

**2006/112. Implementation by the Sub-Commission of  
Human Rights Council decision 2006/102**

At its 23rd meeting, on 25 August 2006, the Sub-Commission on the Promotion and Protection of Human Rights, decided, without a vote, to request its Chairperson to transmit the document annexed to the present decision to the President of the Human Rights Council.

**Annex**

**IMPLEMENTATION BY THE SUB-COMMISSION OF HUMAN RIGHTS  
COUNCIL DECISION 2006/102**

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## I. VISION AND RECOMMENDATIONS

### A. Introduction

1. The Sub-Commission on the Promotion and Protection of Human Rights respectfully requests the Human Rights Council (the Council), to take into account the following comments and recommendations when undertaking the overall review of all mandates, mechanisms, functions and responsibilities formerly under the authority of the Commission on Human Rights (the Commission) and assumed by the Council on 16 June 2006.

#### 1. General Assembly resolution 60/251 of 15 March 2006

2. In resolution 60/251 the Assembly stressed the need to preserve and to build on the achievements of the Commission and to redress its shortcomings.<sup>1</sup> It reaffirmed the commitment to strengthen the United Nations human rights machinery.<sup>2</sup> It requested the Council to undertake a two-stage process. First, it must review all mandates, mechanisms, functions and responsibilities of the Commission (55 in total, in accordance with the annex to Council decision 2006/102). Then, on the basis of that review, which should be completed not later than 1 July 2007, the Council may improve and/or rationalize any of those mandates, mechanisms, functions and responsibilities. Any modification to existing practices and procedures must have, as its ultimate purpose, “to *maintain* a system of special procedures, expert advice and a complaint procedure” (emphasis added), and requires a specific decision of the Council. Pending the reaching of decisions under this overall process of review, a system of special procedures, expert advice and a complaint procedure is to be maintained in place.<sup>3</sup>

3. Council decisions during that overall review process that may imply the extinction of any of the components of the present system should be adopted only after the completion of a full review of the present status and usefulness of the mandate, mechanism, etc. in question.<sup>4</sup> In this connection, the Secretary-General, in his statement of 23 February 2006 on the new Council, and the present United Nations High Commissioner for Human Rights, in her statement of 27 March last 2006 before the Commission, emphasized the need to avoid any gaps in the protection of human rights. In her statement, Ms. Arbour also stressed the need to prevent disruptions in standard-setting activities.

4. As noted above, the overall review process should be completed by the Council within a year of the holding of its first session. It could be validly argued that considering the systemic nature of the existing network of mandates and mechanisms now under the Council's authority, all those listed in the annex to decision 2006/102 should remain in existence, with their present functions and responsibilities, until the review process soon to be undertaken by the Council is completed.

5. The Council is clearly envisaged as being the pinnacle of an entire system of promotion and protection of human rights. That system must work as a coherent and integrated whole. Fragmentation, duplication and diffusion of effort must be avoided.

## **2. Council decision 2006/102 of 30 June 2006**

6. The Council, in paragraph 3 (b) (i) and (ii) of its decision 2006/102, has requested the Sub-Commission to give due priority during its current session to preparing two documents to be submitted to the Council in 2006: (a) a paper giving its own vision and recommendations for future expert advice to the Council; and (b) a list describing the status of ongoing studies and an overall review of its activities. In paragraph 4 of the decision, the Council indicated that, in preparing the first of those two documents, the Sub-Commission should include the contributions that its Social Forum and working groups may deem fit to submit at the end of their 2006 sessions.

## **3. Annex to Sub-Commission decision 2005/114 of 11 August 2005**

7. The Sub-Commission reaffirms the conclusions contained in the annex to its decision 2005/114, which was the subject of collegial discussion and negotiation and which was adopted by consensus.

## **4. Scope and structure of this paper**

8. This document contains the Sub-Commission's vision and recommendations on the advisability of improving and strengthening the network of expert advice mechanisms that was established by the Economic and Social Council during the period 1946-2006, as part of an action-oriented system of United Nations bodies dedicated to the promotion and protection of human rights under the operational primary authority of the Commission, and which included the

existing three subsystems: the special procedures, the Sub-Commission and its own subsystem of working groups (both sessional and intersessional) as well as the Social Forum, and the one comprising the various functional mechanisms of the confidential procedure established by Economic and Social Council resolution 1503 (XLVIII) of 1970 (the 1503 procedure).

9. In accordance with decision 2006/102, this paper first sets out the Sub-Commission's general vision on any expert advisory body resulting from the overall review process to be undertaken by the Council. Then, in the light of the General Assembly resolution establishing the Council, it identifies the functions to be carried out by any standing human rights expert advisory body emerging from the overall review process to be undertaken by the Council, as well as the issues about which the Council will need advice, so as to facilitate the Council's task of determining, in due course, which existing (or future) mechanism is most suitable for providing the advice required. It will be necessary for the Council to consider the operation of all mandates and other mechanisms for which it now has responsibility, in order to ensure the coherence of the system as a whole and whether all the needs for advice are met. The role of a consultative body made up of independent experts cannot be determined without understanding the role of other parts of the United Nations human rights system.

10. Next, the paper will deal with the characteristics of any future expert advice body, which will be referred to throughout this annex as the Human Rights Consultative Commission (HRCC). There is then a section on the recommendations from the intersessional working groups and the Social Forum, as requested by the Council in paragraph 4 of the decision. Finally, the recommendations of the Sub-Commission to the Council, resulting from the considerations already examined, will be set out in summary form.

11. The vision and recommendations are based on the arrangements for the transitional period established by the Council in decision 2006/102, in particular paragraphs 1 and 3, in the light of the provisions of Assembly resolution 60/251. They will refer principally, of course, to how the existing Sub-Commission, as a collegial body, envisages the transition from a Commission-led network of expert advice mechanisms under the Economic and Social Council to one, first, under the direct leadership of the Council and, ultimately, under the final authority of the General Assembly.

12. Nonetheless, because of the long-standing, much-needed systemic nature of United Nations action in the field of human rights, explicitly recognized by the General Assembly in paragraph 6 of resolution 60/251, and in order to secure the “fresh approach” that is so often mentioned as essential when considering the establishment of the new Council, our recommendations will necessarily have to touch upon the interaction that this network of mechanisms of expert advice must secure in its relations with the other two components of the present system, i.e. the subsystem of special procedures and the functional mechanisms of the 1503 procedure.

13. In order to avoid confusion, it has also been thought helpful to define the terms and acronyms used in the paper.<sup>5</sup>

## **B. The general vision of the Sub-Commission**

14. This section addresses the vision of the Sub-Commission with regard to the motivation underlying the United Nations human rights system, its characteristics and its product.

### **1. Motivation underlying the United Nations human rights system**

15. The United Nations human rights system should be inspired by faith in the inherent dignity and the equal rights of all human beings, committed to promotion of respect for the ideals and principles proclaimed in the Charter of the United Nations and the Universal Declaration of Human Rights and convinced of the need for development and strengthening of universal standards and rules for the interpretation and implementation in practice of the principles of international human rights law.

### **2. Characteristics of the United Nations human rights system**

16. The general vision of the Sub-Commission is of a United Nations human rights system, based on the equal importance, interdependence and equal value of all human rights, characterized by coherence, objectivity, transparency, non-selectivity in the protection of rights and freedoms, and participation of as wide a range of actors as possible, while, at the same time, avoiding fragmentation, duplication of effort, double standards and political manipulation.

17. The Sub-Commission considers that the Council is to become the pinnacle of such a system. Further, it is convinced that, in order to achieve maximum effectiveness, the Council would need to be served by a network of specialized mechanisms (i.e. working groups) under a standing, collegial, independent expert advice body, which would function as a meeting point or hub for action-oriented ideas and activities, as well as an instrument for reducing present mistrust and tensions by promoting cooperation, rather than confrontation, among member States.

18. To that end, functioning and effective cooperation of all components of the United Nations human rights system needs to be kept under constant review. It is the view of the Sub-Commission that the body described in this document (the HRCC) can be instrumental in enabling the Council to gain the legitimacy that in recent times was claimed to be lacking in the performance of the former Commission on Human Rights.

### **3. Product of the United Nations human rights system**

19. The test of the United Nations human rights system is the day-to-day experience of all individuals and communities. In order to understand that experience and to contribute to changing it, where necessary, the United Nations human rights system needs to involve NGOs, NHRIs, States and intergovernmental organizations in the closest possible participation in and cooperation with its activities.

