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Item 5 of the provisional agenda

QUESTION OF SLAVERY AND THE SLAVE-TRADE IN ALL THEIR
PRACTICES AND MANIFESTATIONS, INCLUDING THE SLAVERY-
LIKE PRACTICES OF APARTHEID AND COLONIALISM

(Preliminary report submitted by the Special Rapporteur,
Mr. Mohamad Awad)

1. On the recommendation of the Sub-Commission and the Commission on Human Rights, the Economic and Social Council, in resolution 1419 (XLVI) of 9 June 1969, confirmed the designation of the undersigned by the Sub-Commission to be the Special Rapporteur to carry out a study within the terms of paragraphs 1 and 2 of Council resolution 1330 (XLIV) of 31 May 1968. The Council requested the Secretary-General to provide all necessary assistance to the Special Rapporteur and to the Sub-Commission, and invited the co-operation of the specialized agencies, regional intergovernmental organizations and the non-governmental organizations in consultative status with the Council in the study to be undertaken by the Sub-Commission.
2. Economic and Social Council resolution 1330 (XIV) reads in part as follows:

"The Economic and Social Council...

"(1) Authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake a study of the measures which might be taken to implement the International Slavery Convention of 1926 and the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery and the various

recommendations included in the resolutions of the General Assembly, the Economic and Social Council and the Commission on Human Rights relating to the slavery-like practices of apartheid and colonialism;

"(2) Further authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to initiate a study of the possibilities of international police co-operation to interrupt and punish the transportation of persons in danger of being enslaved, taking into account, as appropriate, the views of the competent international organizations."

3. The mandate of the Special Rapporteur accordingly is to carry out three closely related studies:

- (a) A study of the measures which might have been taken to implement the International Slavery Convention of 1926 and the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery;
- (b) A study of the measures which might be taken to implement the various recommendations included in the resolutions of the General Assembly, the Economic and Social Council and the Commission on Human Rights relating to the slavery-like practices of apartheid and colonialism;
- (c) A study of the possibilities of international police co-operation to interrupt and punish the transportation of persons in danger of being enslaved, taking into account, as appropriate, the views of the competent international organizations.

4. If he is to be successful in carrying out this broad mandate, the Special Rapporteur will undoubtedly have to call upon the Secretary-General, the specialized agencies, the regional intergovernmental organizations and the interested non-governmental organizations for a great deal of assistance, and he is grateful to the Economic and Social Council for having invited them to help him.

Study of the measures which might be taken to implement the International Slavery Convention of 1926 and the Supplementary Convention of 1956

5. The International Slavery Convention, signed at Geneva on 25 September 1926, as amended by the Protocol signed at the Headquarters of the United Nations

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on 7 December 1953, entered into force on 7 July 1955 in accordance with article III of the Protocol.^{1/}

6. Article 8 of the Convention, as amended by the Protocol, reads as follows:

"Article 8

"The High Contracting Parties agree that disputes arising between them relating to the interpretation or application of this Convention shall, if they cannot be settled by direct negotiation, be referred in decision to the International Court of Justice. In case either or both of the States Parties to such a dispute should not be parties to the Statute of the International Court of Justice, the dispute shall be referred, at the choice of the Parties and in accordance with the constitutional procedure of each State, either to the International Court of Justice or to a court of arbitration constituted in accordance with the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, or to some other court of arbitration."

7. To date, none of the Contracting Parties has referred a dispute relating to the interpretation or application of the Convention to the International Court of Justice.

8. The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted by a Conference of Plenipotentiaries convened by Economic and Social Council resolution 508 (XXI) of 30 April 1956, entered into force on 30 April 1957, in accordance with article 13.^{2/}

9. Article 8 of the Convention provides in part as follows:

"Article 8

"... 2. The Parties undertake to communicate to the Secretary-General of the United Nations copies of any laws, regulations and administrative measures enacted or put into effect to implement the provisions of this Convention.

