QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS INCLUDING POLICIES OF RACIAL DISCRIMINATION AND
SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH
PARTICULAR REFERENCE TO COLONIAL AND OTHERDEPENDENT
COUNTRIES AND TERRITORIES

(d) Model rules of procedure for United Nations bodies
dealing with violations of human rights

Note by the Secretary-General

1. The International Conference on Human Rights, held in Teheran, Iran, from
22 April to 13 May 1968, adopted resolution X entitled "Model rules of procedure
for bodies dealing with violations of human rights". In the operative part of
that resolution, the Conference recommended to the Economic and Social Council that
it request the Commission on Human Rights to prepare at its earliest opportunity
model rules of procedure for the guidance of the United Nations bodies dealing with
violations of human rights (A/CONF.32/41).\(^1\)

2. The General Assembly, at its twenty-third session, in operative paragraph 9 of
its resolution 2442 (XXIII) on the International Conference on Human Rights,
invited the Secretary-General and the United Nations organs and specialized
agencies concerned to take action as appropriate on the resolutions and
recommendations of the Conference. The Economic and Social Council, at its

\(^1\) The resolution was adopted by the Conference, at its twenty-fifth plenary
meeting on 12 May 1968 (A/CONF.32/SR.25), on the report of its Second
Committee (A/CONF.32/34). The other relevant documents and proceedings of
the Second Committee may be found in A/CONF.32/C.2/L.1, A/CONF.32/C.2/L.42

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resumed forty-fifth session, at its 1576th meeting on 19 December 1969, decided 2/ to refer the request contained in the aforementioned resolution of the Conference to the Commission on Human Rights and to ask the Commission to include its recommendations on the subject in its report to the Council's forty-sixth session.

3. At its twenty-fifth session, in its resolution 9 (XXV) of 4 March 1969, the Commission decided "to prepare model rules of procedure for ad hoc bodies of the United Nations entrusted with the study of particular situations alleged to reveal a consistent pattern of violations of human rights". By the same resolution, the Commission requested the Secretary-General to facilitate this task by submitting a draft of model rules of procedure to the Commission's twenty-sixth session, taking into account the relevant discussions at the International Conference and in the Commission.

4. In accordance with the request of the Commission, the Secretary-General prepared and submitted to the Commission at its twenty-sixth session a tentative preliminary draft of model rules, taking into account the deliberations at the Tehran Conference and at the twenty-fifth session of the Commission. Certain points of view which were expressed at these discussions were recalled. 3/ There was a desire on the part of some representatives to have rules for investigations of alleged violations of human rights particularly concerning hearing of witnesses, taking of evidence and other specific types of action with a view to ensuring that the investigating bodies were performing their task with objectivity and impartiality. Another view expressed was that the various investigating bodies had sufficient guidance in their terms of reference to accomplish their task and should not be subject to rules of procedure of a rigid juridical nature; imposition of model rules on all existing or future bodies might well have the effect of hampering their operation and reducing their efficiency. Still another view was that the aim should be to formulate minimum standards while maintaining broad flexibility in procedure for the different kinds of bodies. It was thought that the model rules might merely provide basic guidance as to procedure leaving the

2/ Documents E/CN.4/1245, para. (c), and E/1976.
ad hoc bodies freedom to act as the situation required in cases not covered by the rules. The draft also took into account, as appropriate, the rules of procedure of United Nations organs and in particular those of ad hoc bodies which had conducted investigation in the past.

5. At its twenty-sixth session, the Commission did not have time to consider this question and, by resolution 5 (XXVI), decided to resume consideration at its twenty-seventh session.

6. The preliminary draft of the model rules now being submitted to the Commission at its twenty-seventh session is substantially the same as that submitted to its twenty-sixth session with certain drafting changes intended to clarify the text of some of the rules. It is hoped that the Secretary-General's draft will facilitate the consideration of model rules by the Commission, as envisaged in its resolution 5 (XXV), and that the Commission will consider the various headings and rules in the draft as guides to discussion and possible further elaboration. The preliminary draft of the model rules presented below is set out under eleven sections as follows:

Section I   Applicability (rules 1-2)
Section II  Constitution of the ad hoc body (rules 3-10)
Section III Agenda of meetings (rule 11)
Section IV  Officers (rule 12)
Section V   Secretariat (rule 13)
Section VI  Languages (rule 14)
Section VII Voting and conduct of business (rules 15-16)
Section VIII Co-operation with Member States (rule 17)
Section IX  Oral and written testimony and other sources of information (rules 18-23)
Section X   Records (rule 24)
Section XI  Reports (rule 25).
DRAFT MODEL RULES OF PROCEDURE FOR AD HOC BODIES OF THE
UNITED NATIONS ENTRUSTED WITH STUDIES OF PARTICULAR
SITUATIONS ALLEGED TO REVEAL A CONSISTENT PATTERN OF
VIOLATIONS OF HUMAN RIGHTS

SECTION I: Applicability

Rule 1

These model rules shall be applicable upon the decision of the competent organ
to ad hoc bodies of the United Nations entrusted with studies of particular
situations alleged to reveal a consistent pattern of violations of human rights.

