



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
LIMITED

E/CN.4/Sub.2/L.345/Add.4
30 January 1964

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION
OF MINORITIES

REPORT OF THE SIXTEENTH SESSION OF THE SUB-COMMISSION ON
PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES
TO THE COMMISSION ON HUMAN RIGHTS

New York, 13 to 31 January 1964

Rapporteur: Mr. Francesco Capotorti

Addendum

II. DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF
ALL FORMS OF RACIAL DISCRIMINATION (continued)

Item 4 of the agenda

Article as to a certain interpretation of the Convention (Article VIII)

The draft text of an article relating to the interpretation of some points of the convention was submitted by Messrs. Calvocoressi and Capotorti. The text (E/CN.4/Sub.2/L.340) read as follows:

"1. Nothing in this Convention shall be interpreted as implying any right to discriminate on any basis other than those listed in article I, such as sex, language, religion, political or other opinion, social origin, property, birth or other status.

2. Nothing in this Convention shall be interpreted as implying a grant of equal political rights to nationals of a contracting State or a grant of political rights to a distinct racial ethnic or national group as such."

An amendment to the draft article was submitted by Mr. Matsch (E/CN.4/Sub.2/L.341) which read as follows:

"At the end of paragraph 2, add the following words:

'in a contracting State where no such special rights have been or are granted to a group of persons for reason of race, colour or ethnic origin'."

In the course of the discussion of the proposed article (E/CN.4/Sub.2/L.340) and the amendments submitted thereto, various oral amendments were submitted. The co-sponsors of the proposal decided to withdraw the first paragraph of their draft.

In connexion with the second paragraph, Mr. Cuevas Cancino proposed a new text (E/CN.4/Sub.2/L.347). The text read as follows:

"Nothing in this Convention shall be interpreted as implying positive obligations in accordance with which the States Parties undertake to grant a specific political or social status to aliens in their territory. It shall not be interpreted as a grant of political rights to racial, ethnic or national groups as such, if such a grant might destroy, in whole or in part, the national unity and the territorial integrity of a State Party."

Messrs. Krishnaswami and Mudawi also proposed a text (E/CN.4/Sub.2/L.348). The text read as follows:

"The distinction between nationals and non-nationals of a State recognized by Public International law in the enjoyment of political rights shall not be affected by this convention, nor does it impose a duty to grant special political rights to any group because of race, colour or ethnic origin, although it does not prohibit their exercise if otherwise established."

After further discussion, the Chairman suggested a new text (E/CN.4/Sub.2/L.349). This text read as follows:

"Nothing in the present convention may be interpreted as implicitly recognizing or denying political rights or obligations to non-nationals nor to groups of persons of a common race, colour, ethnic or national origin which exist or may exist as distinct groups within a State Party."

Many members of the Sub-Commission expressed their support to the text suggested by the Chairman. The other texts submitted were withdrawn. Oral amendments to insert "or other" after the word "political" in the second line of the text proposed by the Chairman and to delete the words "or obligations" in the third line of this text were accepted by the Sub-Commission.

Mr. Matsch asked that the first part of the article ending with the word "non-national" and the second part, from the word "nor" to the end of the article be voted on separately.

The first part of the text was adopted unanimously.

The second part of the text was adopted by 11 votes to 2 with one abstention.

The whole text, as amended (E/CN.4/Sub.2/L.352), was adopted by 11 votes to none, with 3 abstentions.

Consideration of additional articles to the draft Convention

Mr. Mudawi proposed to add three articles to the draft Convention suggested by Mr. Abram (E/CN.4/Sub.2/L.308 and Add.1).

The proposal of Mr. Mudawi (E/CN.4/Sub.2/L.325) read as follows:

"Add the following articles:

'Article X

Every State party shall as far as appropriate include in its Constitution or fundamental law provisions prohibiting all forms of racial discrimination.

Article XI

Each State party shall undertake to apply this Convention not only to its metropolitan territory but also to all Non-Self-Governing Trust and Colonial Territories for which it is for the time being responsible.

