

REPERTORY OF PRACTICE OF UNITED NATIONS ORGANS
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ARTICLE 62 (2)

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ARTICLE 62 (2)

TEXT OF ARTICLE 62 (2)

It [the Economic and Social Council] may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.

INTRODUCTORY NOTE

1. The structure of this study is similar to the studies of Article 62 (2) in the *Repertory* and its *Supplements Nos. 1 to 6*. There was no new development requiring discussion under the headings A, B, C, D, E, F and H in the Analytical Summary of Practice.

I. GENERAL SURVEY

2. During the period covered by this *Supplement*, the Economic and Social Council¹ sometimes reaffirmed its role of formulation of policy and of co-ordination of the activities of the United Nations system in the field of human rights. In one instance,² recalling that responsibility for the discharge of the functions of the United Nations in promoting universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, sex, language, or religion, was vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, the Council invited States to commemorate the twentieth anniversary of the adoption of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights by continuing and strengthening measures designed to conform with the provisions of the Covenants.³ It strongly appealed to all States that had not yet become parties to those instruments to do so, so that the Covenants acquire genuine universality, and to consider acceding to the Optional Protocol to the International Covenant on Civil and Political Rights and making the declaration provided for in article 41 of the Covenant.⁴ The Council also invited the Secretary-General to continue systematically encouraging States to become parties to the Covenants and, through the programme of advisory services in the field of human rights, to provide technical assistance to the States that were not parties to the Covenants with a view to helping them to ratify those instruments or accede thereto.⁵ It further encouraged all Governments to publish the texts of the Covenants in as many languages as possible and to distribute them and make them known as widely as possible in their territories.⁶

3. In another instance,⁷ bearing in mind its important responsibilities in relation to the co-ordination of activities to promote human rights, the Council reaffirmed the importance of the

¹ The Council.

² E S C resolution 1986/5 of 21 May 1986.

³ *Ibid.*, para. 1.

⁴ *Ibid.*, para. 2.

⁵ *Ibid.*, para. 3.

⁶ *Ibid.*, para. 4.

⁷ E S C resolution 1987/4 of 26 May 1987.

International Covenants on Human Rights as major elements in the international effort to promote universal respect for and observance of human rights and fundamental freedoms.⁸ It also strongly appealed to all States to respect, implement, promote and protect economic, social, cultural, civil and political rights.⁹ It stressed the importance of avoiding the erosion of human rights by derogation and the necessity for 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 and appropriateness of measures taken in those circumstances could be assessed.¹⁰ It recommended that States parties continually review whether any reservation made in respect of the provisions of the International Covenants on Human Rights should be upheld.¹¹ The Council requested the Secretary-General to consider ways and means of assisting States parties to the Covenants in the preparation of their reports, including the awarding, upon request, of fellowships to government officials engaged in the preparation of such reports, the arrangement of regional and subregional training courses and the exploration of other possibilities available under the programme of advisory services in the field of human rights.¹² It further requested the Secretary-General to ensure that the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, which had important and specific tasks entrusted to them under the International Covenants on Human Rights, were provided with the necessary sessions and summary records.¹³

4. On yet another occasion,¹⁴ the Council recalled its important responsibilities in the co-ordination of activities to promote human rights and emphasized 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.¹⁵ The Council invited the Secretary-General and Member States to implement the measures set out in the annex to General Assembly resolution 41/150 of 4 December 1986 in order to ensure the success of the activities in celebration in 1988 of the fortieth anniversary of the Universal Declaration of Human Rights.¹⁶

5. Finally, in its resolution on the revitalization of the Council,¹⁷ the Council again recalled that it was the principal organ of the United Nations under the Charter in the economic and social fields, and affirmed that it should make an important contribution to the major issues and concerns facing the international community, in particular, the economic and social development of developing countries.¹⁸ It decided to adopt measures aimed at revitalizing the Council, improving its functioning and enabling it to exercise effectively its functions and powers as set

⁸ E S C resolution 1987/4, para. 1.

⁹ *Ibid.*, para. 3.

¹⁰ *Ibid.*, para. 5.

¹¹ *Ibid.*, para. 6.

¹² *Ibid.*, para. 11.

¹³ *Ibid.*, para. 14.

¹⁴ E S C resolution 1988/5 of 24 May 1988.

¹⁵ *Ibid.*, para. 3.

¹⁶ *Ibid.*, para. 7.

¹⁷ E S C resolution 1988/77 of 29 July 1988.

¹⁸ *Ibid.*, para. 1.

out in Chapters IX and X of the Charter.¹⁹ To that end, the Council decided that it will recommend to the General Assembly overall priorities and policy guidelines for operational activities for development undertaken by the United Nations system.²⁰

A. Recommendations

6. During the period under review, the Council made many recommendations on a variety of subjects in the field of human rights.²¹ Those subjects included matters relating to action to combat racism and racial discrimination, implementation of the International Covenants on Human Rights, elimination of all forms of discrimination against women, activities for the advancement of women, the rights of the child, the rights of disabled persons, the rights of indigenous populations, the right of peoples to self-determination, national institutions for the promotion and protection of human rights, the elimination of all forms of intolerance and of discrimination based on religion or belief, the right to food, the right to adequate housing, extreme poverty, welfare of migrant workers and their families, administration of justice and human rights of detainees, torture and other cruel, inhuman or degrading treatment or punishment, summary or arbitrary executions, and capital punishment.