"3. The Secretary-General shall communicate the information received under paragraph 2 of this article to the other Parties and to the Economic

^{1/} For the text of the Convention see Human Rights: A Compilation of International Instruments of the United Nations (United Nations Publication, Sales No. 68.XIV.6), pp. 41-43. For the text of the Protocol, see Ibid., pp. 43-44.

^{2/} For the text of the Convention, see Ibid., pp. 44-46.

and Social Council as part of the documentation for any discussion which the Council might undertake with a view to making further recommendations for the abolition of slavery, the slave trade, and institutions and practices which are the subject of this Convention."

10. In compliance with this article, a number of States Parties to the Convention have communicated to the Secretary-General copies of laws, regulations and administrative measures enacted or put into effect to implement the provisions of the Convention, or have stated that, in view of their existing laws, regulations or administrative measures, they have not found it necessary to enact or put into effect new laws, regulations or administrative measures in order to implement those provisions. The information supplied by States Parties to the Convention may be found in the following documents: E/3317, E/3463 and Corr.1 and Add.1, E/3626 and Add.1 to 3, E/3796 and Add.1, E/3885, E/CN.4/Sub.2/279 and Add.1 and 2, and E/CN.4/Sub.2/290.

11. The following States Parties to the Convention have not yet communicated to the Secretary-General the information referred to in article 8: Algeria, Cuba, Ethiopia, Mongolia, Niger, Nigeria, Philippines, San Marino, Spain, Syria, Trinidad and Tobago, Tunisia, Uganda and the United States of America.

12. Article 10 of the Convention reads as follows:

"Article 10

"Any dispute between States Parties to this Convention relating to its interpretation or application, which is not settled by negotiation, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute, unless the parties concerned agree on another mode of settlement."

13. To date, none of the States Parties to the Convention has referred a dispute relating to the interpretation or application of the Convention to the International Court of Justice.

14. On the basis of the information set out above, it would appear to the Special Rapporteur that neither the International Slavery Convention of 1926 nor the Supplementary Convention of 1956 provides for the implementation of their respective provisions by an international body. The International Court of Justice may be called upon to settle disputes between States Parties relating to

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the interpretation or application of either Convention, and the Economic and Social Council may use information communicated under the terms of article 8 (2) of the Supplementary Convention "as part of the documentation for any discussion which the Council might undertake with a view to making further recommendations for the abolition of slavery, the slave trade, and institutions and practices which are the subject of the Convention". But no international body has been established or recognized as being competent, to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under either Convention. Nor has any such body been established or recognized as being competent to receive and consider communications from individuals who claim to be victims of a violation by a State Party of any of the provisions of either Convention.

15. The International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, contains certain provisions relating to the abolition of slavery, the slave trade and servitude, and provides for the implementation of those provisions by an international body. Article 8 of the Covenant contains the following provisions:

"1. No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited.

"2. No one shall be held in servitude..."

Parts IV and V of the Covenant provide for the establishment and functioning of a Human Rights Committee to consider reports on measures which States Parties have adopted to give effect to the rights recognized therein, and to receive and consider, in certain circumstances, communications to the effect that one State Party claims that another State Party is not fulfilling its obligations under the Covenant. Under the Optional Protocol to the Covenant, the Committee would also be able to receive and consider, in certain circumstances, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

16. However, the Covenant has not yet entered into force. Whereas thirty-five ratifications or accessions are required by its article 19 for entry into force, to date only the following five States have ratified or acceded to it:
Costa Rica, Cyprus, Ecuador, Syria and Tunisia.

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17. It is clear, therefore, that further measures are required to provide for any international implementation of the International Slavery Convention of 1926 and the Supplementary Convention of 1956 that may be considered necessary. The Special Rapporteur considers it his primary task to study such measures and to make suggestions regarding them to the Sub-Commission. He hopes that his suggestions will give rise to a thorough and frank discussion in the Sub-Commission covering the whole range of the problem of slavery, the slave trade and practices which have the effect of slavery. For it is only by means of such wide-ranging debate and thorough consideration that the Sub-Commission itself will be able to complete the study authorized by the Economic and Social Council in operative paragraph 1 of resolution 1330 (XLIV).