Article XII

For the effective execution of this Convention, each State party shall undertake to co-operate with regional organizations which may be set up to promote and encourage the purposes of this Convention and to report to the Secretary-General on the steps taken towards the eradication of all forms of racial discrimination.'"

The first article (article X) of document E/CN.4/Sub.2/L.325 was adopted by 10 votes in favour, none against, one abstention. It was agreed to add this article as article IX to the draft Convention.

As to the second article (article XI), it was decided to transmit it together with other articles concerning final clauses and contained in other texts submitted by members of the Sub-Commission to the Commission on Human Rights in a paper to be prepared by the Secretariat.

As to the third article (article XII) contained in E/CN.4/Sub.2/L.325, the author, Mr. Mudawi, agreed to the consideration of the article together with the measures of implementation.

Final clauses

The Chairman of the Sub-Commission, with the agreement of the members of the Sub-Commission, requested the Secretary-General to submit to the Commission on Human Rights a working paper presenting alternative forms for final clauses, including those submitted by members of the Sub-Commission (articles IV to VIII of document E/CN.4/Sub.2/L.309; articles IV to VII of document E/CN.4/Sub.2/L.314; and article XI of document E/CN.4/Sub.2/L.325) and taking into account provisions included in texts of conventions prepared by the United Nations and the specialized agencies, in order to assist the Commission in its work on the draft International Convention on the Elimination of All Forms of Racial Discrimination.

Measures of implementation

The Sub-Commission had before it the proposed measures of implementation submitted by Mr. Ingles (E/CN.4/Sub.2/L.321).

After an exchange of views, the Sub-Commission decided to discuss article I of the proposed measures of implementation separately and decided that this text will become article X of the draft Convention. The text of article X, as orally amended, was adopted unanimously. The text read as follows:

"1. The States Parties to this Convention undertake to submit a report on the legislative or other measures which they have adopted and which give effect to the provisions of this Convention, (a) within one year after the entry into force of the Convention for the State concerned and (b) thereafter every two years and whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties.

2. All reports shall be submitted to the Secretary-General of the United Nations for consideration by the Economic and Social Council which may transmit them to the Commission on Human Rights or the specialized agency for information, study and, if necessary, general recommendation.

3. The States Parties directly concerned may submit to the Economic and Social Council observations on any general recommendations that may be made in accordance with paragraph 2 of this article."

Adoption of the Convention

The Sub-Commission voted on the whole of the draft Convention on the Elimination of All Forms of Racial Discrimination. The Sub-Commission adopted the Convention unanimously (14 votes).

The Sub-Commission adopted the following resolution 1 A (XVI):

RESOLUTION I A (XVI)

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Text adopted by the Sub-Commission

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting that in accordance with General Assembly resolutions 1780 (XVII) and 1906 (XVIII), the Economic and Social Council has asked the Commission on Human Rights, bearing in mind inter alia the views of the Sub-Commission,

to prepare a draft international convention on the elimination of all forms of racial discrimination to be submitted to the Assembly for consideration at its nineteenth session;

Submits to the Commission on Human Rights the draft International Convention on the Elimination of All Forms of Racial Discrimination and some measures of implementation, annexed to this resolution, which the Sub-Commission adopted unanimously.

ANNEX

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION

Considering

1. that the Charter of the United Nations is based on the principle of the dignity and equality inherent in all human beings and imposes on all Members of the United Nations the obligations to ensure, promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

2. that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out in the Declaration, without distinction of any kind,

3. that the Declaration on the granting of independence to colonial countries and peoples of 14 December 1960 condemned colonialism and all practices of segregation and discrimination connected with it and proclaimed the necessity of bringing them, as well as colonialism in all its forms, wherever it exists, to a speedy and unconditional end,

4. that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 solemnly affirmed the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations,

Convinced that any doctrine based on racial differentiation or superiority is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination in theory or in practice anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and a fact capable of disturbing peace and security among peoples as did the evil racial doctrines and practices of nazism in the past,