7. The Council addressed recommendations primarily to the Secretary General, but also to the General Assembly, all States or all Governments, member States of the United Nations, regional commissions, specialized agencies and international organizations, the Centre for Human Rights, non-governmental organizations, its subsidiary organs such as the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on the Status of Women, the Commission for Social Development, the Commission on Population, the Commission on Transnational Corporations, the Commission on Human Settlements, the Committee on Crime Prevention and Control, and the Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights.

8. Some recommendations to the General Assembly focused on subjects relative to the family,²² the situation of African migrant workers,²³ South African, Namibian and refugee women,²⁴ the use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination,²⁵ the world decade for cultural development,²⁶ the Convention on the Elimination of All Forms of Discrimination against Women,²⁷ the observance of the tenth anniversary of the United Nations Development Fund for Women,²⁸ the realization of the right to adequate housing,²⁹ the efforts to promote the eradication of illiteracy,³⁰ the

¹⁹ E S C resolution 1988/77, para. 2.

²⁰ E S C resolution 1988/77, para. 2 d.

²¹ See also this *Supplement*, under Article 55.

²² E S C resolution 1985/29 of 29 May 1985.

²³ E S C resolution 1985/64 of 26 July 1985.

²⁴ E S C resolution 1986/25 of 22 May 1986.

²⁵ E S C resolutions 1986/43 of 23 May 1986 and 1987/61 of 29 May 1987.

²⁶ E S C resolution 1986/69 of 23 July 1986.

²⁷ E S C resolutions 1987/3 of 26 May 1987 and 1988/48 of 27 May 1988.

²⁸ E S C resolution 1987/26 of 26 May 1987.

²⁹ E S C resolutions 1987/62 of 29 May 1987 and 1988/43 of 27 May 1988.

³⁰ E S C resolution 1987/80 of 8 July 1987.

proposal to proclaim an international year of the world's indigenous populations,³¹ and the prevention and control of acquired immunodeficiency syndrome (AIDS).³²

9. Other recommendations to the General Assembly included a draft resolution on the implementation of the Declaration on Social Progress and Development,³³ a draft resolution on the United Nations Voluntary Fund for Indigenous Populations,³⁴ a draft second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty,³⁵ a draft convention on the rights of the child,³⁶ a draft declaration on the right to development,³⁷ 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,³⁸ a draft convention against the recruitment, use, financing and training of mercenaries,³⁹ a draft resolution on the need to enhance international co-operation in protection of and assistance for the family,⁴⁰ and a draft declaration of principles on the rights of indigenous populations.⁴¹

10. Recommendations to States were addressed to member States of the United Nations concerning, *inter alia*, welfare of migrant workers and their families,⁴² capital punishment,⁴³ developmental social welfare policies and programmes on the situation of African migrant workers,⁴⁴ the implementation of the conclusions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,⁴⁵ the United Nations Decade of Disabled Persons,⁴⁶ the status of women within the United Nations system,⁴⁷ the participation of women in promoting international peace and co-operation,⁴⁸ women and children under *apartheid*,⁴⁹ the implementation of the Arusha Forward-looking Strategies for the Advancement of African Women Beyond the United Nations Decade for Women,⁵⁰ and extreme poverty.⁵¹

11. Recommendations were also addressed to all States concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations,⁵²

³¹ E S C resolution 1988/37 of 27 May 1988.

³² E S C resolution 1988/55 of 27 July 1988.

³³ E S C resolutions 1985/34 of 29 May 1985 and 1987/38 of 28 May 1987.

³⁴ E S C resolution 1985/38 of 30 May 1985.

³⁵ E S C resolution 1985/41 of 30 May 1985.

³⁶ E S C resolutions 1985/42 of 30 May 1985, 1986/40 of 23 May 1986, 1987/58 of 29 May 1987 and 1988/40 of 27 May 1988.

³⁷ E S C decision 1985/149 of 30 May 1985.

³⁸ E S C resolutions 1986/37 of 23 May 1986, 1987/59 of 29 May 1987 and 1988/39 of 27 May 1988.

³⁹ E S C resolution 1986/43 of 23 May 1986.

⁴⁰ E S C resolution 1987/42 of 28 May 1987.

⁴¹ E S C resolution 1988/36 of 27 May 1988.

⁴² E S C resolution 1985/24 of 29 May 1985.

⁴³ E S C resolution 1985/33 of 29 May 1985.

⁴⁴ E S C resolution 1985/64 of 26 July 1985.

⁴⁵ E S C resolution 1986/10 of 21 May 1986.