#### **C. The Council's need for expert advice**

20. According to General Assembly resolution 60/251, the mandate of the Council covers the following fields:

- **Promotion and implementation of human rights obligations, and follow-up to goals and commitments emanating from United Nations conferences and summits.**<sup>6</sup> There is a role for HRCC to play in establishing guidelines with regard to implementation;

- **Promotion of advisory services, technical assistance and capacity-building, in consultation with and with the consent of the Member States concerned.**<sup>7</sup>

Basically, this is the function of other components of the existing United Nations human rights system, as well as of OHCHR. Nonetheless, independent experts may provide valuable specialized know-how, useful for the most effective discharge of this Council function;

- **UPR.**<sup>8</sup> There is likely to be a need for the advice of independent experts at some stages in the process (see further below);
- **The complaint procedure (the 1503 confidential procedure).**<sup>9</sup> HRCC, sitting as a collegial body in plenary meeting, should be assigned once again the function of reviewing the decisions taken by the present Sub-Commission's Working Group on Communications (as originally established by Economic and Social Council resolution 1503 (XLVIII)) (see further below);
- **The prevention of human rights violations and a prompt response to emergencies on a non-selective basis.**<sup>10</sup> This function may require input from the special procedures and the UPR process. It is conceivable that, should the Council so decide, some role could be envisaged for HRCC;
- **A forum for dialogue on thematic issues regarding all human rights.**<sup>11</sup> This is, by definition, a principal function of any standing expert advice body that may result from the overall review to be undertaken by the Council;
- **Making recommendations with regard to the promotion and protection of human rights.**<sup>12</sup> Again, general advice might be expected to come principally from HRCC. Specific advice might also come from any UPR mechanism established by the Council;
- **Making recommendations to the General Assembly for further development of international law in the field of human rights.**<sup>13</sup> This could also be a principal function of any standing expert advice body;

- **Promotion of human rights education.**<sup>14</sup> This is a responsibility shared by every component of the United Nations human rights system;
- **Working in close cooperation with Governments, regional organizations, NHRIs and civil society.**<sup>15</sup> This also involves every part of the United Nations human rights system. The Sub-Commission has long been regarded by NGOs as a most important forum for all their activities, and has long prided itself on being the most accessible part of the human rights system for NGOs. That is even more true of its sessional and intersessional WGs and the Social Forum.

**D. The functions to be performed by any standing human rights expert advice body that the Council may see fit to establish to serve its needs**

21. Basically, the ideas advanced on this issue last year by the Sub-Commission, in the annex to its decision 2005/114, continue to be valid after the establishment of the Council and the demise of the Commission. In fact, as demonstrated, inter alia, by the lacunae of resolution 60/251, there is an even clearer need in 2006 “for a collegial independent expert [advice] body within the United Nations human rights machinery, because certain essential functions within the United Nations human rights machinery can best be fulfilled by such a body” (annex to Sub-Commission decision 2005/114, para. 2).<sup>16</sup>

22. The functions include the promotion and progressive development of human rights, through studies and standard-setting; the protection of human rights, through the 1503 procedure and, possibly, through involvement in the UPR process; promoting the coherence of the human rights system, including by the provision of follow-up; and identifying lacunae, challenges and implementation needs. These will be considered in turn. HRCC could:

(a) At the request of the Council, or at its own initiative, undertake research and produce documents (in particular, thematic in-depth studies in accordance with a carefully established, prioritized, not-too-prolific, long-term programme of work) to facilitate the promotion and protection of human rights. Essential to the discharge of this function is the collaborative work of specialized, ongoing, intersessional and sessional working groups;

(b) At the request of the Council, or at its own initiative, carry out standard-setting activities, including the process of identification of new issues that may require the adoption of certain norms and other types of standards (such as principles, rules, guidelines and/or practices), including in the field of implementation, as well as the creation of said draft norms and other standards for adoption by Member States, in accordance with a carefully established programme of work. Essential to the discharge of this function is the collaborative work of specialized, ongoing, intersessional and sessional working groups;

(c) Protect human rights by means of involvement in the 1503 procedure and, possibly, the UPR review process:

- (i) 1503 procedure. The Sub-Commission emphasizes the need for a confidential procedure that may provide an effective and timely remedy to victims of gross violations of human rights. The reforms contained in Economic and Social Council resolution 2000/3 of 16 June 2000 have been unsuccessful and should be modified. HRCC, sitting as a collegial body in plenary meeting, should be assigned once again the function of reviewing the decisions taken by the present Sub-Commission's Working Group on Communications (as originally established by Economic and Social Council resolution 1503 (XLVIII)). A WG of the Human Rights Council, succeeding the Working Group on Situations of the Commission, should have a preparatory role, aimed at facilitating the Council's consideration of the situations referred to it, rather than a filtering role;
- (ii) UPR. If so requested by the Council, HRCC could play a role, provided that this was not to the detriment of its thematic work (see further below);

(d) Promote coherence across the human rights system as a whole, by establishing close cooperation and coordination between all parts of the human rights system, and other parts of the international system as appropriate (e.g. the Permanent Forum on Indigenous Issues, the International Law Commission). It is absolutely essential for the intersessional WGs of HRCC to report to HRCC to ensure coherence. In order to achieve this goal, without prejudice to other forms of cooperation and coordination, the expert body should meet for one meeting a year with

the thematic special procedures established by the Human Rights Council to examine possible input to be provided by each subsystem to the work of the other so that the Council receives from both of them coherent and well-thought-out proposals, and to consider issues of common interest within the mandate of the expert body (e.g. the identification of thematic or procedural lacunae). The special procedures would continue to report to the Human Rights Council with regard to the exercise of their mandates. The expert body should be represented, on the basis of equal status, at coordination meetings of the special procedures;

(e) Contribute to the promotion of human rights by means of active participation not only in activities fostering human rights education at all levels but also by its members participating, in an individual capacity, in the delivery of technical assistance to Member States requesting such international cooperation from OHCHR; and

(f) Identify lacunae, challenges and implementation needs and provide follow-up. This would be facilitated by, first, assisting the widest possible participation in the work of the body; second, by giving HRCC the mandate to ensure the coherence of the human rights system as a whole; third, by ensuring that HRCC maintained a general debate, as a separate agenda item; fourth, by ensuring that HRCC maintained a separate agenda item entitled “Identification of lacunae, challenges, implementation needs” and, finally, by ensuring that HRCC maintained a separate agenda item on the follow-up of previous initiatives in the field of human rights.

23. All activities undertaken by HRCC that may have administrative and/or financial implications cannot be undertaken without the explicit authorization of the General Assembly, acting on a recommendation from the Council.

24. HRCC would submit an annual report on its activities to the Council.

#### **E. Main characteristics of any standing human rights expert advice body that the Council may choose to establish**

25. This section addresses the composition of HRCC, its organization and method of work.

##### **1. Composition**

26. This subsection addresses the overall composition of the body and the qualities necessary for membership, nomination and election.

**(a) Overall composition**

27. In comparison with the size of the Sub-Commission, HRCC should not be either dramatically increased or decreased, as recognized in the course of the most recent reform of the Sub-Commission in the year 2000, in which the Commission found that 26 experts actually was a suitable size. Nonetheless, two more seats (one to be allocated to the Asian region, the other to the Eastern European area) could be useful. The possible election of alternate members together with the titular ones should be allowed to continue, to contribute to the work of the body. Alternates could also, for example, assist HRCC in its work by undertaking studies.

28. There would be a need for both continuity and new members in the composition of the body. The system of renewal of half of the mandates of the membership, which at present takes the form of elections every two years for half the members of the Sub-Commission, should be maintained. That would require a mandate of an even number of years, such as the present four-year mandates.

29. There is agreement that, in order better to discharge its responsibilities (particularly in view of the period of time needed for studies), it would be advantageous if members of HRCC served for two terms of at least four years. Views vary as to whether there should be any limitation on the number of successive mandates of a member of HRCC and, if so, what that number should be.

30. The body should reflect an equitable geographical and gender distribution and the experts should come from a range of disciplinary and professional backgrounds.

**(b) Qualities necessary for membership**

31. Those nominated would require recognized expertise in human rights and commitment to the promotion and protection of human rights. The nominees' curricula vitae, including information on their commitment to the promotion and protection of human rights, should be placed on the OHCHR website. All members of HRCC would be expected to have the capacity to undertake studies, alone or with other experts.

**(c) Nomination and election**

32. Full members of HRCC and their alternates must be elected in accordance with the principle of equitable geographical distribution. Only States should be able to nominate candidates. The only limitations to this sovereign capacity are: (a) they may only nominate their own nationals/citizens; and (b) the nominees shall be persons of outstanding, recognized integrity, solid experience in human rights issues and committed to the promotion and protection of human rights. They should be elected by the Council under the same procedure now governing the election of members of the Sub-Commission (the rules of procedure governing the proceedings of the committees of the General Assembly do not seem to be applicable to this type of election).

**2. Organization and method of work**

33. In order to discharge its mandate, HRCC should meet for 20 working days a year. It could take the form of two sessions of 10 working days each, so as to adapt the expert body to the new organization of work of the HRC.

34. The present intersessional WGs, as well as the Working Group on Minorities and the Social Forum (provided that the Council accepts the proposal to keep them with their present mandates), would meet during different months so as to ensure that OHCHR has the capacity to provide the necessary logistical support for the proper discharge of their respective mandates.

