

Sub-Commission action. On 31 August, the Sub-Commission recommended(39) that the Commission adopt a resolution requesting UNEP to enter into negotiations with the Organization of African Unity (OAU) to find global solutions to the problem of the transboundary movement of hazardous wastes and their disposal, and asking the Secretary-General to report on the result of the negotiations to the Sub-Commission in 1990 and to the Commission in 1991.

Human rights and health

On 2 March, the Commission on Human Rights reaffirmed⁽⁴⁰⁾ the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, recognized the importance of non-discrimination in access to health care, and invited the Sub-Commission to consider extending the scope of a study on discrimination against persons with HIV or suffering from AIDS (see above, under "Discrimination") to other kinds of discrimination against sick or disabled persons.

Human rights of disabled persons

On 6 March, the Commission approved⁽⁴¹⁾ the Sub-Commission's 1988 requests⁽³²⁾ to Special Rapporteur Leandro Despouy (Argentina) to continue his work on the study of the relationship between human rights and disability and to submit a final report to the Sub-Commission in 1990. It also approved the request to the Secretary-General to provide the Rapporteur with all possible assistance.

Mental illness

Human Rights Commission action. On 6 March, the Commission decided⁽⁴²⁾ to establish an open-ended working group to revise the draft body of principles and guarantees for the protection of mentally ill persons and for the improvement of mental health care, adopted by the Sub-Commission in 1988,⁽⁴³⁾ and requested the working group to meet for two weeks before the Commission's 1990 session. Member States were invited, pending the adoption of a body of principles and guarantees, to adhere to the existing standards set out in international human rights instruments and to take steps to protect the rights of persons detained on grounds of mental ill-health or suffering from mental disorder. The Commission requested the Secretary-General to invite comments on the subject from Governments, specialized agencies and NGOs for consideration by the working group.

ECONOMIC AND SOCIAL COUNCIL ACTION

On 24 May, the Economic and Social Council, on the recommendation of its Second Committee, adopted resolution 1989/76 without vote.

Principles and guarantees for the protection of persons detained on grounds of mental ill-health or suffering from mental disorder
The Economic and Social Council,

Recalling Commission on Human Rights resolution 1989/40 of 6 March 1989,

1. Authorizes an open-ended working group of the Commission on Human Rights to meet for a period of two weeks prior to the forty-sixth session of the Commission to examine, revise and simplify as necessary the draft body of principles and guarantees for the protec-

tion of mentally ill persons and for the improvement of mental health care submitted to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, with a view to submitting it to the Commission at its forty-sixth session;

2. Requests the Secretary-General to extend all facilities to the working group for its meeting to be held prior to the forty-sixth session of the Commission;

3. Requests the Secretary-General, on the basis of the comments received from Governments, specialized agencies and non-governmental organizations in response to paragraph 6 of Commission on Human Rights resolution 1989/40, to prepare a working paper showing the modifications that would be made to the existing draft body of principles and guarantees as a result of those comments.

Economic and Social Council resolution 1989/76

24	May	1989	Meeting	16	Adopted	without	vote
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Approved by Second Committee (E/1989/88) without vote, 19 May (meeting 22); draft by Commission on Human Rights (E/1989/20), amended by 6 nations (E/1989/C.2/L.17); agenda item 9.

Sponsors of amendment: France, Germany, Federal Republic of, Italy, Peru, Philippines, United Kingdom.

Sub-Commission action. On 31 August, the Sub-Commission requested⁽⁴⁴⁾ the Secretary-General to make available to the working group and to the Commission's 1990 session copies of the study on principles, guidelines and guarantees for the protection of persons detained on the grounds of mental ill-health or suffering from mental disorder, as well as the relevant documentation containing a summary of national legislation and comments on the subject from Governments, specialized agencies, intergovernmental organizations and NGOs.⁽⁴⁵⁾

GENERAL ASSEMBLY ACTION

On 15 December, on the recommendation of the Third Committee, the General Assembly adopted resolution 44/134 without vote.

Human rights and scientific and technological developments

The General Assembly.