⁴⁶ E S C resolutions 1986/16 of 22 May 1986, 1987/43 of 28 May 1987 and 1988/45 of 27 May 1988.

⁴⁷ E S C resolutions 1986/19 of 23 May 1986 and 1987/19 of 26 May 1987.

⁴⁸ E S C resolutions 1986/20 of 23 May 1986 and 1988/28 of 26 May 1988.

⁴⁹ E S C resolution 1986/22 of 23 May 1986.

⁵⁰ E S C resolution 1986/28 of 23 May 1986.

⁵¹ E S C resolution 1988/47 of 27 May 1988.

⁵² E S C resolutions 1985/59 of 26 July 1985, 1986/48 of 22 July 1986, 1987/78 of 8 July 1987 and 1988/53 of 26 July 1988.

women and children under *apartheid*,⁵³ and the use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination.⁵⁴

12. Recommendations to Governments concerned, *inter alia*, women and development in Africa,⁵⁵ women and children under *apartheid*,⁵⁶ protection against products harmful to health and the environment,⁵⁷ the International Year of Shelter for the Homeless,⁵⁸ rural women and development,⁵⁹ national machinery for the advancement of women,⁶⁰ and consumer protection.⁶¹

13. Recommendations were also jointly made to several addressees, notably to all States and relevant organs, organizations and bodies of the United Nations system in the resolution relative to the implementation of the Declaration on Social Progress and Development,⁶² to Member States, as well as organs and subsidiary bodies of the United Nations, intergovernmental and non-governmental organizations, educational, scientific, cultural and research institutions and their communication media in the resolution relative to the International Year of Peace,⁶³ to the United Nations organs and organizations, as well as national, regional and international women's organizations in the resolution relative to Palestinian women,⁶⁴ to all Governments and all concerned institutions, both national and international in the resolution relative to the realization of the right to adequate housing,⁶⁵ to all appropriate organizations of the United Nations system, including the specialized agencies, as well as bilateral and multilateral agencies and non-governmental and voluntary organizations in the resolution relative to the prevention and control of AIDS,⁶⁶ and to the organizations of the United Nations system concerned in the resolution relative to the international co-operation on the environment.⁶⁷

14. Recommendations were made to specialized agencies in general, on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations,⁶⁸ on the improvement of the status of women within the United Nations system,⁶⁹ on the implementation of the International Covenant on Economic, Social and Cultural Rights,⁷⁰ on the implementation and enjoyment by youth of human rights, particularly the right to life, to education and to work,⁷¹ and on the efforts to eradicate violence against women within the

⁵³ E S C resolution 1988/23 of 26 May 1988.

⁵⁴ E S C resolutions 1986/43 of 23 May 1986 and 1987/61 of 29 May 1987.

⁵⁵ E S C resolution 1985/67 of 26 July 1985.

⁵⁶ E S C resolution 1986/22 of 23 May 1986.

⁵⁷ E S C resolution 1986/72 of 23 July 1986.

⁵⁸ E S C resolution 1987/37 of 28 May 1987.

⁵⁹ E S C resolution 1988/29 of 26 May 1988.

⁶⁰ E S C resolution 1988/30 of 26 May 1988.

⁶¹ E S C resolution 1988/61 of 27 July 1988.

⁶² E S C resolution 1985/34 of 29 May 1985.

⁶³ E S C resolution 1986/15 of 22 May 1986.

⁶⁴ E S C resolution 1986/21 of 23 May 1986.

⁶⁵ E S C resolutions 1986/41 of 23 May 1986 and 1987/62 of 29 May 1987.

⁶⁶ E S C resolution 1987/75 of 8 July 1987.

⁶⁷ E S C resolution 1988/69 of 28 July 1988.

⁶⁸ E S C resolutions 1985/59 of 26 July 1985, 1986/48 of 22 July 1986, 1987/78 of 8 July 1987 and 1988/53 of 26 July 1988.

⁶⁹ E S C resolutions 1986/19 of 23 May 1986, 1987/19 of 26 May 1987 and 1988/17 of 26 May 1988.

⁷⁰ E S C resolutions 1987/5 of 26 May 1987 and 1988/4 of 24 May 1988.

⁷¹ E S C resolutions 1985/27 of 29 May 1985 and 1987/44 of 28 May 1987.

family and society.⁷² The Council also addressed a recommendation namely to certain specialized agencies, notably to the International Labour Organization (ILO), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), the World Bank and the International Monetary Fund in the resolution on the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.⁷³

15. The Council also addressed recommendations to specialized agencies jointly with other actors. For example, the Council addressed itself to special agencies, United Nations bodies, regional commissions and other intergovernmental organizations in a resolution on the co-ordination and information in the field of youth in the context of the observance of the International Youth Year and of the follow-up of programmes devoted to youth.⁷⁴ In addition, the Council addressed itself to specialized agencies, Governments, United Nations bodies, regional intergovernmental organizations and non-governmental organizations to take effective action to combat and eliminate summary or arbitrary executions, including extra-legal executions.⁷⁵ The Council also requested specialized agencies, all States, all governmental and non-governmental organizations and other United Nations bodies concerned to continue to pay priority attention to the development and implementation of effective measures to secure the exercise by women of their rights.⁷⁶ It further requested all the specialized agencies and other organizations of the United Nations system, including all the regional commissions and the International Research and Training Institute for the Advancement of Women, to co-operate in the preparation of the first up-date of the world survey on the role of women in development.⁷⁷