35. Sessional WGs, if any, will not meet during the same hours as the plenary of HRCC.

36. The body would undertake an annual review of its programme of work, and would establish a long-term programme of work.

37. Every four years, the expert body should undertake a review of the continuing need for the intersessional WGs.

38. To enable the necessary scrutiny of studies and discussion of standard-setting proposals, HRCC would need to limit the number of such initiatives and prioritize its activities. When considering reports and standard-setting proposals, HRCC would need to establish means to ensure discussion of both general issues and detailed proposals. When determining its methods

of work, HRCC is invited to take into account Sub-Commission resolution 2005/32 of 11 August 2005 and the working paper on the methods of work of the Sub-Commission relating to reports (E/CN.4/Sub.2/2005/5).

39. Throughout every aspect of its work, the expert body would seek the widest possible participation in its activities on the part of NGOs, NHRIs, Governments and regional and intergovernmental organizations, including United Nations organizations and agencies.

#### **F. Differences in function and method of work between HRCC and other mechanisms in the United Nations human rights system**

40. As indicated in paragraph 9, the Council may have to consider the operation of all mandates and other mechanisms for which it now has responsibility, in order to ensure the coherence of the system as a whole and determine whether all the needs for advice are met. The role of HRCC cannot be determined without understanding the role of other parts of the United Nations human rights system.

##### **1. Treaty monitoring bodies**

41. It must be clarified that TMBs continue to be a free-standing part of the United Nations human rights system, since their activities are not subject to the authority of HRCC but to a treaty regime. Only one issue appears to be relevant in this context. There is a need for coordination and cooperation between TMBs and HRCC with regard to the identification of thematic and procedural lacunae. To meet that need, the coordination (inter-committee) meeting of TMBs could be invited to consider including on its agenda an item on identification of thematic and procedural lacunae, and consideration could be given to a representative of HRCC attending that part of the meeting.

##### **2. Special procedures**

42. The principal function of the special procedures is to monitor implementation on the basis of agreed standards. It is not, generally speaking, their role to set standards, but to apply them. That said, they may, over time, assist in clarifying the scope of their respective mandates.

43. It is necessary to distinguish between different types of special procedures. There are country special rapporteurs, whose mandate is limited to a particular State; thematic special rapporteurs who monitor implementation of an agreed norm and thematic special rapporteurs who reflect upon an issue (e.g. human rights and international solidarity; the effects of economic reform policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights). Generally speaking, monitoring is probably best carried out by an individual, but reflective work, while it can initially be carried out by an individual, benefits from discussion in a wider expert group.

44. In the process of rationalization, equal weight must be given to civil and political rights and economic, social and cultural rights. The WGs of the Sub-Commission and the Sub-Commission as a whole renew their request that all the special procedures (and also TMBs) should include consideration of the situation of marginalized groups, including but not limited to indigenous peoples and members of minorities, women, children, the elderly and the disabled, in the discussion of any issue under consideration.

45. Cooperation needs to be improved between the special procedures and other parts of the human rights system. This has significant implications for the Council, to which the special procedures report.<sup>17</sup>

46. In addition, so as to improve both cooperation and coherence, it is proposed that thematic special procedures be invited to attend the sessions of HRCC, as and where necessary, and that a member of HRCC should be present, on the basis of equal status, at coordinating meetings of the special procedures.

47. It may be possible to envisage closer cooperation with those special procedures which reflect upon an issue, as opposed to monitoring compliance with established norms and standards.

48. It would be helpful if the reports of special rapporteurs were made available to HRCC and its WGs, as and where relevant to their own work.

### 3. UPR

49. In resolution 60/251, paragraph 5 (e), the Assembly established a general framework for the UPR mechanism. It is for the Council to determine the form that UPR should take. If the Council feels that it would be useful, the Sub-Commission is ready to make its own views and opinions available. In the present context, the Sub-Commission will limit itself to making general observations regarding the functioning of UPR, insofar as they might have an impact on the role of HRCC or a body providing general thematic advice and proposing new standards.

#### **(a) The UPR process**

50. It will be necessary to gather the information which was to be relied upon. That task could be performed by OHCHR, might be thought inconsistent with the impartiality of OHCHR for it to be involved in the process of evaluating the material compiled. That task may therefore need to be undertaken by a group of independent experts (UPR expert body).<sup>18</sup>

51. The evaluation could determine the issues and questions to be raised in the interactive dialogue. The interactive dialogue could be conducted by members of the Council, assisted by the UPR expert body. The UPR expert body could formulate recommendations on the basis of the dialogue. Those recommendations could be transmitted to the Council, which could be charged with the responsibility of ensuring follow-up. Two stages might best be performed by an expert body: first, the evaluation of the material and the identification of the issues/questions to be raised and, second, the formulation of recommendations.

52. The success of the UPR process would be compromised if it were to be an entirely political process. For all these reasons, it is submitted that there is a need to involve both independent experts and either members of the Council or their nominees, but there should be no confusion between the respective roles of the two.

53. The need for an expert body does not necessarily mean that the function should be performed by HRCC.

**(b) The expert UPR body**

54. It would appear that UPR will have to consider about 60 cases a year. This represents a considerable caseload. An expert UPR body would need to be large enough to handle this workload and would need to meet sufficiently frequently, and for sessions of sufficient length, to have a realistic chance of discharging its responsibilities. It would be important for the expert body to be of sufficient size as to ensure the representation of views within, as well as between, different regions.

55. Members of the expert UPR body would need to be independent and to have recognized expertise in human rights law, as part of international law. There is consensus in the Sub-Commission that members of an expert UPR body should be subject to election. In that regard, the Sub-Commission refers to paragraphs 26-32 above.

56. There would appear to be at least two possibilities with regard to the UPR expert body. First, it could be completely separate from HRCC. A second possibility would be to find a way for HRCC, or some of its members, to discharge both responsibilities.

57. There are two different views among members of the Sub-Commission with regard to the desirability of the involvement of a successor body to the Sub-Commission in the UPR process itself. In view of the current uncertainty with regard to what UPR will involve and the form it will take, some experts do not consider it advisable that the future expert body should be involved in the process. Should, however, the Council consider it appropriate, the expert advice body should make itself available to consider whether such a collegial standing body could be involved in UPR, its modalities, and the implications for the rest of the work of such a body.

58. Other members of the Sub-Commission are in favour of involving members of HRCC in the UPR process. They think that this would be to the benefit of the coherence of the system as a whole and would avoid a disjuncture between country-related and thematic work, which would be to the detriment of both. They suggest that HRCC be increased in size, as compared to the Sub-Commission, to 28 members and that four chambers, each consisting of 7 members, with interregional representation in each chamber, would undertake those parts of the UPR process which would require the input of independent experts.<sup>19</sup>

59. All 28 members would come together for the plenary, thematic sessions of the body.<sup>20</sup>

60. If HRCC were also to have some responsibility in relation to the UPR process in addition to its thematic responsibilities, that would have significant implications for the time during which members would need to be available. It is not possible to be more specific until more is known of the different options for the UPR process being considered.

61. There is consensus in the Sub-Commission that any involvement of HRCC in the UPR process should not be to the detriment of its thematic responsibilities.

#### **4. The 1503 procedure**

62. The consensus view of the Sub-Commission with regard to the changes needed in the 1503 procedure in order to enable it to function efficiently and effectively are set out at paragraph 22 (c) above.

#### **G. Report of the intersessional working groups and the Social Forum, as requested in paragraph 4 of decision 2006/102**

63. The three intersessional WGs - the Working Group on Contemporary Forms of Slavery, the Working Group on Indigenous Populations and the Working Group on Minorities - and the Social Forum are unique platforms in the United Nations human rights system in terms of their attention to vulnerable communities and constituencies that might otherwise go unrepresented. The three intersessional WGs and the Social Forum provide practically the only human rights forums where the concerned groups and communities can effectively participate in United Nations meetings and bring up potential and real problems facing them.

64. The work of the three intersessional WGs and the Social Forum has several components. They:

- Follow recent developments in all parts of the world in their designated areas of work;
- Identify human rights issues and problems facing the affected communities;
- Solicit advice from a wide range of representatives of the concerned communities, academia, NGOs and IGOs, as well as Governments;

- Prepare working papers and propose studies on human rights topics of significance to the understanding and realization of human rights for the affected communities;
- Call for seminars and workshops with wide participation by the communities and other concerned stakeholders;
- Initiate standard-setting activities and make suggestions on institutional and procedural matters;
- Contribute to increasing awareness and understanding of multiple human rights issues of relevance to the affected communities;
- Interact in a complementary fashion with debates and suggestions concerning the relevant special procedures, treaty bodies and OHCHR; and
- Facilitate dialogue with all interested parties in order to further and strengthen constructive and peaceful solutions to problems brought to their attention.