Recalling its resolution 33/53 of 14 December 1978, in which it requested the Commission on Human Rights to urge the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake, as a matter of priority, a study of the question of the protection of those persons detained on the grounds of mental ill-health, with a view to formulating guidelines,

Bearing in mind the obligation of all States to promote and respect the human rights and fundamental freedoms of everyone, including disadvantaged people, such as those suffering from mental illness,

Mindful of the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment,

Recalling also its resolution 43/109 of 8 December 1988, in which it welcomed the progress made by the Work-

ing Group of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and invited the Commission on Human Rights to consider the subject at its forty-fifth session, in the light of the Sub-Commission's recommendations,

Taking note of Commission on Human Rights resolution 1989/40 of 6 March 1989 and Economic and Social Council resolution 1989/76 of 24 May 1989, by which the Council authorized an open-ended working group of the Commission to examine, revise and simplify as necessary the draft body of principles and guarantees for the protection of mentally ill persons and for the improvement of mental health care submitted by the Sub-Commission, with a view to submitting it to the Commission at its forty-sixth session,

Expressing its belief that all mentally ill persons should be treated with humanity and the respect due the inherent dignity of the human person,

Reaffirming its conviction that the misuse of psychiatry to detain persons in mental institutions on account of their political views or on other non-medical grounds, as reflected in the report of the Special Rapporteur of the Sub-Commission, is a violation of their human rights,

1. Reiterates the urgent need for principles and guarantees to protect persons suffering from mental disorder or detained on the grounds of mental ill-health;

2. Welcomes the establishment of the open-ended working group of the Commission on Human Rights, and urges that group to examine expeditiously the draft body of principles and guarantees for the protection of mentally ill persons and for the improvement of mental health care;

3. Requests the Commission on Human Rights to consider the subject at its forty-sixth session, in the light of the deliberations and recommendations of the open-ended working group, with a view to submitting the draft body of principles and guarantees to the General Assembly at its forty-fifth session, through the Economic and Social Council.

General Assembly resolution 44/134

15 December 1989 Meeting 82 Adopted without vote

Approved by Third Committee (A/44/826) without vote, 22 November (meeting 52); 17-nation draft (A/C.3/44/L.56); agenda item 107.

Meeting numbers. GA 44th session: 3rd Committee 36-43, 50, 52; plenary 82.

Human rights of the individual and international law

Human Rights Commission action. On 6 March, the Commission approved(46) the Sub-Commission's 1988 request(32) to Special Rapporteur Erica-Irene A. Daes (Greece) to update her study on the status of the individual and contemporary international law for submission to the Sub-Commission in 1989, and the request to the Secretary-General to give the Rapporteur all necessary assistance.

Report of the Special Rapporteur. On 26 July, the Special Rapporteur submitted her updated study(47) to the Sub-Commission. The study provided an overview of contemporary international law, reviewed institutions and concepts

related to the protection of the individual and his responsibilities, discussed the individual as a subject of international duties and as a subject in contemporary international law, and considered the international procedural capacity of the individual and his position in the European Community, in the inter-American system and in the African system.

It concluded that the legal doctrine after the Second World War prevalently recognized a world community of individuals who were subjects of international law along with States, and that the individual became the bearer of rights under the rules of international law. The study recommended greater popularization of international human rights standards and dissemination of information on the promotion, protection and restoration of those rights; creation of more effective institutions accessible to individuals for protecting their rights; new mechanisms for reviewing violations of such rights and obtaining redress, and for appeal to international procedures when domestic remedies had been exhausted; easier access for individuals to international courts and tribunals; due ratification and application as substantive law of international human rights instruments; recognition by States of the need for supranational protection and enforcement of human rights norms; and the accordance of the individual with personality under international law and with certain rights and responsibilities as a subject of such law. Other recommendations dealt with the establishment of an objective international criminal jurisdiction, adoption of international standards related specifically to the status of the individual, and proposed studies on related topics.

Sub-Commission action. On 1 September, the Sub-Commission recommended to the Commission a resolution by which it would decide that the study on the status of the individual and contemporary international law should be published and widely disseminated.

Human rights and international peace

On 1 September, the Sub-Commission, convinced of the necessity to undertake a study on the negative consequences of the arms race requested by the Commission in 1982,(49) and having discussed the Secretary-General's 1988 report(26) on the interrelationship between human rights and international peace, emphasized(50) that that interrelationship required further examination and invited one of its members, Murlidhar Bhandare (India), to prepare a working paper on the subject for consideration in 1991. It also emphasized that the strengthening of international peace and security and reduction of expenditure for arms were important conditions for social and eco-

nomic development and for the materialization of all human rights, particularly the right to life and the right to development. It also underlined that the realization of human rights in the whole world would contribute to achieving international peace and security.

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