16. In accordance with previous practice, the Council addressed non-governmental organizations in general, in most cases in combination with other addressees. At times it specially addressed non-governmental organizations in consultative status with the Council or non-governmental organizations with a particular interest, competence or concern in a subject. Those recommendations concerned, *inter alia*, the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination,⁷⁸ welfare of migrant workers and their families,⁷⁹ the first review and appraisal of the implementation of the International Plan of Action on Aging,⁸⁰ the activities of transnational corporations in South Africa and Namibia and the collaboration of such corporations with the racist minority régime of South Africa,⁸¹ the implementation of the Arusha Forward-looking Strategies for the Advancement of African Women Beyond the United Nations Decade for Women,⁸² the implementation of the International Covenant on Economic, Social and Cultural Rights,⁸³ the

⁷² E S C resolution 1988/27 of 26 May 1988.

⁷³ E S C resolution 1988/34 of 27 May 1988.

⁷⁴ E S C resolution 1985/30 of 29 May 1985.

⁷⁵ E S C resolutions 1985/40 of 30 May 1985 and 1986/36 of 23 May 1986.

⁷⁶ E S C resolution 1986/17 of 23 May 1986.

⁷⁷ E S C resolution 1986/64 of 23 July 1986.

⁷⁸ E S C resolutions 1985/19 of 29 May 1985, 1986/2 of 19 May 1986, 1987/2 of 26 May 1987 and 1988/6 of 24 May 1988.

⁷⁹ E S C resolution 1985/24 of 29 May 1985.

⁸⁰ E S C resolution 1985/28 of 29 May 1985.

⁸¹ E S C resolutions 1985/72 of 26 July 1985 and 1986/1 of 19 May 1986.

⁸² E S C resolution 1986/28 of 23 May 1986.

⁸³ E S C resolutions 1987/5 of 26 May 1987 and 1988/4 of 24 May 1988.

observance of the tenth anniversary of the United Nations Development Fund for Women,⁸⁴ the preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,⁸⁵ and women and peace in Central America.⁸⁶

B. Studies and reports

17 During the period under review, the Council took a number of decisions with regard to issues of reporting by several of its subsidiary bodies. Within the framework of the implementation of the International Covenant on Economic, Social and Cultural Rights, the Council again modified⁸⁷ the composition, organization and administrative arrangements of the Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights. The Council decided that⁸⁸ the Working Group should be renamed “Committee on Economic, Social and Cultural Rights” (hereinafter referred to as “the Committee”), should submit to the Council a report on its activities, including a summary of its consideration of the reports submitted by States parties to the Covenant, and should make suggestions and recommendations of a general nature on the basis of its consideration of those reports and of the reports submitted by the specialized agencies, in order to assist the Council to fulfil, in particular, its responsibilities under articles 21 and 22 of the Covenant. The procedures and methods of work established by Council resolutions 1979/43, 1982/33 and 1983/41 and Council decision 1981/158⁸⁹ would remain in force in so far as they were not superseded or modified by the present resolution. Concerning the reporting procedure under article 16 of the International Covenant on Economic, Social and Cultural Rights, the Council decided, while maintaining the current programme of biennial reports for the first cycle of the reporting procedure, to prolong by one year the periodicity of reporting under the second and subsequent cycles of the reporting procedure.⁹⁰

18. In a subsequent resolution relative to the work of the Committee on Economic, Social and Cultural Rights,⁹¹ the Council adopted new recommendations concerning reporting obligations under the International Covenant on Economic, Social and Cultural Rights. The Council invited States parties to the Covenant to follow the recommendations made by the Committee⁹² to address the problems of non-submission, and extended delays in the submission of periodic reports, in particular regarding the need to submit and present the reports in a timely manner and to complete the entire cycle of initial reports before submitting second reports.⁹³ The Council also invited the States parties to the Covenant to review the processes followed in the preparation of their periodic reports, including consultation and co-ordination with appropriate governmental departments and agencies, compilation of data and training of staff, and to hold, as appropriate, consultations with interested non-governmental organizations, with a view to ensuring full compliance with relevant guidelines, improving the quality of description and

⁸⁴ E S C resolution 1987/26 of 26 May 1987.

⁸⁵ E S C resolution 1987/49 of 28 May 1987.

⁸⁶ E S C resolution 1988/20 of 26 May 1988.

⁸⁷ For the first modification, see E S C resolution 1982/33 of 6 May 1982, and *Supplement No. 6*, Article 62 (2), para. 13.

⁸⁸ E S C resolution 1985/17 of 28 May 1985.