65. Meetings of the three intersessional WGs and the Social Forum are very well attended. They operate in a low-key manner, encouraging an exchange of views and seeking practical solutions. They have identified and are in the process of dealing with highly important human rights issues affecting the concerned communities and constituencies. Two of the intersessional WGs benefit from established voluntary funds and a proposal for a third voluntary fund is well advanced. The Working Group on Contemporary Forms of Slavery has inspired NGOs to increase assistance to victims of slavery-like practices.

66. For the reasons here stated, the Sub-Commission strongly recommends that, whatever the outcome of the ongoing reform, the three intersessional WGs and the Social Forum should continue their work as expert forums, with open access for the concerned communities and constituencies and with sufficient time at their disposal in intersessional meetings.

## **H. Summary of recommendations**

67. The Sub-Commission on the Promotion and Protection of Human Rights, taking into account General Assembly resolution 60/251 of 15 March 2006 and Human Rights Council decision 2006/102 of 30 June 2006 and reaffirming the analysis and conclusions contained in the annex to Sub-Commission decision 2005/114 of 9 August 2000, submits the following summary of its recommendations for the consideration of the Human Rights Council:

### **A. Need for a standing, collegial, independent expert body of general competence in the field of human rights**

1. Taking into account General Assembly resolution 60/251, in which the Assembly stipulates that, in order to function effectively and efficiently, the Human Rights Council requires expert advice, in a coherent and comprehensive manner, on a wide variety of issues, it is recommended that the Human Rights Council should maintain a standing collegial body of independent experts.

### **B. Mandate, functions and structure of the body resulting from decisions of the Council following the conclusion of the review process**

2. The functions of the body include, first, the promotion and progressive development of human rights, including, but not limited, to studies on the basis of a plan of work; second, the protection of human rights, including any possible role under the universal periodic review, if requested by the Human Rights Council, and the 1503 procedure; third, acting as a crossroads or hub within the human rights system, so as to ensure that there is coherence within the system as a whole; and fourth, the identification of gaps and challenges in the human rights system.

3. The body should retain the current powers of initiative of the Sub-Commission, such as the ability to make recommendations; to adopt resolutions, decisions and Chairperson's statements; to create sessional working groups and to undertake the preparation of working papers.

4. The body requires the mandate and the resources to fulfil whatever functions are given to it.

### **Promotion and progressive development of human rights**

5. The expert advice should be provided on the basis of detailed analysis, study and discussion. The studies should be comprehensive and action oriented within a preconceived yet flexible overall work plan that corresponds to and complements issues on the agendas of other parts of the human rights system.

6. The advice needed includes recommendations with regard to standard-setting, including both norms and other standards (e.g. guidelines, principles).

7. The body would undertake studies and standard-setting at the request of the Human Rights Council.

8. In order to meet the concerns expressed by experts, NGOs, NHRIs, Governments, regional and intergovernmental organizations and United Nations organizations and agencies, as expressed in general debate, the body requires a power of initiative. When conducting research on its own initiative, a working paper should be produced by a member of the body. If the body wishes to develop the work by means of a study, it would seek the authorization of the Human Rights Council, giving reasons for the need for the study.

9. OHCHR should provide all necessary assistance requested by those experts undertaking studies, on the same terms and conditions as special rapporteurs appointed by the Human Rights Council.

10. OHCHR should provide annual accounts, accompanying the report of the expert, explaining how the resources allocated to a study or activity have been used.

### **Working groups and the Social Forum**

11. Intersessional working groups and the Social Forum should be an integral part of the structure of the body. They would meet between annual sessions, for five working days, and would provide a specialist focus on certain issues, such as is, or used to be, the

case for indigenous issues, minority issues and contemporary forms of slavery, and a social forum, with the full participation of representatives of affected communities and peoples as well as relevant organizations and institutions.

12. Other intersessional working groups could be proposed by the body, but the establishment of such working groups would require the authorization of the Human Rights Council.

13. Those working groups and the Social Forum could engage in studies and standard-setting and should report to the plenary body, so as to ensure a systematic and coherent approach.

14. The body may create sessional working groups where necessary for the better handling of its work, provided that this is not to the detriment of the holding of plenary sessions of the body.

### **Protection of human rights**

15. **Universal periodic review.** The Sub-Commission is of the view, first, that the Human Rights Council will require input from an independent expert body as part of the universal periodic review process and, second, that if a successor body to the Sub-Commission were to be involved in the universal periodic review process, it should not be at the expense of the other functions, set out here, of a standing, collegial body of independent experts.

16. There are two different views among members of the Sub-Commission with regard to the desirability of the involvement of a successor body to the Sub-Commission in the process itself. In view of the current uncertainty with regard to what universal periodic review will involve and the form it will take, some experts do not consider it advisable that the future expert body should be involved in the UPR process. Should, however, the Human Rights Council consider it appropriate, the expert advice body should make itself available to consider whether such a collegial standing body could be involved in universal periodic review, its modalities, and the implications for the rest of the work of such a body.

17. Others are of the view that involvement in the universal periodic review process would assist the thematic work of the independent expert body and that both functions should be performed by the same body. They consider that the initial evaluation of the material compiled would need to be undertaken by independent experts. They suggest that the expert body be increased in size (see further below) to 28 members and that four chambers with 7 members in each chamber, with interregional representation in each chamber, undertake those parts of the UPR process which require the input of independent experts. The meeting time necessary to discharge any responsibilities in relation to universal periodic review should not be to the detriment of the time required for thematic discussions within the body as a whole. All 28 members would come together for the plenary, annual thematic sessions of the body.

18. **1503 procedure.** The Sub-Commission emphasizes the need for a confidential procedure that may provide an effective and timely remedy to victims of gross violations of human rights. To that end, the reforms set out in Economic and Social Council resolution 2000/3 of 16 June 2000 should be modified so as to: (a) restore the authority of a plenary body of independent experts, as envisaged in paragraph 5 of Economic and Social Council resolution 1503 (XLVIII), to refer to the Human Rights Council for consideration particular situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights; and (b) ensure that a working group of the Human Rights Council, as in the case of the Working Group on Situations of the Commission on Human Rights until the reform of 2000, would have a preparatory role, aimed at facilitating the Council's consideration of the situations referred to it, and not a filtering function.

### **Coherence function**

19. The coherence function would be discharged by establishing close cooperation and coordination between all parts of the human rights system, and other parts of the international system as appropriate, and by giving the expert advice body the mandate to promote the coherence of the system as a whole. In order to achieve this goal, without prejudice to other forms of cooperation and coordination, the expert body should meet for one meeting a year with thematic special procedures established by the Human Rights

Council to examine possible input to be provided by each subsystem to the work of the other so that the Council receives from both of them coherent and well-thought-out proposals and to consider issues of common interest within the mandate of the expert body. The expert body should be represented, on the basis of equal status, at coordination meetings of the special procedures.

### **Identification of lacunae, challenges and implementation needs and follow-up**

20. The identification of lacunae, challenges and implementation needs and follow-up would be facilitated by, first, assisting the widest possible participation in the work of the body (see paragraph 8 of the recommendations above); second, by ensuring that the body maintains a general debate, as a separate agenda item; third, by ensuring that the body maintains a separate agenda item entitled identification of lacunae, challenges, implementation needs and, fourth, by ensuring that the body maintains a separate agenda item on the follow-up of previous initiatives of the expert body.

## **C. Criteria for membership and election**

### **Composition**

21. The expert advice body should be composed of not fewer than 26 members (see paragraph 17 of the recommendations above) in order to ensure a range of disciplinary and professional backgrounds and to reflect different perspectives within, as well as between, different regions.

22. States should be encouraged to nominate alternates, in order to contribute to the work of the body.

23. There would be a need for both continuity and new members in the composition of the body. The system of partial renewal of half the membership, which at present takes the form of elections every two years, should be maintained. That would require a mandate of an even number of years, such as the present four-year mandates.

24. To be able to engage effectively in the work of the body, including in the elaboration of studies, at least two successive four-year terms would be a desirable minimum. Views vary, however, as to whether there should be a maximum number of successive mandates.

### **Qualifications**

25. Those nominated would require recognized expertise in human rights and commitment to the promotion and protection of human rights.

26. The nominees' curricula vitae, including information on their commitment to the promotion and protection of human rights, should be placed on the OHCHR website.

27. All members of the body would be expected to have the capacity to undertake studies, alone or with other experts. The undertaking of studies should be spread as equitably as possible among the experts.

### **Nomination and election**

28. Members of the body, and their alternates, could be nominated by any Member State of which they are a national.

29. The body should reflect an equitable geographical and gender distribution and the experts should come from a range of disciplinary and professional backgrounds.

30. The members of the body would be elected by the Human Rights Council, as election is the most democratic method of selection.

### **D. Organization of work**

31. In order to discharge its mandate, the expert body would need to meet in plenary session for 20 working days a year. This could take the form of two sessions of 10 working days each, so as to adapt the expert body to the new organization of work of the Human Rights Council.