18. The subject is by no means a new one for the Special Rapporteur. A few years ago as Special Rapporteur on Slavery of the Economic and Social Council, appointed pursuant to Council resolution 560 (XXXVI) of 12 July 1963, he published a comprehensive Report on Slavery^{3/} bringing up to date an earlier report on this subject which had been prepared by Hans Engen (Norway) in 1955 (E/2675). Part III of that report was devoted to "Suggestions for Possible Action by the United Nations in the Field of Slavery".

19. The Report on Slavery was based on information received in response to a Questionnaire on Slavery, formulated by the Secretary-General in consultation with the Special Rapporteur, from States Members of the United Nations, the specialized agencies, and interested non-governmental organizations in consultative status. The questionnaire was dispatched to Member States on 28 September 1964, to the specialized agencies on 2 October 1964, and to interested non-governmental organizations in consultative status on 30 September 1964.

20. In his note (E/CN.4/Sub.2/300) entitled "Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism", the Secretary-General recalls that the Sub-Commission, in paragraph 4 of resolution 4 A (XX) of 10 October 1967, requested the Secretary-General "to invite the Governments of States which had not replied to the Questionnaire on Slavery to do so as soon as possible, or to

^{3/} United Nations publication, Sales No. 67.XIV.2.

forward replies prepared by the appropriate authorities for each country or territory under their jurisdiction, administration or protection, and to transmit the information to the Sub-Commission at its twenty-first session". Replies were received subsequently from Bolivia, Burma, Colombia, Finland, Ireland, Mexico, Morocco and Sweden (E/CN.4/Sub.2/290), Belgium (E/CN.4/Sub.2/290 and E/CN.4/Sub.2/300, annex I), and Ghana (E/CN.4/Sub.2/300/Add.1).

21. The Special Rapporteur is, of course, pleased to note that the number of States from which no replies to the Questionnaire on Slavery have been received has been reduced by nine since the Sub-Commission adopted resolution 4 A (XX) on 10 October 1967. However, he cannot overlook the fact that although the questionnaire was dispatched to Member States on 2 October 1964, no replies have been received as yet - five years later - from the following States: Albania, Brazil, Burundi, Cambodia, Central African Republic, Costa Rica, El Salvador, Ethiopia, Gabon, Guinea, Haiti, Honduras, Iceland, Jordan, Kenya, Lebanon, Liberia, Mauritania, Mongolia, Nicaragua, Panama, Paraguay, Portugal, Saudi Arabia, South Africa, Trinidad and Tobago, the United Republic of Tanzania, Upper Volta and Uruguay.

22. The Special Rapporteur feels that no final assessment of the nature and extent of slavery, the slave trade and slavery like practices subsisting at the present time, and no definitive plans for the implementation of the Slavery Convention of 1926 and the Supplementary Convention of 1956, can be made until replies to the questionnaire have been submitted by the above-mentioned States. He would therefore suggest that the Sub-Commission once again request the Secretary-General to invite the Governments of States which have not yet replied to the questionnaire to do so as soon as possible. He thinks it would be helpful if the Sub-Commission would again list the laggard States by name in its resolution, as it did in the preamble to resolution 4 A (XX).

23. With regard to the information which States Parties to the Supplementary Convention of 1956 undertake in article 8 (2) of the Convention to communicate to the Secretary-General, consisting of copies of any laws, regulations and administrative measures enacted or put into effect to implement the provisions of the Convention, the Special Rapporteur regrets to note that the situation has changed very little since the Sub-Commission adopted resolution 4 A (XX) in 1967, and that at present only fifty-nine of the seventy-three States Parties to the

Convention have furnished such information despite the appeals made by the General Assembly in resolution 1841 (XVII) of 9 December 1962, the Economic and Social Council in resolutions 772 E (XXX) of 25 July 1960 and 826 E (XXXII) of 27 July 1961; and by the Commission on Human Rights in resolution 13 (XXIII) of 21 March 1967. He would therefore suggest that the Sub-Commission once again request the Secretary-General to continue his efforts to obtain the information called for under article 5, paragraph 2, of the Supplementary Convention of 1956 from all States Parties to the Convention.