⁸⁹ See also *Supplement No. 6*, Article 62 (2), paras. 12 and 13.

⁹⁰ E S C decision 1985/132 of 28 May 1985.

⁹¹ E S C resolution 1988/4 of 24 May 1988.

⁹² *Official Records of the Economic and Social Council, 1988, Supplement No. 4 (E/1988/14), chap. IV*, paras. 351-374.

⁹³ E S C resolution 1988/4, para. 3.

analysis in such reports and limiting reports to a reasonable length.⁹⁴ It endorsed the recommendation of the Committee that States parties be requested to submit a single report within two years of the entry into force of the Covenant for the State party concerned and thereafter at five-year intervals.⁹⁵ It took also note of the decision of the Committee to devote one day during each session to a general discussion of one specific right or a particular article of the Covenant in order to develop in greater depth its understanding of the relevant issues.⁹⁶ It further welcomed the decision of the Committee to prepare general comments, based on the various articles and provisions of the Covenant, with a view to assisting States parties in fulfilling their reporting obligations.⁹⁷

19. As regards the status of women, the Council endorsed the establishment of a comprehensive reporting system to the Commission on the Status of Women to monitor, review and appraise the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women.⁹⁸ That system consisted of a two-year cycle of system-wide monitoring of progress made in implementing the Nairobi Forward-looking Strategies and a five-year cycle of longer-term review and appraisal to continue the cycle established by the World Conference to Review and Appraise the Achievement of the United Nations Decade of Women: Equality, Development and Peace.⁹⁹ The Secretary-General would prepare biennial reports on monitoring of the implementation of the Nairobi Forward-looking Strategies by the organizations of the United Nations system, including monitoring at the regional level; those reports would address the three interrelated and mutually reinforcing objectives of the Nairobi Forward-looking Strategies: equality, development and peace; each objective would be reported on separately, as appropriate.¹⁰⁰ The quinquennial review and appraisal would be based on responses from Member States to a questionnaire on the progress achieved in the implementation of the Nairobi Forward-looking Strategies, including an assessment of the effectiveness of methods and programmes introduced and an account of new programmes planned as a result of the national review and appraisal,¹⁰¹ the national reports would address the three interrelated and mutually reinforcing objectives of the Nairobi Forward-looking Strategies : equality, development and peace, and each objective would be monitored and reported on separately;¹⁰² non-governmental bodies would be invited to submit reports for the quinquennial review and appraisal;¹⁰³ reports of Member States to relevant international supervisory bodies, the *World Survey on the Role of Women in Development* and reports prepared by the regional commissions on changes in the

⁹⁴ *Ibid*, para. 5.

⁹⁵ *Ibid*, para. 6.

⁹⁶ *Ibid*, para. 12.

⁹⁷ E S C resolution 1988/4, para. 13.

⁹⁸ E S C resolution 1988/22 of 26 May 1988 and annex. In its resolution 1987/22 of 26 May 1987, the Council had decided to expand the terms of reference of the Commission on the Status of Women to include the functions of promoting the objectives of equality, development and peace, monitoring the implementation of measures for the advancement of women, and reviewing and appraising progress made at the national, subregional, regional, sectoral and global levels. It had also decided to structure the agenda for the future sessions of the Commission around its functions, namely programming, co-ordination, monitoring and policy development.

⁹⁹ E S C resolution 1988/22 of 26 May 1988.

¹⁰⁰ *Ibid*, annex, para. 1.

¹⁰¹ *Ibid*, annex, para. 7.

¹⁰² *Ibid*, annex, para. 8.

¹⁰³ *Ibid*, annex, para. 13.

situation of women within their region would be made available to the Commission on the Status of Women every five years for the review and appraisal.¹⁰⁴

20. As regards the mandates of special rapporteurs on thematic issues in the field of human rights, the Council decided to extend those mandates to a period of two years.¹⁰⁵ The Council also decided that those special rapporteurs should continue to report annually and that that decision would apply to the mandates of the Special Rapporteur on mercenaries, the Special Rapporteur on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the Special Rapporteur on the question of torture, the Special Rapporteur on summary and arbitrary executions and the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the 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.¹⁰⁶ The Council further decided that studies prepared by Special Rapporteurs of the Sub-Commission should be printed only following an express decision to that effect taken by the Commission on Human Rights and subsequently by the Council, which should have an opportunity to study the relevant financial implications.¹⁰⁷ Those studies and other reports by Special Rapporteurs of the Sub-Commission should be brief and concise and, as far as possible, not exceed thirty-two pages.¹⁰⁸

21. As regards the mandate of the Working Group on Enforced or Involuntary Disappearances, the Council approved the Commission on Human Rights' decisions to extend for one year¹⁰⁹ and for two years¹¹⁰ that mandate, as laid down in Commission resolution 20 (XXXVI) of 29 February 1980, in accordance with the recommendations of the Working Group, while maintaining the Working Group's annual reporting cycle.