32. The body would undertake an annual review of its programme of work, and would establish a long-term programme of work.
33. Every four years, the expert body should undertake a review of the continuing need for the intersessional working groups.
34. To enable the necessary scrutiny of studies and discussion of standard-setting proposals, the expert advice body would need to limit the number of such initiatives and prioritize its activities.
35. The expert body, when considering reports and standard-setting proposals, would need to establish means of ensuring that there was discussion of both general issues and detailed proposals.
36. When determining its methods of work, the expert body is invited to take into account Sub-Commission resolution 2005/32 of 11 August 2005.
37. Throughout every aspect of its work, the expert body would seek the widest possible participation in its activities on the part of NGOs, NHRIs, Governments and regional and intergovernmental organizations, including United Nations organizations and agencies.
38. HRCC should assume responsibility for and continue ongoing studies, in accordance with the resolutions and decisions adopted by the Sub-Commission at its fifty-eighth session.

## **II. OVERVIEW OF PAST AND RECENT CONTRIBUTIONS OF THE SUB-COMMISSION**

68. The Sub-Commission began its life shortly after the establishment of the United Nations and the Commission on Human Rights. It has throughout been a historical provider of expertise and a pathfinder contributing to the policy deliberations and decisions of governmental bodies in developing understanding of the human rights issues facing communities and groups, elaborating human rights standards, advancing towards universal implementation and realization of human rights, and shaping insights into new problems.

69. The Sub-Commission has taken initiatives and produced pioneering studies on problems little understood at the time, such as inequality and discrimination, equality in the administration of justice, gender justice, the rights of persons belonging to minorities, the rights of indigenous peoples, the right of self-determination, the eradication of apartheid, the new international economic order and human rights, the rights of migrants, religious freedom, harmful traditional practices affecting the health of women and the girl child, and the relationship between peace and human rights, to mention only a few. More recently, the Sub-Commission has undertaken many further studies, for example the studies on constructive and peaceful solutions to problems involving minorities, the right to restitution, compensation and rehabilitation for victims of gross violations of human rights, terrorism and human rights, extreme poverty, impunity, corruption, the right to drinking water and sanitation, and human rights and the human genome. (A list of the key studies and reports of the Sub-Commission is appended.) Through its research the Sub-Commission has laid the foundations for the deliberations of intergovernmental bodies and the development of policy prescriptions and norms.

70. The Sub-Commission, on the basis of its research and studies, has provided major contributions to standard-setting on a variety of topics, starting from the International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, and traversing the codification of international human rights law up to and including the United Nations Declaration on the Rights of Indigenous Peoples, the International Convention for the Protection of All Persons from Enforced Disappearance, the Set of Principles for the protection and promotion of human rights through action to combat impunity, the Guidelines for the Regulation of Computerized Personal Data Files, and the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. In this regard, partnership between the Sub-Commission and intergovernmental bodies, notably the former Commission on Human Rights, has been a key ingredient of the successes registered by the United Nations in the field of human rights.

71. The Sub-Commission has contributed to reinforcing the universality, indivisibility and interdependence of human rights through its examination of issues and themes affecting people

in their daily lives. It has made major contributions to the promotion and protection of economic, social and cultural rights alongside civil and political rights. The Sub-Commission's work on respect for human rights during states of emergency and its work on human rights and terrorism are examples of the innovative insights it has provided into new human rights problems.

72. The Sub-Commission's examination of the situation of vulnerable groups, such as national or ethnic, religious and linguistic minorities, indigenous peoples, migrants, people living in slavery or slavery-like conditions, or people affected by adverse social practices, has helped shed light on the problems of such groups and has helped chart policies and strategies for remedying existing problems and preventing them in the future. The Sub-Commission has also concerned itself with the role of non-State actors, in particular by elaborating principles on the responsibility of transnational corporations in the field of human rights.

73. The Sub-Commission played a pioneering role in the development of what subsequently became the confidential communications procedure established under Economic and Social Council resolution 1503 (XLVIII) by formulating, at the request of the Commission on Human Rights, the criteria for the admissibility of communications and spearheaded the application of that procedure, both through the Sub-Commission's Working Group on Communications (the first stage in identifying those communications which appeared to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms) and, until 2000, by determining in plenary which situations of grave violations of human rights should be referred to the Commission for consideration. In the 25 years from 1975 to 2000, the Commission was seized with some 80 country situations thus referred to it by the Sub-Commission.

74. The Sub-Commission has had an invaluable partnership with NGOs in consultative status with the Economic and Social Council. In intergovernmental bodies, where such NGOs participate, they emphasize the presentation of information about particular issues or situations. In the Sub-Commission, NGOs have joined with its members in awareness-raising exercises aimed at the development of understanding, insights, policies, norms and strategies and the mobilization of conscience. There is no other United Nations human rights body where such in-depth joint brainstorming on human rights takes place.

75. The Sub-Commission's Working Group on Contemporary Forms of Slavery has unearthed practices and policies the world over that called for remedial action. No other body has made such a sustained contribution in that area of human rights. Its highlighting of the plight of large numbers of human beings living and working in conditions tantamount to slavery has been of major importance for the promotion and protection of their rights.

76. The Sub-Commission's Working Group on Indigenous Populations, building on a historic global study on the issue by its Special Rapporteur, brought indigenous peoples to the United Nations for the first time in large numbers, and continues to do so. The Sub-Commission's patient and persistent efforts to draft international standards on the promotion and protection of the human rights of indigenous peoples finally resulted in the adoption of the United Nations Declaration. The deliberate human rights focus of the work of the Sub-Commission and its Working Group, through its studies, deliberations and hearings in this area, is unmatched by any other United Nations body.

77. The Sub-Commission's continuing work, in plenary and through its Working Group on Minorities, on the protection of minority rights has sought to buttress international and regional norms on this topic. The United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities was built on the study by and normative inputs of the Sub-Commission.

78. The Sub-Commission's Social Forum has been another pivotal forum for alerting the international community to problems affecting the realization of the human rights of those living in poverty and for the promotion of dignity and basic economic, social and cultural rights, as well as civil and political rights, for the poor. The Social Forum has helped bring human rights closer to the needs of the masses of the people.

79. The feature that distinguishes the Sub-Commission from any other human rights body in the United Nations system is its assembling of the shared insights and expertise of experts and practitioners from all parts of the world. The Sub-Commission has not been without its imperfections, but throughout its history it has been distinguished by its capacity for detached, expert examination of issues, in partnership with civil society, and its contribution of insights and proposals for further deliberation and decision in intergovernmental bodies.

80. The value of the Sub-Commission as a venue for the gathering of ideas can be seen in its historic work on issues such as human rights and scientific and technological developments, human rights and biodiversity, human rights and the human genome, and human rights in the achievement of the Millennium Development Goals. Without the input from a group of experts from all regions of the world, it is hard to see how the United Nations could have cultivated an understanding of ongoing, or emerging, human rights issues, or have developed policies, prescriptions and norms for addressing them.

81. The partnership between a group of experts and governmental bodies is also reflected in the fact that when the original system of periodic reporting by Member States on human rights was consolidated in 1965 by the Economic and Social Council in its resolution 1074 C (XXXIX), the Sub-Commission, then called the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, was requested to undertake the initial study of the materials submitted and to make comments and recommendations thereon to the Commission.

82. In its annual deliberations on developments relating to the prevention of discrimination, equality between men and women, the protection of minorities, and the promotion and protection of human rights, the Sub-Commission has benefited from inputs received from other United Nations bodies, specialized agencies, intergovernmental bodies and regional organizations, national human rights institutions and NGOs. This expert global review, undertaken together with partner institutions, has made the Sub-Commission a leading forum for discussion and debate on a broad spectrum of human rights issues. The world of human rights insights and expertise has assembled at the Sub-Commission.

83. It may also be recalled that the Sub-Commission made major contributions, both to the preparation of world conferences on human rights as well as through active participation in and follow-up to these conferences. Foremost among these were the International Conference on Human Rights held in Tehran in 1968, the World Conference on Human Rights in Vienna in 1993, and the two World Conferences Against Racism in 1978 and 1983 in Geneva, and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa, in 2001.

84. Recently concluded and ongoing studies of the Sub-Commission also address important and emerging issues, such as administration of justice through military tribunals, responsibilities of non-State actors, and the links between human rights law and international humanitarian law.

85. In recalling the past, reflecting on the present and contemplating the future, and in the light of this overview, it would be reasonable to conclude that the intergovernmental human rights bodies, in particular the Human Rights Council, will continue to require the input of a body of qualified independent human rights experts such as the Sub-Commission on the Promotion and Protection of Human Rights.

### Notes

<sup>1</sup> Eighth preambular paragraph.

<sup>2</sup> Twelfth preambular paragraph.

<sup>3</sup> Paragraph 6.

<sup>4</sup> Ibid.