Rule 2

The organ which establishes the ad hoc body may authorize the ad hoc body to
modify these rules or to add to these rules such further provisions as the ad hoc
body may consider necessary for the performance of its functions, taking into
account in particular the provisions of rule 10.

SECTION II: Constitution of the ad hoc body

Status of the ad hoc body and terms of reference

Rule 3

The ad hoc body shall be considered as a subsidiary organ of the United
Nations organ which established it and its terms of reference shall be those
determined by the resolution or other decision of the organ which established it
or any competent principal organ of the United Nations.

Membership

Rule 4

(a) Where the membership of the ad hoc body consists of States, each member
shall be represented by an accredited representative who may be accompanied by such
alternate representatives and advisers as may be required by the accredited
representative or as the ad hoc body may determine.

(b) Where the membership of the ad hoc body consists of individuals, the
members shall be those designated in the manner decided upon by the organ
establishing the ad hoc body.

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Credentials

Rule 5

(Only for ad hoc bodies consisting of representatives of Governments.) The credentials of the representatives of Governments members of the ad hoc body and the names of any of their alternates or advisors shall be submitted to the Secretary-General, if possible, not later than one week before the date fixed for the first meeting of the ad hoc body.

Solemn declaration by members

Rule 6

Upon assuming his duties, each member of the ad hoc body shall make the following solemn declaration in open meeting:

"I solemnly declare that I will perform my duties and exercise my powers as a member of the ad hoc body honourably, faithfully, impartially and conscientiously."

Meetings

Rule 7

(a) The Secretary-General shall notify the members of the ad hoc body of the date and place of the first meeting at least two weeks in advance of the meeting.

(b) Further meetings of the ad hoc body shall be held, as circumstances may require, by decision of the ad hoc body or its Chairman, or at the request of a member of the ad hoc body, upon such dates as may be fixed by the Chairman after consultation with the Secretary-General and, when possible, with the other members of the ad hoc body.

(c) Meetings shall normally be held at United Nations Headquarters. Another place for a meeting may be designated by the ad hoc body in consultation with the Secretary-General, who shall furnish services and facilities within the limits of his administrative possibilities and in accordance with the regulations, rules, decisions and practices applicable to United Nations organs.

Quorum

Rule 8

Unless otherwise decided by the ad hoc body, a majority of the members shall constitute a quorum; provided that the presence of a majority of the members shall be required for the adoption of the final conclusions, recommendations and the final report of the ad hoc body.
Publicity of meetings

Rule 9

The ad hoc body shall decide as to the public or private character of each of its meetings or parts of meetings. At the close of each private meeting, the ad hoc body may issue a communiqué through the Secretary-General.

Expenditure of funds

Rule 10

(a) No decision involving expenditure shall be made by the ad hoc body until the Secretary-General has had an opportunity of stating the financial and administrative implications thereof.

(b) The Secretary-General shall meet the expenses to be incurred in respect of the ad hoc body and furnish the services and facilities requested by it within the limits of his administrative and budgetary resources and in accordance with the regulations, rules, decisions and practices applicable to United Nations organs and bodies.

SECTION III: Agenda of meetings

Rule 11

(a) The provisional agenda for the first meeting shall be drawn up by the Secretary-General.

(b) The provisional agenda for subsequent meetings shall be prepared by the Secretary-General in consultation with the Chairman of the ad hoc body in conformity with the terms of reference of the body and shall include:

1. any matter arising from the previous meeting;
2. any item proposed by the Chairman of the ad hoc body;
3. any item proposed by another member of the ad hoc body;
4. any item proposed by the Secretary-General.

(c) The provisional agenda for the meetings shall be communicated to the members of the ad hoc body, whenever practicable, in advance of the meeting.

(d) The first item on the provisional agenda after the election of the officers, when required, shall be the adoption of the agenda.

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SECTION IV: Officers

Rule 12

(a) Unless the organ which established the ad hoc body has decided otherwise, the ad hoc body shall elect by secret ballot from among its members a Chairman and such other officers as it may decide upon, including one or more Vice-Chairmen and a Rapporteur. If only one candidate is presented for any office, the ad hoc body may decide to dispense with the secret ballot and the candidate shall be declared to be elected unanimously.