22. Studies and reports requested during the period under review concerned, *inter alia*, the elimination of discrimination against women,¹¹¹ the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination,¹¹² questions relative to youth,¹¹³ the welfare of migrant workers and their families,¹¹⁴ the question of aging,¹¹⁵ the family,¹¹⁶ capital punishment,¹¹⁷ social progress and development,¹¹⁸ administration of justice and human rights of detainees,¹¹⁹ summary or arbitrary executions,¹²⁰ abolition of death

¹⁰⁴ *Ibid*, annex, paras. 16 and 17.

¹⁰⁵ E S C decision 1988/129 of 27 May 1988.

¹⁰⁶ E S C decision 1988/129 of 27 May 1988.

¹⁰⁷ E S C resolution 1986/33 of 23 May 1986, para. 4.

¹⁰⁸ *Ibid*, para. 2.

¹⁰⁹ See E S C decision 1985/142 of 30 May 1985.

¹¹⁰ See E S C decisions 1986/139 of 23 May 1986 and 1988/107 of 13 May 1988.

¹¹¹ E S C resolutions 1985/18 of 25 May 1985, 1986/4 of 21 May 1986, 1987/3 of 26 May 1987 and 1988/26 of 26 May 1988.

¹¹² E S C resolutions 1985/19 of 29 May 1985, 1986/2 of 19 May 1986, 1987/2 of 26 May 1987 and 1988/6 of 24 May 1988.

¹¹³ E S C resolutions 1985/23 of 29 May 1985, 1985/30 of 29 May 1985, 1987/45 of 28 May 1987 and 1987/51 of 28 May 1987.

¹¹⁴ E S C resolution 1985/24 of 29 May 1985.

¹¹⁵ E S C resolutions 1985/28 of 29 May 1985 and 1987/41 of 28 May 1987.

¹¹⁶ E S C resolutions 1985/29 of 29 May 1985 and 1987/46 of 28 May 1987.

¹¹⁷ E S C resolution 1985/33 of 29 May 1985.

¹¹⁸ E S C resolution 1985/34 of 29 May 1985.

¹¹⁹ E S C resolution 1985/37 of 30 May 1985.

¹²⁰ E S C resolutions 1985/40 of 30 May 1985, 1986/36 of 23 May 1986, 1987/60 of 29 May 1987 and 1988/38 of 27 May 1988.

penalty,¹²¹ trade union rights in the Republic of South Africa,¹²² the question of enforced or involuntary disappearances,¹²³ the question of slavery,¹²⁴ torture and other cruel, inhuman or degrading treatment or punishment,¹²⁵ the right to development,¹²⁶ the situation in southern Lebanon,¹²⁷ the right of self-determination,¹²⁸ activities of transnational corporations in South Africa and Namibia,¹²⁹ crime prevention and criminal justice,¹³⁰ the use of mercenaries and the right of self-determination,¹³¹ the elimination of intolerance and discrimination based on religion or belief,¹³² the question of housing,¹³³ the rights of disabled persons,¹³⁴ the right to food,¹³⁵ the rights of indigenous populations,¹³⁶ extreme poverty,¹³⁷ consumer protection,¹³⁸ and the question of environment.¹³⁹

23. The Council also initiated studies and reports on the situation of human rights in several countries, which it entrusted to Special Rapporteurs, Special Representatives or Special Envoys, notably for El Salvador,¹⁴⁰ Guatemala,¹⁴¹ Afghanistan,¹⁴² the Islamic Republic of Iran,¹⁴³ Chile,¹⁴⁴ and Cuba.¹⁴⁵ It further renewed the mandate of the *Ad Hoc* Working Group of Experts on the situation of human rights in southern Africa.¹⁴⁶

24. In accordance with previous practice, requests for studies and reports were addressed in most cases to the Secretary-General but also to Member States, States parties to international conventions on human rights, the Committee on Crime Prevention and Control, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, regional

¹²¹ E S C resolution 1985/41 of 30 May 1985.

¹²² E S C resolutions 1985/43 of 30 May 1985, 1987/63 of 29 May 1987 and 1988/41 of 27 May 1988.

¹²³ E S C decisions 1985/142 of 30 May 1985, 1986/139 of 23 May 1986 and 1988/107 of 13 May 1988.

¹²⁴ E S C decision 1985/143 of 30 May 1985 ; E S C resolution 1988/34 of 27 May 1988.

¹²⁵ E S C decisions 1985/144 of 30 May 1985, 1986/138 of 23 May 1986, 1987/146 of 29 May 1987 and 1988/130 of 27 May 1988.

¹²⁶ E S C decisions 1985/149 of 30 May 1985, 1986/133 of 23 May 1986, 1987/145 of 29 May 1987 and 1988/128 of 27 May 1988.

¹²⁷ E S C decisions 1985/157 of 30 May 1985 and 1986/148 of 23 May 1986.

¹²⁸ E S C resolutions 1985/59 of 26 July 1985, 1986/48 of 22 July 1986, 1987/78 of 8 July 1987 and 1988/53 of 26 July 1988.