<sup>5</sup> **Commission**: the former United Nations Commission on Human Rights. **UPR**: the universal periodic review referred to in paragraph 5 (e) of Assembly resolution 60/251. **Sub-Commission**: the United Nations Sub-Commission on the Promotion and Protection of Human Rights. This term will be used to describe the current activities of the body and the views of the current members of the body. **HRCC (for Human Rights Consultative Committee)** will be used to signify any future standing collegial expert advice body (including a “reconstructed Sub-Commission”), that may emerge from the overall review of all existing expert advice mechanisms referred to in paragraph 6 of Assembly resolution 60/251. **UPR expert body**: denotes those areas in which UPR will require expert advice, without taking a position on whether that would be provided by a separate, specialized expert body or by the whole or part of HRCC itself. **Special procedures**: all mechanisms under that name listed in the annex to Council decision 2006/102 and which used to report to the Commission, whether called a special rapporteur, a special representative of the Secretary-General or a working group, and whatever the manner of their appointment/selection. Where a particular type of special procedure is being referred to, that will be made clear in the text. **TMBs**: treaty monitoring bodies. **NHRI**: national human rights institutions. **NGOs**: non-governmental organizations. **IGOs**: regional, subregional, extraregional, or worldwide intergovernmental organizations. **WG**: working group, a mechanism attached to some other body higher up in the hierarchical order.

<sup>6</sup> Paragraph 5 (d).

<sup>7</sup> Paragraph 5 (a).

<sup>8</sup> Paragraph 5 (e).

<sup>9</sup> Paragraph 6.

<sup>10</sup> Paragraph 5 (f).

<sup>11</sup> Paragraph 5 (b).

<sup>12</sup> Paragraph 5 (i).

<sup>13</sup> Paragraph 5 (c).

<sup>14</sup> Paragraph 5 (a).

<sup>15</sup> Paragraph 5 (h).

<sup>16</sup> The importance of the work of the Sub-Commission has been emphasized by various commentators. Ambassador Makarim Wibisono, Chairperson of the Commission at its sixty-first session, said on 25 July 2005, “[The Commission] recognized not only the valuable contribution made by this body [the Sub-Commission] to the work of the United Nations over the past 58 years but also its important contribution to the development of a better understanding of human rights through the study of important issues, the elaboration of international standards and the promotion and protection of human rights throughout the world.” Louise Arbour said on 25 July 2005, “Over the years, the Sub-Commission has provided the Commission on Human Rights with insights and ideas, based on expertise and experience of its members [and] helped to identify and develop new areas for further consideration.” Mehr Khan Williams, the Deputy High Commissioner, said on 7 August 2006, “Since its inception, this body [the Sub-Commission] has devoted itself to research and discussion of new and challenging human rights issues. ... The Sub-Commission did not hesitate to raise issues that were initially considered provocative or unwelcome but which essentially helped in shaping new thinking and action of the Commission. The Sub-Commission has been a forum for the voice of the civil society.”

<sup>17</sup> They also report to the General Assembly.

<sup>18</sup> The Council may wish to consider the precedent of the Committee on Economic, Social and Cultural Rights. When the Economic and Social Council determined that there was a need for a committee in that field, it first chose to operate through a body of governmental experts. It subsequently decided that the functions could only be performed by an independent expert body.

<sup>19</sup> It is suggested that the two additional independent experts could come from the Asian and Eastern European groups; see above.

<sup>20</sup> See para. 33 above.

**APPENDIX I**

**List of the studies carried out by the Sub-Commission from 1956 to 2006**

<b>Year</b>	<b>Session</b>	<b>Title</b>	<b>Special Rapporteur</b>
2006	58th	Universal implementation of international human rights treaties	Mr. Emmanuel Decaux (France)
2006	58th	Prevention of human rights violations committed with small arms and light weapons	Ms. Barbara Frey (United States of America)
2005	57th	Administration of justice through military tribunals	Mr. Emmanuel Decaux (France)
2005	57th	Housing and property restitution in the context of the return of refugees and internally displaced persons	Mr. Paulo Sérgio Pinheiro (Brazil)
2005	57th	Traditional practices affecting the health of women and children	Ms. Halima Embarek Warzazi (Morocco)
2004	56th	Indigenous people's permanent sovereignty over natural resources	Ms. Erica-Irene Daes (Greece)
2004	56th	The promotion of the realization of the right to drinking water supply and sanitation	Mr. El-Hadji Guissé (Senegal)
2004	56th	Terrorism and human rights	Ms. Kalliopi K. Koufa (Greece)
2003	55th	Globalization and its impact on the full enjoyment of all human rights	Mr. Joseph Oloka-Onyango (Uganda) and Ms. Deepika Udagama (Sri Lanka)
2003	55th	Human rights and human responsibilities	Mr. Miguel Alfonso Martínez (Cuba)
2003	55th	Rights of non-citizens	Mr. David Weissbrodt (United States of America)
2002	54th	Concept and practice of affirmative action	Mr. Marc Bossuyt (Belgium)
2001	53rd	Indigenous peoples and their relationship to land	Ms. Erica-Irene Daes (Greece)

<b>Year</b>	<b>Session</b>	<b>Title</b>	<b>Special Rapporteur</b>
2000	52nd	Systematic rape, sexual slavery and slavery-like practices during armed conflict	Ms. Gay McDougall (United States of America)
1999	51st	Treaties, agreements and other constructive arrangements between States and indigenous populations	Mr. Miguel Alfonso Martínez (Cuba)
1998	50th	Human rights and income distribution	Mr. José Bengoa (Chile)
1997	49th	States of emergency	Mr. Leandro Despouy (Argentina)
1997	49th	Impunity (economic, social and cultural rights)	Mr. El-Hadji Guissé (Senegal)
1997	49th	Impunity (civil and political rights)	Mr. Louis Joinet (France)
1997	49th	Human rights dimensions of population transfer	Mr. Awn Shawkat Al-Khasawneh (Jordan)
1996	48th	Extreme poverty	Mr. Leandro Despouy (Argentina)
1996	48th	Protection of heritage of indigenous people	Ms. Erica-Irene Daes (Greece)
1995	47th	Monitoring and assisting the transition to democracy in South Africa	Ms. Judith Sefi Attah (Nigeria)
1995	47th	Promoting the realization of the human right to adequate housing	Mr. Rajindar Sachar (India)
1994	46th	Human rights and the environment	Ms. Fatma-Zohra Ksentini (Algeria)
1994	46th	The right to a fair trial	Mr. Stanislav V. Chernichenko (Russian Federation) and Mr. William Treat (United States of America)
1993	45th	The right to restitution, compensation and rehabilitation for victims of gross violations of human rights	Mr. Theo van Boven (Netherlands)

<b>Year</b>	<b>Session</b>	<b>Title</b>	<b>Special Rapporteur</b>
1993	45th	Possible ways and means of facilitating the peaceful solution of problems involving minorities	Mr. Asbjørn Eide (Norway)
1993	45th	Problems and causes of discrimination against HIV-infected people or people with AIDS	Mr. Luis Varela Quiros (Costa Rica)
1993	45th	Protection of the cultural and intellectual property of indigenous peoples	Ms. Erica-Irene Daes (Greece)
1992	44th	The right to freedom of opinion and expression	Mr. Louis Joinet (France) and Mr. Danilo Türk (Yugoslavia)
1992	44th	Human rights and youth	Mr. Dimitru Mazilu (Romania)
1992	44th	Violations of human rights of staff members of the United Nations system	Ms. Mary Bautista (Philippines)
1992	44th	The realization of economic, social and cultural rights	Mr. Danilo Türk (Yugoslavia)
1992	44th	Human rights of detained juveniles	Ms. Mary Bautista (Philippines)
1991	43rd	Human rights and disability	Mr. Leandro Despouy (Argentina)
1990	42nd	The practice of administrative detention without charge or trial	Mr. Louis Joinet (France)
1990	42nd	The achievements made and obstacles encountered during the Decades to Combat Racism and Racial Discrimination	Mr. Asbjørn Eide (Norway)
1989	41st	Analysis of current trends and development regarding the right to leave any country, including one's own, and to return to one's own country	Mr. C.L.C. Mubanga-Chipoya (Zambia)
1989	41st	Status of the individual in contemporary international human rights law: promotion, protection and restoration of human rights at national, regional and international levels	Ms. Erica-Irene Daes (Greece)
1988	40th	Analysis of the proposal for the elaboration of a second facultative protocol to the International Covenant on Civil and Political Rights in view of the abolition of the death penalty	Mr. Marc Bossuyt (Belgium)
1988	40th	Draft guidelines for the regulation of computerized personal data files	Mr. Louis Joinet (France)