(b) The Chairman shall declare the opening and closing of each meeting of the ad hoc body, direct its discussions, ensure observance of the rules of procedure, accord the right to speak, put questions and announce decisions. The Chairman, subject to the rules of procedure, shall have control of the proceedings of the ad hoc body and over the maintenance of order at its meetings. He shall rule on points of order. Discussion shall be confined to the question before the ad hoc body, and the Chairman may call a speaker to order if his remarks are not relevant to the subject under discussion.

(c) The Chairman, in the exercise of his functions, shall remain under the authority of the ad hoc body.

(d) If the Chairman is unable to be present at a meeting or any part thereof, he shall designate a Vice-Chairman to act in his place.

(e) A Vice-Chairman acting as Chairman shall have the same powers and duties as the Chairman.

(f) If any of the officers of the ad hoc body ceases or, for any reason, is no longer able to act as an officer of the ad hoc body, a new officer shall be elected for the unexpired term of his predecessor.

SECTION V: Secretariat

Rule 13

(a) The secretariat of the ad hoc body shall be provided by the Secretary-General.

(b) The Secretary-General or his representative may be present at the meetings of the ad hoc body. He or his representative may make either oral or written statements to the meetings of the ad hoc body.

(c) The Secretary-General shall be responsible for keeping the members of the ad hoc body informed of any questions which may be brought before it for consideration.
SECTION VI: Languages

Rule 14
(a) The working languages of the ad hoc body shall be determined by the ad hoc body or the organ which established it from among the working languages of the latter organ.
(b) Speeches made in any of the working languages shall be interpreted into the other working languages.
(c) Any member of the ad hoc body or a person appearing before the ad hoc body, may make a statement in a language other than the working languages. In this case, he shall himself provide for interpretation into one of the working languages. Exceptionally, when a person appearing before the ad hoc body is unable to employ any of the working languages, the ad hoc body may agree, when budgetary provisions permit, and in the light of practical possibilities to use an ad hoc interpreter. Interpretation into the other working languages shall be based on the interpretation into the first working language.
(d) An ad hoc interpreter who is not bound by an oath of office to the United Nations, shall be required to swear or declare solemnly that he will interpret honestly, faithfully and accurately the statements made at the meeting.

SECTION VII: Voting and conduct of business

Voting
Rule 15
(a) Each member of the ad hoc body shall have one vote.
(b) Except as otherwise provided in the terms of reference of the ad hoc body, decisions of the ad hoc body shall be made by a majority of the members present and voting. For the purpose of these rules, "members present and voting" means members casting an affirmative or negative vote. Members who abstain from voting shall be considered as not voting.
(c) Subject to rule 12 (a), the ad hoc body normally shall vote by show of hands, except that any member may request a roll-call vote which shall be taken in the English alphabetical order of the names of the members of the ad hoc body. The vote of each member participating in any roll-call vote shall be inserted in the record.
(d) If the vote is equally divided on matters other than elections, the proposal shall be regarded as rejected.
Conduct of business

Rule 16

Any procedural matter arising out of the conduct of business at meetings of the ad hoc body shall be dealt with by the Chairman in the light of the rules of procedure of the General Assembly, subject to the provisions of rule 12 (c).

SECTION VIII: Co-operation with Member States

Rule 17

(a) The organ which establishes the ad hoc body or the ad hoc body itself may request any State to extend to the ad hoc body all assistance which may be necessary for the proper performance of the ad hoc body's functions. Such assistance may consist in particular in:

(i) Supplying the ad hoc body with relevant documents and information;
(ii) Allowing the ad hoc body to proceed in the territory of the State concerned and to call and hear witnesses or experts therein;
(iii) Arranging that no obstacles are placed in the way of the attendance of representatives and witnesses and affording protection as appropriate to any witness or person appearing before the ad hoc body from any acts of violence, intimidation, threats, reprisals or any kind of discrimination on account of their attendance and testimony and from any legal action as a result of his testimony.

(b) The ad hoc body shall be entitled to consult the representative of any State in respect of any matter relevant to its terms of reference.

(c) The ad hoc body shall have the right to request in particular the State directly concerned by the subject of the study or investigation to communicate to it such statements and documents which that State may consider to be useful for ascertaining the facts or as relevant to the issues referred to the ad hoc body, as well as a list of witnesses and experts whose evidence the ad hoc body may desire to hear.

(d) The ad hoc body may invite the State directly concerned by the subject of the study or investigation to be represented by an accredited representative at one, several or all meetings of the ad hoc body or parts of such meetings.
(e) States directly concerned by the subject of the study or investigation undertaken by the ad hoc body may at their request, or at the invitation of the ad hoc body, make statements to it, submit such written material as they may deem appropriate, and address written or oral evidence. They may in accordance with procedures adopted by the ad hoc body put questions to witnesses at hearings conducted by the ad hoc body subject to the provisions of rule 22 (e).