24. The Special Rapporteur is pleased to note that the Secretary-General, in accordance with operative paragraph 2 (a) of Economic and Social Council resolution 1331 (XLIV), has asked Member States what further measures, in their view, might be adopted to implement the International Slavery Convention of 1926 and the Supplementary Convention of 1956; however, he is disappointed with the replies received, as reproduced in annex II of the Secretary-General's note (E/CN.4/Sub.2/300). The Governments which attempt to deal with the question at all reply either that it is not relevant to their territories, where those Conventions are fully implemented; or that all States should be invited to become Parties to those Conventions and to take the necessary legislative measures in line with their provisions; or that they do not see any need for further measures to be taken in this field. Hardly a single new suggestion is made which the Special Rapporteur can commend to the Sub-Commission.

25. In this connexion, the Special Rapporteur recalls that in the Report on Slavery which he prepared for the Economic and Social Council, part III was devoted exclusively to suggestions for possible action by the United Nations in the field of slavery, put forward by Member States and non-governmental organizations in response to relevant portions of the Questionnaire on Slavery. Many of these suggestions referred to measures which might be taken to implement the International Slavery Convention of 1926 and the Supplementary Convention of 1956. The Special Rapporteur feels that certain of these suggestions continue to possess validity, and he would urge the Sub-Commission to give them full consideration.

26. In particular, the Special Rapporteur would like to draw the attention of the Sub-Commission to the following suggestions which appeared in his Report on Slavery, which might serve as a basis of further examination by the Sub-Commission.

27. It has been suggested^{4/} that all States should prohibit slavery, the slave trade and the conveying of slaves. The Sub-Commission may wish to formulate a recommendation along these lines, addressed to all States whether or not they may be Parties to the International Slavery Convention of 1926 and/or the Supplementary Convention of 1956.

28. It has been suggested^{5/} that regional organizations with competent institutionalized organs should be given the responsibility of controlling the combating of the slave trade. The Sub-Commission may wish to explore the possibility of co-operation between the United Nations and the regional organizations concerned, and to report to the Commission on Human Rights on this matter.

29. It has been suggested^{6/} that there should be an international investigation of slave trade networks. The Sub-Commission may wish to consider the nature and extent of such an international investigation, the appropriate organ by which it should be undertaken, and the modalities of procedure to be utilized, and to report to the Commission on Human Rights on this matter.

30. It has been suggested^{7/} that "the conclusion of international agreements providing for judicial assistance and co-operation for the elimination of slavery would... be very useful." The Sub-Commission may wish to explore the possibility of recommending or otherwise stimulating the conclusion of such international agreements, either on a bilateral or multilateral basis, and to report to the Commission on Human Rights on this matter.

31. In addition to the above-mentioned suggestions, the Special Rapporteur would like to draw attention to a suggestion put forward by the Secretary-General in

^{4/} By Iran; see para. 1409 of the Report on Slavery.

^{5/} By Kuwait; see para. 1413 of the Report on Slavery.

^{6/} By Senegal; see para. 1428 of the Report on Slavery.

^{7/} By Iran; see para. 1473 of the Report on Slavery.

his report on technical assistance or other resources in the United Nations system which may be useful to Member States in eliminating all vestiges of slavery and the slavery-like practices of apartheid and colonialism, including relevant experience in enforcing prohibitions on clandestine trade in narcotics (E/CN.4/Sub.2/280).