<b>Year</b>	<b>Session</b>	<b>Title</b>	<b>Special Rapporteur</b>
1988	40th	The administration of justice and the human rights of detainees: Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers	Mr. L.M. Singhvi (India)
1988	40th	Rights of persons belonging to ethnic, religious and linguistic minorities	Mr. Francesco Capotorti (Italy)
1987	39th	Elimination of all forms of intolerance and discrimination based on religion or belief	Ms. Elizabeth Odio Benito (Costa Rica)
1987	39th	Right to adequate food as a human right	Mr. Asbjørn Eide (Norway)
1987	39th	Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonialist and racist regimes in Southern Africa	Mr. Ahmed M. Khalifa (Egypt)
1985	38th	The question of the prevention and punishment of the crime of genocide	Mr. B. Whitaker (United Kingdom)
1985	38th	Amnesty laws and their role in the safeguard and promotion of human rights	Mr. Louis Joinet (France)
1985	38th	Draft principles on the right and responsibility of individuals, groups and organs of society to promote and protect universally-recognized human rights and fundamental freedom	Ms. Erica-Irene Daes (Greece)
1984	37th	Problem of discrimination against indigenous populations	Mr José R. Martínez Cobo (Ecuador)
1983	36th	Conscientious objection to military service	Mr. Asbjørn Eide (Norway) and Mr. C.L.C. Mubanga-Chipoya (Zambia)
1983	36th	Study of the relevant guidelines in the field of computerized personal files	Ms. Nicole Questiaux (France) and Mr. Louis Joinet (France)
1983	36th	Principles, guidelines and guarantees for the protection of persons detained on grounds of mental ill-health or suffering from mental disorder	Ms. Erica-Irene Daes (Greece)
1983	36th	The new international economic order and the promotion of human rights	Mr. Raúl Ferrero (Peru)

<b>Year</b>	<b>Session</b>	<b>Title</b>	<b>Special Rapporteur</b>
1982	35th	Report on slavery	Mr. Benjamin Whitaker (United Kingdom)
1982	35th	Implications for human rights of recent developments concerning situations known as States of siege or emergency	Ms. Nicole Questiaux (France)
1982	35th	Discriminatory treatment of members of racial, ethnic, religious or linguistic groups at the various levels in the administration of criminal justice, such as police, military, administrative and judicial investigations, arrest, detention, trial and execution of sentences, including the ideologies or beliefs which contribute or lead to racism in the administration of justice	Mr. Justice Abu Sayeed Chowdhury (Bangladesh)
1981	34th	Exploitation of child labour	Mr. A. Bouhdiba (Tunisia)
1980	33rd	The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights: a contribution to the freedom of the individual under law	Ms. Erica-Irene Daes (Greece)
1978	31st	The right to self-determination: historical and current developments on the basis of United Nations instruments	Mr. Aureliu Cristescu (Romania)
1978	31st	The right to self-determination: implementation of United Nations resolutions	Mr. Héctor Gros Espiell (Uruguay)
1978	31st	The question of the prevention and punishment of the crime of genocide	Mr. Nicodème Ruhashyankiko (Rwanda)
1977	30th	International provisions protecting the human rights of non-citizens	Baroness Elles (United Kingdom)
1976	29th	Racial Discrimination in the political, economic and cultural spheres	Mr. Hernán Santa Cruz (Chile)
1975	28th	Exploitation of labour through illicit and clandestine trafficking	Ms. Halima Embarek Warzazi (Morocco)
1969	22nd	Question of slavery and the slave trade in all their practices and manifestations, including the slavery practices of apartheid and colonialism	Mr. Mohamed Awad (United Arab Republic)

<b>Year</b>	<b>Session</b>	<b>Title</b>	<b>Special Rapporteur</b>
1969	22nd	Equality in the administration of justice	Mr. Mohammed Ahmed Abu Rannat (Sudan)
1965	18th	Discrimination against persons born out of wedlock	Mr. Vieno Voitto Saario (Finland)
1963	16th	Discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country	Mr. José D. Inglés (Philippines)
1962	15th	Discrimination in the matter of political rights	Mr. Hernán Santa Cruz (Chile)
1959	12th	Discrimination in the matter of religious rights and practices	Mr. Arcot Krishnaswami (India)
1956	9th	Discrimination in education	Mr. Charles D. Ammoun (Lebanon)

## APPENDIX II

### List of ongoing studies and reports

#### A. Ongoing studies and reports submitted or mandated for submission by special rapporteurs to the Sub-Commission in 2006 in accordance with existing legislative authority

Title and agenda item	Special Rapporteur	Legislative authority (mandate established in/by and latest resolution(s)/decision(s) on the subject)	First submission	Final submission	Status at the fifty-eighth session (2006)
1. Progress report on discrimination in the criminal justice system (item 3) (E/CN.4/Sub.2/2005/7)	Ms. Leïla Zerrougui* (Algeria)  * <i>Ms. Zerrougui is no longer a member of the Sub-Commission.</i>	Commission decision 2003/108; Sub-Commission resolutions 2004/24 and 2005/5	Fifty-fifth session (2003)	Fifty-eighth session (2006)	The final report was not submitted due to the uncertainty of the transitional period from the Commission on Human Rights to the Human Rights Council.
2. Preliminary report on the difficulties of establishing guilt and/or responsibility with regard to crimes of sexual violence (item 3) A/HRC/Sub.1/58/CRP.9	Ms. Lalaina Rakotoarisoa (Madagascar)	Sub-Commission resolutions 2004/29 and 2005/3; Commission decision 2005/108	Fifty-eighth session (2006)	Sixtieth session (2008)	Due to late submission, issued as CRP (in French only).
3. Second progress report on corruption and its impact on full enjoyment of human rights (item 4) A/HRC/Sub.1/58/CRP.10	Ms. Christy Ezim Mbonu* (Nigeria)  * <i>Ms. Mbonu is an alternate member of the Sub-Commission.</i>	Commission decisions 2004/106 and 2005/104; Sub-Commission resolution 2005/16	Fifty-sixth session (2004)	Fifty-eighth session (2006)	Due to late submission, issued as CRP (in English only).
4. Preliminary report on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights (item 4) (E/CN.4/Sub.2/2005/19 and Corr.1 and 2)	Mr. Marc Bossuyt (Belgium)	Commission decision 2005/105 and Sub-Commission resolutions 2004/5 and 2005/7	Fifty-seventh session (2005)	Fifty-ninth session (2007)	Progress report was not submitted to Sub-Commission in 2006.

Title and agenda item	Special Rapporteur	Legislative authority (mandate established in/by and latest resolution(s)/decision(s) on the subject)	First submission	Final submission	Status at the fifty-eighth session (2006)
5. Progress report on discrimination based on work and descent (item 5) A/HRC/Sub.1/58/CRP.2	Ms. Chin Sung Chung (Republic of Korea) and Mr. Yozo Yokota (Japan)	Commission decision 2005/109 and Sub-Commission resolution 2004/17; Sub-Commission resolution 2005/22	Fifty-seventh session (2005)	Fifty-ninth session (2007)	Due to late submission, issued as CRP (in English only).
6. Interim report on human rights and the human genome (item 6) (E/CN.4/Sub.2/2005/38)	Ms. Antoanella-Iulia Motoc (Romania)	Commission decision 2004/120, Sub-Commission resolution 2003/4 and decision 2004/112; Sub-Commission decision 2005/111	Fifty-sixth session (2004)	Fifty-eighth session (2006)	The final report was not submitted to the Sub-Commission in 2006 due to the uncertainty of the transitional period from the Commission on Human Rights to the Human Rights Council.

**B. Ongoing working papers and other documents without financial implications submitted or mandated for submission to the Sub-Commission in 2006**

Title and agenda item	Entrusted to	Legislative authority and latest Sub-Commission resolution(s)/decision(s) on the subject	First submission	Final submission	Status at the fifty-eighth session (2006)
1. Detailed working paper with recommendations on ways of improving the effectiveness of the Sub-Commission (item 1)	Mr. Emmanuel Decaux (France)	Sub-Commission decision 2004/121 and resolution 2005/32	Fifty-seventh session (2005)	Fifty-eighth session (2006)	Not submitted due to the uncertainty of the transitional period from the Commission on Human Rights to the Human Rights Council.
2. Working paper on the accountability of international personnel taking part in peace support operations (item 3)	Ms. Françoise Jane Hampson (United Kingdom of Great Britain and Northern Ireland)	Sub-Commission decision 2002/104 and resolution 2005/14	Fifty-seventh session (2005)*  <i>* Pursuant to Sub-Commission decision 2002/104, the working paper was originally to be submitted to the fifty-fifth session.</i>	Fifty-seventh session (2005)	Submitted and issued as A/HRC/Sub.1/58/CRP.3.
3. Working paper on human rights and State sovereignty (item 3)	Mr. Vladimir Kartashkin (Russian Federation)	Sub-Commission decision 2005/105		Fifty-eighth session (2006)	Submitted and issued as E/CN.4/Sub.2/2006/7.
4. Working paper on the right to development (item 4)	Ms. Florizelle O'Connor (Jamaica)	Commission resolutions 2003/83 and 2005/4 and Sub-Commission decision 2004/104; Sub-Commission resolution 2005/17	Fifty-seventh session (2005)	Fifty-eighth session (2006)	Not submitted due to the uncertainty of the transitional period from the Commission on Human Rights to the Human Rights Council.
5. Working paper on the role of States in the guarantee of human rights with reference to the activities of transnational corporations and other business enterprises (item 4)	Mr. Gáspár Bíró (Hungary)	Sub-Commission resolution 2005/6		Fifty-eighth session (2006)	Submitted and issued as A/HRC/Sub.1/58/CRP.12.