(f) Subject to the provisions of rule 7 (c), the ad hoc body may, with the consent of the State concerned, move temporarily to any place in the territory of that State, where it considers it may be useful to gather information or hear witnesses or experts on issues arising out of its terms of reference.

SECTION IX: Oral and written testimony and other sources of information

Rule 18

The ad hoc body shall as soon as practicable and, if possible, not later than one week before any testimony is taken, publicize by all available means its terms of reference, the methods it will adopt for collecting information and receiving documentary and oral testimony, the dates and places of its meetings and details, if any, concerning the particulars to be supplied by those wishing to offer testimony.

Rule 19

The ad hoc body shall be entitled to receive oral and written testimony. Such testimony:

1. may be submitted by the State directly concerned by the study or investigation or any of its witnesses and experts;

2. may be received from any other sources at the invitation, or upon the decision, of the ad hoc body.

Rule 20

(a) The ad hoc body shall decide on the admissibility and relevance of and weight to be attached to:

(i) Anonymous communications;

(ii) Written material and documentary evidence;

(iii) Evidence submitted in the form of sound-recordings, films, photographs, drawings or other objects.

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(b) Written evidence may, at the discretion of the ad hoc body, be presented in such manner as not to disclose his identity and/or be made available only to the members of the ad hoc body and the Secretariat.

Rule 21

(a) Requests by the representative of a State for oral hearing shall include an indication of the subject or subjects on which the representative of the State desires to be heard.

(b) Requests by an individual for oral hearing shall contain an indication of the subject or subjects on which the witness desires to testify, his full name, address, age, nationality, occupation and profession or calling.

Rule 22

(a) (i) The ad hoc body shall require every witness appearing before it for the purpose of giving testimony to make the following solemn declaration:

"I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth."

(ii) In the case of persons appearing before the ad hoc body in an expert capacity, the following declaration shall be made:

"I solemnly declare upon my honour and conscience that my statement will be in accordance with my sincere belief."

(b) After a declaration had been made, the ad hoc body shall inform the witness of its terms of reference and may put preliminary questions to the witness to ascertain his identity and his qualification to give evidence and to enable the ad hoc body to judge the nature and extent of information possessed by the witness on matters of concern to the ad hoc body.

(c) Each witness shall then be given an opportunity to make a statement. Any of the members of the ad hoc body may then put questions to the witness.

(d) The ad hoc body may decide that a person may not be present at its meetings except when giving evidence and that he may not consult any records of hearings until he himself has given evidence.

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(a) The ad hoc body may agree to hear a witness in a closed meeting and/or not to disclose his identity if the witness so requests.

(f) The ad hoc body shall give a witness all reasonable latitude to furnish evidence and information, but statements or questions outside the ad hoc body's terms of reference or issues connected therewith shall not be permitted.

(g) All questioning of witnesses shall be subject to the direction of the Chairman acting under the authority of the ad hoc body.

(h) The ad hoc body may limit the number of persons desiring to be heard and the time to be allowed to the hearing of any one person.

Rule 23

Subject to the provision of rule 10 (b), the ad hoc body may authorize one or more of its members to conduct the hearing of a witness or witnesses and report to the ad hoc body thereon. The ad hoc body may also authorize one or more of its members to study, on its behalf, written testimony, documents and objects relevant to the ad hoc body's terms of reference and to report to the ad hoc body thereon.

SECTION X: Records

Rule 24

(a) The form of records of the ad hoc body shall be determined by the organ which establishes it, subject to the provisions in force in the United Nations in this respect and the budgetary appropriations for the ad hoc body.

(b) The ad hoc body may request that sound-recordings be taken of the hearings of witnesses as a part of its proceedings. Such sound-recordings shall be prepared by the Secretariat to the extent that available financial and administrative resources permit.

(c) The ad hoc body shall, in the absence of any provisions on the matter in the resolution or decision which established it, decide on the manner in which its records may be distributed and made public.
SECTION XI: Reports

Rule 25

(a) After the presentation of all information, explanations, evidence, and the hearing of all witnesses, the ad hoc body shall draw up its report in private including in it its conclusions and recommendations.

(b) If a member abstains from voting on the report or dissents from the whole or any part of the report, the fact shall be recorded and any member may if he so wishes, have included in the report a statement of his separate position.

(c) The report of the ad hoc body shall be submitted in accordance with its terms of reference to the appropriate body together with the observations and comments, if any, of the States directly concerned when such observations and comments are available.

(d) In the absence of any provision to the contrary in the terms of reference of the ad hoc body, the publication of the report shall be decided upon by the body to whom it is submitted.