32. The Secretary-General suggested^{8/} that "the techniques used to suppress the illicit trade in narcotics might be adopted to suppress the illicit trade in slaves," and that "the articles of the Single Convention (on Narcotic Drugs of 1954), dealing with the measures to ensure the execution of its provisions, might serve as a model for future conventions in the field of slavery in all its forms".

33. As members of the Sub-Commission may know, the Single Convention requires Parties to take action against the illicit traffic in narcotics and to provide for the punishment of narcotic offences. It requires that Parties should make arrangements at the national level for co-ordination of preventive and repressive action against the illicit traffic, setting up a special agency for such co-ordination, if possible; that they assist each other in fighting the illicit traffic, exchange information and legal papers for the purpose of prosecuting an offence, and ensure that there is expeditious international co-operation in this field. They must furnish to the Secretary-General particulars of each important case of illicit traffic which may serve to throw light on the source from which drugs are obtained for the illicit traffic and the methods employed by the illicit traffickers. The Commission on Narcotic Drugs reviews annually the general problem of illicit trade in individual drugs, as well as the situation of the traffic country by country. This review is based on information supplied by Governments and such other sources as the International Criminal Police Organization (INTERPOL). The Commission's review is assisted by the presence of observers from certain countries important within the international pattern of illicit trafficking. INTERPOL, whose headquarters is in Paris, acts as a clearing house for law enforcement agencies of governments. It provides valuable information on illicit traffic to the organs of narcotics control and usually

^{8/} E/CN.4/Sub.2/280, pp. 33 and 42.

participates, through an observer, in the Commission's meetings. Furthermore, INTERPOL organizes conferences and seminars in order to improve collaboration between national police forces and the preventive services in the struggle against the illicit traffic.

34. The measures to ensure the execution of the provisions of the Single Convention, by the International Narcotics Control Board, referred to in the Secretary-General's suggestion, are as follows:

"Article 14

"MEASURES BY THE BOARD TO ENSURE THE EXECUTION OF PROVISIONS
OF THE CONVENTION

"1. (a) If, on the basis of its examination of information submitted by Governments to the Board under the provisions of this Convention, or of information communicated by United Nations organs and bearing on questions arising under those provisions, the Board has reason to believe that the aims of this Convention are being seriously endangered by reason of the failure of any country or territory to carry out the provisions of this Convention, the Board shall have the right to ask for explanations from the Government of the country or territory in question. Subject to the right of the Board to call the attention of the Parties, the Council and the Commission to the matter referred to in sub-paragraph (c) below, it shall treat as confidential a request for information or an explanation by a Government under this sub-paragraph.

"(b) After taking action under sub-paragraph (a) above, the Board, if satisfied that it is necessary to do so, may call upon the Government concerned to adopt such remedial measures as shall seem under the circumstances to be necessary for the execution of the provisions of this Convention.

"(c) If the Board finds that the Government concerned has failed to give satisfactory explanations when called upon to do so under sub-paragraph (a) above, or has failed to adopt any remedial measures which it has been called upon to take under sub-paragraph (b) above, it may call the attention of the Parties, the Council and the Commission to the matter.

"2. The Board, when calling the attention of the Parties, the Council and the Commission to a matter in accordance with paragraph 1 (c) above, may, if it is satisfied that such a course is necessary, recommend to Parties that they stop the import of drugs, the export of drugs, or both, from or to the country or territory concerned, either for a designated period or until the Board shall be satisfied as to the situation in that country or territory. The State concerned may bring the matter before the Council.

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"3. The Board shall have the right to publish a report on any matter dealt with under the provisions of this article, and communicate it to the Council, which shall forward it to all Parties. If the Board publishes in this report a decision taken under this article or any information relating thereto, it shall also publish therein the views of the Government concerned if the latter so requests.

"4. If in any case a decision of the Board which is published under this article is not unanimous, the views of the minority shall be stated.

"5. Any State shall be invited to be represented at a meeting of the Board at which a question directly interesting it is considered under this article.