¹²⁹ E S C resolutions 1986/1 of 19 May 1986, 1987/56 of 28 May 1987 and 1988/56 of 27 July 1988.

¹³⁰ E S C resolutions 1986/11 of 21 May 1986, 1987/53 of 28 May 1987 and 1988/44 of 27 May 1988.

¹³¹ E S C resolution 1986/43 of 23 May 1986 ; E S C decisions 1987/144 of 29 May 1987 and 1988/126 of 27 May 1988.

¹³² E S C decisions 1986/134 of 23 May 1986, 1987/143 of 29 May 1987 and 1988/142 of 27 May 1988.

¹³³ E S C decision 1986/162 of 21 July 1986 ; E S C resolution 1988/43 of 27 May 1988.

¹³⁴ E S C resolutions 1987/43 of 28 May 1987 and 1988/45 of 27 May 1988.

¹³⁵ E S C resolution 1988/33 of 27 May 1988.

¹³⁶ E S C resolution 1988/35 of 27 May 1988 ; E S C decision 1988/134 of 27 May 1988.

¹³⁷ E S C resolution 1988/47 of 27 May 1988.

¹³⁸ E S C resolution 1988/61 of 27 July 1988.

¹³⁹ E S C resolutions 1988/70 of 28 July 1988 and 1988/71 of 28 July 1988 ; E S C decision 1988/174 of 28 July 1988.

¹⁴⁰ E S C decisions 1985/145 of 30 May 1985, 1986/135 of 23 May 1986, 1987/148 of 29 May 1987 and 1988/135 of 27 May 1988.

¹⁴¹ E S C decisions 1985/146 of 30 May 1985 and 1986/140 of 23 May 1986.

¹⁴² E S C decisions 1985/147 of 30 May 1985, 1986/136 of 23 May 1986, 1987/151 of 29 May 1987 and 1988/136 of 27 May 1988. See also this study under paragraphs 26 and 27 below.

¹⁴³ E S C decisions 1985/148 of 30 May 1985, 1986/137 of 23 May 1986, 1987/150 of 29 May 1987 and 1988/137 of 27 May 1988.

¹⁴⁴ E S C decisions 1985/150 of 30 May 1985, 1986/143 of 23 May 1986, 1987/152 of 29 May 1987 and 1988/140 of 27 May 1988.

¹⁴⁵ E S C decision 1988/139 of 27 May 1988.

¹⁴⁶ E S C decisions 1985/140 of 30 May 1985 and 1987/142 of 29 May 1987.

commissions, non-governmental organizations, *ad hoc* working groups of experts and various Special Rapporteurs.

C. Procedures for the handling of communications concerning human rights

25. During the period under review, there were no significant changes in the procedures for the handling of communications concerning human rights. The Council annually continued to approve the Commission on Human Rights' decisions to set up a working group composed of five of its members to meet for one week prior to its sessions to examine such particular situations as might be referred to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities under Council resolution 1503 (XLVIII) of 27 May 1970 and those situations of which the Commission was seized.¹⁴⁷ The Council also noted Commission's decisions to terminate the study of the situation with respect to human rights in Uruguay, Argentina and the Philippines, and decided that the material which had been before the Commission under Council resolution 1503 (XLVIII) of 27 May 1970, and which concerned Uruguay, Argentina and the Philippines should cease to be confidential.¹⁴⁸

II. ANALYTICAL SUMMARY OF PRACTICE¹⁴⁹

**** A. The competence of the Economic and Social Council to make recommendations to non-members States**

**** B. The competence of the Economic and Social Council to make recommendations to the Trusteeship Council**

**** C. The power of the Economic and Social Council to conduct inquiries or investigations in matters relating to human rights**

**** D. The power of the Economic and Social Council to evaluate allegation of violations of human rights and to make recommendations thereon**

**** E. Questions relating to the procedure for dealing with communications concerning human rights**

**** F. Questions relating to the procedure for dealing with allegations regarding infringements of trade union rights**

G. Human rights and domestic jurisdiction¹⁵⁰

¹⁴⁷ E S C decisions 1985/138 of 30 May 1985, 1986/142 of 23 May 1986, 1987/141 of 29 May 1987 and 1988/127 of 27 May 1988.

¹⁴⁸ See E S C decisions 1985/139 of 30 May 1985 for Uruguay, 1985/156 of 30 May 1985 for Argentina, and 1986/147 of 23 May 1986 for the Philippines.

¹⁴⁹ Since E S C decision 1982/105 of 4 February 1982, provision of summary records of Council sessional committees (First (Economic) Committee, Second (Social) Committee and Third (Programme and Co-ordination) Committee) has been discontinued.

¹⁵⁰ For a comprehensive treatment of the question of domestic jurisdiction, see also this *Supplement* under Article 2 (7).

26. The question of human rights and domestic jurisdiction has been discussed in connection with the power of the Council to conduct inquiries or investigations in Afghanistan and also in connection with the situation of human rights in Kampuchea.