Concerned by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation, and desiring therefore to adopt further measures in order to eliminate racial discrimination in all its forms and manifestations as soon as possible,

Bearing in mind the Convention on Discrimination in Respect of Employment and Occupation and the Convention Against Discrimination in Education, adopted respectively by ILO in 1958 and by UNESCO in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption by Contracting States of practical measures to that end,

Have agreed as follows:

Article I

1. In this Convention the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, national or ethnic origin (and in the case of States composed of different nationalities discrimination based on such difference) which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in political, economic, social, cultural or any other field of public life set forth inter alia in the Universal Declaration of Human Rights.

2. Measures giving preference to certain racial groups for the sole purpose of securing adequate development or protection of individuals belonging to them shall not be deemed racial discrimination, provided however that such measures do not, as a consequence, lead to the maintenance of unequal or separate rights for different racial groups.

Article II

1. States Parties to the present Convention condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms, and to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination, and to ensure that all public authorities and public

institutions, national and local, shall act in conformity with this obligation. Each State Party undertakes not to encourage, advocate or support racial discrimination by any person, group or organization;

(b) Each State Party shall take effective measures to revise governmental and other public policies, and to rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(c) Each State Party shall prohibit racial discrimination by any person, group or organization, and undertakes to adopt all necessary measures, including legislation, if appropriate.

2. States Parties shall take special concrete measures in appropriate circumstances in order to secure adequate development or protection of individuals belonging to under-developed racial groups with the object of ensuring the full enjoyment by such individuals of human rights and fundamental freedoms. These measures shall in no circumstances have as a consequence the maintenance of unequal or separate rights for different racial groups.

Article III

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate, in territories subject to their jurisdiction, all practices of this nature.

Article IV

States Parties condemn all propaganda and organizations which justify or promote racial hatred and discrimination and undertake to adopt immediate and positive measures designed to eradicate all incitement to such discrimination, and to this end, inter alia:

(a) Shall declare an offence punishable by law all incitement to racial discrimination resulting in or likely to cause acts of violence;

(b) Shall declare illegal and prohibit organizations, and also organized propaganda activities, which promote and incite racial discrimination;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article V

In compliance with the fundamental obligations laid down in Article II, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms notably in the enjoyment of the following rights:

- (a) The rights to equality before the law and to equal justice under the law;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group or institution;
- (c) Political rights, in particular the rights to participate in elections through universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:
 - (i) the right to freedom of movement and residence within the border of the State;
 - (ii) the right to leave any country including his own, and to return to his country;
 - (iii) the right to nationality;
 - (iv) the right to marriage;
 - (v) the right to own property alone as well as in association with others;
 - (vi) the right to freedom of thought, conscience and religion;
 - (vii) the right to freedom of opinion and expression;
 - (viii) the right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
 - (i) the right to work, free choice of employment, just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration;
 - (ii) the right to form and join trade unions;
 - (iii) housing;
 - (iv) public health, medical care and social security and social services;
 - (v) education and training;
 - (vi) equal participation in cultural activities;

(f) Access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafes, theatres, parks.

Article VI

States Parties shall assure to everyone within their jurisdiction effective remedies and protection through independent tribunals against any racial discrimination and the right to obtain from such tribunals reparation for any damage suffered as a result of racial discrimination.

Article VII

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education and information, with a view to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination.

Article VIII

Nothing in the present convention may be interpreted as implicitly recognizing or denying political or other rights to non-nationals nor to groups of persons of a common race, colour, ethnic or national origin which exist or may exist as distinct groups within a State Party.

Article IX

States Parties shall as far as appropriate include in their constitutions or fundamental laws provisions prohibiting all forms of racial discrimination.

Article X

1. The States Parties to this Convention undertake to submit a report on the legislative or other measures which they have adopted and which give effect to the provisions of this Convention, (a) within one year after the entry into force of the Convention for the State concerned and (b) thereafter every two years and whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties.