<b>Title and agenda item</b>	<b>Entrusted to</b>	<b>Legislative authority and latest Sub-Commission resolution(s)/decision(s) on the subject</b>	<b>First submission</b>	<b>Final submission</b>	<b>Status at the fifty-eighth session (2006)</b>
6. Working paper on bilateral and multilateral economic agreements and their impact on the human rights of the beneficiaries (item 4)	Ms. Chin Sung Chung (Republic of Korea) and Ms. Florizelle O'Connor (Jamaica)	Sub-Commission resolution 2005/6		Fifty-eighth session (2006)	Submitted and issued as A/HRC/Sub.1/58/CRP.8.
7. Working paper on discrimination against leprosy victims and their families (item 5)	Mr. Yozo Yokota (Japan)	Sub-Commission resolutions 2004/12 and 2005/24	Fifty-seventh session (2005)		Submitted and issued as A/HRC/Sub.1/58/CRP.7.
8. Working paper examining the feasibility of a study on the human rights dimension of prostitution (item 6)	Mr. Ibrahim Salama (Egypt)	Sub-Commission resolution 2005/29		Fifty-eighth session (2006)	Not submitted due to the uncertainty of the transitional period from the Commission on Human Rights to the Human Rights Council.
9. Second expanded working paper containing an updated framework draft of principles and guidelines concerning human rights and terrorism (item 6)	Ms. Kalliopi Koufa (Greece)	Sub-Commission decision 2004/109 and resolution 2005/31	Fifty-seventh session (2005)	Fifty-eighth session (2006)	Submitted and issued as A/HRC/Sub.1/58/30.
10. Expanded working paper on human rights and non-State actors (item 6)	Mr. Gáspár Bíró (Hungary), Ms. Antoanella-Iulia Motoc (Romania), Mr. David Rivkin (USA) and Mr. Ibrahim Salama (Egypt)	Sub-Commission decision 2004/114; decision 2005/112	Fifty-seventh session (2005)	Fifty-eighth session (2006)	Not submitted due to the uncertainty of the transitional period from the Commission on Human Rights to the Human Rights Council.
11. Report on the guidelines for the realization of the right to drinking water and sanitation (item 4)	Mr. El-Hadji Guissé (Senegal)	Sub-Commission decision 2004/107	Fifty-seventh session (2005)	Fifty-seventh session (2005)	Submitted in 2005 E/CN.4/Sub.2/2005/25.

**C. Working papers prepared or mandated for preparation for the working groups of the Sub-Commission in 2006**

<b>Title and agenda item</b>	<b>Entrusted to</b>	<b>Legislative authority and latest Sub-Commission resolution(s)/decision(s) on the subject</b>	<b>Working groups</b>	<b>Status at the fifty-eighth session (2006)</b>
1. Working paper on the circumstances in which civilians lose their immunity from attack under international humanitarian law and human rights law	Ms. Françoise Jane Hampson (United Kingdom of Great Britain and Northern Ireland)	Sub-Commission decision 2005/108	Working group on the administration of justice	Submitted and issued as A/HRC/Sub.1/58/CRP.5.
2. Working paper on measures designed to prevent violations in circumstances in which international humanitarian law and international human rights law are both applicable	Mr. Ibrahim Salama (Egypt)	Sub-Commission decision 2005/108	Working group on the administration of justice	Not submitted due to the uncertainty of the transitional period from the Commission on Human Rights to the Human Rights Council.
3. Working paper on the issues of amnesties, impunity and accountability for violations of international humanitarian law and international human rights law	Mr. Yozo Yokota (Japan)	Sub-Commission decision 2005/108	Working group on the administration of justice	Not submitted due to the uncertainty of the transitional period from the Commission on Human Rights to the Human Rights Council.
4. Working paper on transitional justice and investigation mechanisms for truth and reconciliation, with emphasis on the experiences in Latin America	Mr. Janio Iván Tuñón Veilles (Panama)	Sub-Commission decision 2005/109	Working group on the administration of justice	Not submitted due to the uncertainty of the transitional period from the Commission on Human Rights to the Human Rights Council.
5. Working paper on the implementation in practice of the right to an effective remedy for human rights violations	Ms. Françoise Jane Hampson (United Kingdom of Great Britain and Northern Ireland) and Mr. Mohamed Habib Cherif (Tunisia)	Sub-Commission decision 2005/106	Working group on the administration of justice	Submitted and issued as A/HRC/Sub.1/58/CRP.4.

<b>Title and agenda item</b>	<b>Entrusted to</b>	<b>Legislative authority and latest Sub-Commission resolution(s)/decision(s) on the subject</b>	<b>Working groups</b>	<b>Status at the fifty-eighth session (2006)</b>
6. Working paper on the challenges of women's participation in policies and strategies to combat poverty and extreme poverty	Ms. Chin Sung Chung (Republic of Korea)	Sub-Commission resolution 2005/8	Social Forum	Submitted and issued as A/HRC/Sub.1/58/SF.3.
7. Additional working paper on indigenous peoples and conflict prevention and resolution	Mr. Miguel Alfonso Martínez (Cuba)	Sub-Commission resolutions 2004/15 and 2005/23	Working Group on Indigenous Populations	Not submitted due to the uncertainty of the transitional period from the Commission on Human Rights to the Human Rights Council.
8. Working paper on the review of the draft principles and guidelines on the heritage of indigenous peoples	Mr. Yozo Yokota (Japan) and the Saami Council	Sub-Commission resolutions 2003/29 and 2004/15	Working Group on Indigenous Populations	Submitted and issued as E/CN.4/Sub.2/AC.4/2006/5.
9. Working paper on the human rights situation of indigenous peoples in States and other territories threatened with extinction for environmental reasons	Ms. Françoise Jane Hampson (United Kingdom of Great Britain and Northern Ireland)	Commission decision 2004/122, Sub-Commission resolutions 2003/29, 2004/10, 2004/15 and 2005/20	Working Group on Indigenous Populations	Submitted and issued as E/CN.4/Sub.2/AC.4/2006/CRP.2.
10. Working paper on international judicial cooperation	Ms. Françoise Jane Hampson (United Kingdom of Great Britain and Northern Ireland)	Sub-Commission resolution 2005/31	Working Group on terrorism	Submitted and issued as A/HRC/Sub.1/58/CRP.6.
11. Working paper on the rights of victims of terrorist acts	Mr. Emmanuel Decaux (France)	Sub-Commission resolution 2005/31	Working Group on terrorism	Submitted and issued as A/HRC/Sub.1/58/CRP.11.

**D. Studies and reports recommended in 2005 to the Commission on Human Rights for approval\***

Title and agenda item	Member of Sub-Commission to be appointed as special rapporteur	Legislative authority	First submission	Final submission	Remarks
1. Accountability of international personnel taking part in peace support operations (item 3)	Ms. Françoise Jane Hampson (United Kingdom of Great Britain and Northern Ireland)	Sub-Commission resolution 2005/14	Fifty-eighth session (2006)	Sixtieth session (2008)	Working paper submitted and issued as A/HRC/Sub.1/58/CRP.3.
2. The legal implications of the disappearance of States and other territories for environmental reasons, including the implications for the human rights of their residents, with particular reference to the rights of indigenous peoples (item 5)	Ms. Françoise Jane Hampson (United Kingdom of Great Britain and Northern Ireland)	Sub-Commission resolution 2005/20	Fifty-eighth session (2006)	Sixtieth session (2008)	Working paper submitted and issued as E/CN.4/Sub.2/AC.4/2006/CRP.2.
3. Discrimination against leprosy victims and their families (item 5) (E/CN.4/Sub.2/2005/WP.1)	Mr. Yozo Yokota (Japan)	Sub-Commission resolution 2005/24	Fifty-eighth session (2006)	Sixtieth session (2008)	Working paper submitted and issued as A/HRC/Sub.1/58/CRP.7.
4. Economic, social and cultural rights in technical cooperation in the field of human rights (item 6)	Mr. Gudmundur Alfredsson (Iceland) and Mr. Ibrahim Salama (Egypt)	Sub-Commission resolution 2005/25	Fifty-eighth session (2006)		

\* In view of the short and procedural nature of its sixty-second session, the Commission on Human Rights did not take action on the draft decisions recommended by the Sub-Commission at its fifty-seventh session for approval by the Commission.