1. HUMAN RIGHTS IN AFGHANISTAN

27. During the debates regarding the adoption of Council decision 1985/147 of 30 May 1985 on the question of human rights and fundamental freedoms in Afghanistan, the observer for Afghanistan said that their delegation warned in the context of Council resolution 1984/37 of the negative consequences of the adoption of that resolution for the principle of non-interference in the internal affairs of States: there had been not the slightest justification, in the opinion of the delegation, for the investigation of human rights conditions in Afghanistan called for in resolution 1984/55 of the Commission on Human Rights, and the Government of Afghanistan would not recognize the validity of any decision that might be taken in violation of Article 2, paragraph 7, of the United Nations Charter and of the rules of procedure, and in total disregard for the other explicit objections of their delegation.¹⁵¹

2. HUMAN RIGHTS IN KAMPUCHEA

28. During the period under review, the Council continued to endorse¹⁵² the Commission on Human Rights resolutions on the right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation, by which the Commission, *inter alia*, reaffirmed that the continuing illegal occupation of Kampuchea by foreign forces deprived the people of Kampuchea of the exercise of their right to self-determination and constituted the primary violation of human rights in Kampuchea.

29. In its various decisions on the matter,¹⁵³ the Council reiterated its call for the withdrawal of all foreign forces from Kampuchea in order to allow the people of Kampuchea to exercise their fundamental freedoms and human rights, including the right to self-determination. It also expressed its grave concern at the severity and the scope of the attacks on Kampuchean civilian encampments, resulting in serious loss of life and property of Kampucheans. In that connection, the Council recalled the statements made by the Secretary-General in which, *inter alia*, he appealed to all concerned to avoid endangering the lives of those Kampuchean civilians and adding to the misery and deprivation that already afflicted those most unfortunate people. It requested the Secretary-General to report to the Council any further violations of humanitarian principles perpetrated against Kampuchean civilian refugees by the foreign occupying troops, and also requested him to continue to monitor closely the developments in Kampuchea and to intensify efforts, including the use of his good offices, to bring about a comprehensive political settlement of the Kampuchean problem and the restoration of fundamental human rights in Kampuchea. The Council further noted with appreciation the efforts of the *Ad Hoc* Committee of

¹⁵¹ See E/1985/SR. 25, pp. 9 and 10.

¹⁵² See E S C decisions 1985/155 of 30 May 1985, 1986/146 of 23 May 1986, 1987/155 of 29 May 1987 and 1988/143 of 27 May 1988.

¹⁵³ E S C decisions 1985/155 of 30 May 1985, 1986/146 of 23 May 1986, 1987/155 of 29 May 1987 and 1988/143 of 27 May 1988.

the International Conference on Kampuchea and requested that the Committee continue its work, pending the reconvening of the Conference.

30. During the discussions on the human rights in Kampuchea, one observer delegation continually stated throughout the period that the draft decisions submitted to the Council distorted the human rights situation in Kampuchea: those drafts reflected political maneuvers aimed at once again subjecting the people of Kampuchea to a genocidal régime, and failed to take due account of the different points of view of the parties concerned.¹⁵⁴ The observer delegation stated that this constituted a blatant interference in the affairs of a sovereign State,¹⁵⁵ and would be contrary to the aims of the United Nations in the field of human rights.¹⁵⁶ The delegation also stated that it considered the draft decisions to be devoid of any validity whatsoever.¹⁵⁷

31. Throughout the period, the observer delegation for Democratic Kampuchea thanked the States which had sponsored draft decisions regarding human rights in its country, and all those which had voted in favour of them.¹⁵⁸

32. The various draft decisions on the human rights in Kampuchea were always adopted by a large majority: Council decision 1985/155 by 38 votes to 5, with 7 abstentions,¹⁵⁹ Council decision 1986/146 by 41 votes to 6, with 4 abstentions,¹⁶⁰ Council decision 1987/155 by 41 votes to 7, with 2 abstentions,¹⁶¹ and Council decision 1988/143 by 40 votes to 9, with 2 abstentions.¹⁶²

**** H. The question of recommendations to non-member States**

¹⁵⁴ See E/1985/SR. 25, pp. 16 and 17, E/1986/SR. 19, paras. 43 and 44, and E/1988/SR. 16, para. 37.

¹⁵⁵ See E/1985/SR. 25, p. 16, E/1986/SR. 19, para. 44, and E/1988/SR. 16, para. 37.

¹⁵⁶ See E/1986/SR. 19, para. 44.

¹⁵⁷ *Ibid.*

¹⁵⁸ See E/1985/SR. 25, pp. 18 and 19, E/1987/SR. 18, pp. 10 and 11, and E/1988/SR. 16, paras. 34-36.

¹⁵⁹ See E/1985/SR. 25, p. 18.

¹⁶⁰ See E/1986/SR. 19, para. 44.

¹⁶¹ See E/1987/SR. 18, p. 10.

¹⁶² See E/1988/SR. 16, para. 37.