2. All reports shall be submitted to the Secretary-General of the United Nations for consideration by the Economic and Social Council which may transmit them to the Commission on Human Rights or the specialized agency for information, study and, if necessary, general recommendations.

3. The States Parties directly concerned may submit to the Economic and Social Council observations on any general recommendations that may be made in accordance with paragraph 2 of this article.

Additional measures of implementation

Mr. Cuevas Cancino submitted a draft resolution on the other measures of implementation provided for in articles 2 to 18 of document E/CN.4/Sub.2/L.321 (E/CN.4/Sub.2/L.357). The text read as follows:

"The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

"Convinced of the importance of giving due consideration to all measures of implementation which might help to give effect to the substantive provisions approved in the draft international convention on the elimination of all forms of racial discrimination,

"Convinced also that the measures relating to the implementation of this draft convention are closely linked with the measures of implementation to be approved by the General Assembly for the Covenants on Human Rights,

1. Transmits to the Commission on Human Rights the following preliminary draft (document) on additional measures of implementation which will help to make the draft international convention on the elimination of all forms of racial discrimination more effective;

2. Requests the Secretary-General to transmit to the Commission on Human Rights the records containing the views expressed by the members of the Sub-Commission on this item".

The following preambular paragraph was added as a second paragraph:

"Taking into account the protocol instituting a conciliation and good offices Commission to be responsible for seeking the settlement of any dispute which may arise between the States Parties to the Convention against discrimination in education."

The insertion in the first operative paragraph of the words "as an expression of the general views of the Sub-Commission" following the words "preliminary draft" was adopted by 10 votes in favour, 2 against and 1 abstention.

The draft resolution, as a whole and as amended, was adopted by 11 votes in favour, none against and 2 abstentions.

RESOLUTION I B (XVI)

Additional measures of implementation

Text adopted by the Sub-Commission

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Convinced of the importance of giving due consideration to all measures of implementation which might help to give effect to the substantive provisions approved in the draft international convention on the elimination of all forms of racial discrimination,

Taking into account the Protocol Instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education,

Convinced also that the measures relating to the implementation of this draft convention are closely linked with the measures of implementation to be approved by the General Assembly for the Covenants on Human Rights,

1. Transmits to the Commission on Human Rights the following preliminary draft as an expression of the general views of the Sub-Commission on additional measures of implementation which will help to make the draft international convention on the elimination of all forms of racial discrimination more effective;

2. Requests the Secretary-General to transmit to the Commission on Human Rights the records containing the views expressed by the members of the Sub-Commission on this item.

ANNEX

Additional measures of Implementation

Article 1

There shall be established under the auspices of the United Nations a Fact-Finding and Conciliation Committee (hereinafter referred to as "The Committee") to be responsible for seeking the amicable settlement of disputes between States Parties concerning the interpretation, application or fulfilment of the present Convention.

Article 2

1. The Committee shall consist of eleven members who shall be persons of high moral standing and acknowledged impartiality.
2. The members of the Committee, who shall serve in their personal capacity, shall be elected by the General Assembly of the United Nations in accordance with the procedures established in articles 4 and 5, consideration being given to equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal systems.
3. The Committee may not include more than one national of the same State.

Article 3

1. The members of the Committee shall be elected from a list of persons possessing the qualifications prescribed in article 3 and nominated for the purpose by the States Parties to this Convention. Each State Party shall nominate not more than four persons. These persons shall be nationals of the nominating State or of any other State Party to the Convention.
2. At least three months before the date of each election to the Committee, the Secretary-General of the United Nations shall address a letter to the States Parties to the Convention inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated and shall submit it to the General Assembly and to the States Parties to the Convention.

Article 4

The members of the Committee shall be elected for a term of five years. They shall be eligible for re-election if renominated. The terms of six of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these six members shall be chosen by lot by the President of the General Assembly of the United Nations.