"6. Decisions of the Board under this article shall be taken by a two-thirds majority of the whole number of the Board."

35. The Sub-Commission may wish to explore the possibility of preparing a recommendation along the lines of the Secretary-General's suggestion, and of reporting to the Commission on Human Rights on this matter.

Measures which might be taken to implement the various recommendations included in the resolutions of the General Assembly, the Economic and Social Council and the Commission on Human Rights relating to the slavery-like practices of apartheid and colonialism

36. In resolution 1330 (XLIV), referred to in paragraph 2 above, the Economic and Social Council authorizes the Sub-Commission to undertake a study of the measures which might be taken to implement inter alia the various recommendations included in the resolutions of the General Assembly, the Economic and Social Council and the Commission on Human Rights relating to the slavery-like practices of apartheid and colonialism. In the same resolution (operative paragraph 6) the Council "affirms that the master and servant laws currently enforced in Southern Rhodesia, South West Africa and South Africa constitute clear manifestations of slavery and the slave-trade."

37. As there are no resolutions of the General Assembly, the Economic and Social Council or the Commission on Human Rights which deal with the question of the practices of apartheid and colonialism as a manifestation separate and apart from slavery and the slave-trade in all their practices and manifestations, it is not clear what further study the Council had in mind when it adopted resolution 1330 (XLIV). Perhaps discussion in the Sub-Commission of the mandate of the Sub-Commission and of the Special Rapporteur, as set out in resolution 1330 (XLIV), would provide some clarification.

38. It is conceivable that the Council may have had in mind a study to be made of what laws and practices of apartheid and colonialism, in addition to those mentioned in resolution 1330 (XLIV), might be said to constitute "clear manifestations of slavery and the slave-trade," of the nature and extent of those laws and practices, and of the measures which could be taken to end such manifestations. It is quite possible that such a study might reveal the need to amend the existing international instruments designed to eradicate slavery and the slave-trade, or even to prepare additional instruments dealing with this subject. Information which has been collected by the ad hoc Working Group of Experts established by resolution 2 (XXIII) of the Commission on Human Rights, might be found useful in the preparation of such a study, which should of course be undertaken with the co-operation of the United Nations organs and specialized agencies concerned, the regional inter-governmental organizations and the interested non-governmental organizations in consultative status.

The possibilities of international police co-operation to interrupt and punish the transportation of persons in danger of being enslaved

39. Finally, the Special Rapporteur notes with great interest the information on the possibilities of international police co-operation to interrupt and punish the transportation of persons in danger of being enslaved received by the Secretary-General in accordance with paragraph 2 of resolution 7 (XXI) of the Sub-Commission, reproduced in annex IV of the Secretary-General's note (E/CN.4/Sub.2/3C0). The fact that permanent machinery for international police co-operation has been established and now covers 105 countries, and that it can function as effectively for slavery as for fraud, counterfeiting or theft, is indeed encouraging. The Special Rapporteur hopes that the Sub-Commission will make a careful study of the INTERPOL machinery for co-operation with a view to making it more effective and eliminating the most serious practical difficulties, taking into account the views expressed by INTERPOL.

40. It is undoubtedly true, according to INTERPOL, that international police co-operation is feasible in so far as slavery or the acts contributing to it are punishable under the criminal laws of each country, and that a primary condition for the achievement of positive results is the existence of adequate criminal

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laws in each country. He would like to suggest that the Sub-Commission might study very carefully what acts must be made penal offences if slavery, the slave-trade and other slavery-like practices are to be abolished, with a view to preparing a recommendation to Governments on this subject. The study could, of course, be made in close collaboration with INTERPOL and other competent international organizations.

41. We can also agree with INTERPOL's view that great efforts will be required to prepare the society at large to accept enforcement action in this sphere, and to provide a sufficiently large and well-trained law enforcement personnel. Here again, in his opinion, the Sub-Commission could begin at once to make a thorough study of the practical steps which might be taken by the international community to encourage States to make such efforts.