Article 5

When electing members of the Committee, the General Assembly of the United Nations shall also designate from the list of nominees submitted by the States Parties under article 4 an alternate for each member so elected. An alternate need not be of the same nationality as the member concerned, but both of them should be from the same geographical area or region.

Article 6

1. In the event of the death or resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

2. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, or is unable to continue the discharge of his duties, the Chairman of the Committee shall notify the Secretary-General of the United Nations who shall thereupon declare the seat of such member to be vacant.

3. In each of the cases provided for by paragraphs 1 and 2 of this article, the Secretary-General of the United Nations shall forthwith induct into office the alternate concerned as member of the Committee for the unexpired term and shall inform each State Party to this Convention accordingly.

Article 7

Members of the Committee shall receive travel and per diem allowances in respect of the periods during which they are engaged on the work of the Committee from the resources of the United Nations on terms laid down by the General Assembly.

Article 8

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations. Subsequent meetings may be held either at the Headquarters or at the European Office of the United Nations, as determined by the Committee.

2. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

Article 9

1. The Committee shall elect its Chairman and Vice-Chairman for a period of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure. Before adopting such rules, the Committee shall send them in draft form to the States then Parties to the Convention who may communicate any observation and suggestion they may wish to make within three months.

3. The Committee shall re-examine its rules of procedure if at any time so requested by any State Party to the Convention.

Article 10

1. If a State Party to this Convention considers that another State Party is not giving effect to a provision of the Convention, it may, by written communication, bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall afford the complaining State an explanation or statement in writing concerning the matter, which should include, to the extent possible and pertinent, references to procedures and remedies taken, or pending, or available in the matter.

2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee by notice given to the Secretary-General of the United Nations and to the other State.

Article 11

The Committee shall deal with a matter referred to it under article 10 of this Convention only after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law.

Article 12

In any matter referred to it, the Committee may call upon the States concerned to supply any relevant information.

Article 13

1. Subject to the provisions of article 11, the Committee, after obtaining all the information it thinks necessary, shall ascertain the facts, and make available its good offices to the States concerned with a view to an amicable solution of the matter on the basis of respect for the Convention.

2. The Committee shall in every case, and in no event later than eighteen months after the date of receipt by the Secretary-General of the United Nations of the notice under article 10, paragraph 2, draw up a report in accordance with the provisions of paragraph 3 below which will be sent to the States concerned and then communicated to the Secretary-General of the United Nations for publication. When an advisory opinion is requested of the International Court of Justice, in accordance with article 14, the time-limit shall be extended appropriately.

3. If a solution within the terms of paragraph 1 of this article is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached, the Committee shall draw up a report on the facts and indicate the recommendations which it made with a view to conciliation. If the report does not represent, in whole or in part the unanimous opinion of the members of the Committee, any member of the Committee shall be entitled to attach to it a separate opinion. Any written or oral submission made by the parties to the case shall also be attached to the report.

Article 14

The Committee may recommend to the Economic and Social Council that the Council request the International Court of Justice to give an advisory opinion on any legal question connected with a matter of which the Committee is seized.

Article 15

The Committee shall submit to the General Assembly, through the Secretary-General of the United Nations, an annual report on its activities.

Article 16

The States Parties to this Convention agree that any State Party complained of or lodging a complaint may, if no solution has been reached within the terms of article 13, paragraph 1, bring the case before the International Court of Justice after the report provided for in article 13, paragraph 3, has been drawn up.

Article 17

The provisions of this Convention shall not prevent the States Parties to the Convention from submitting to the International Court of Justice any dispute arising out of the interpretation or application of the Convention in a matter within the competence of the Committee; or from resorting to other procedures for settling the dispute, in accordance with general or special international agreements in force between them.

IV. STUDY OF DISCRIMINATION AGAINST PERSONS BORN OUT OF WEDLOCK

Item 6 of the agenda

1. At its 429th meeting the Sub-Commission considered item 6 of its agenda, "Study of discrimination against persons born out of wedlock".
2. The Sub-Commission had before it a progress report on discrimination against persons born out of wedlock (E/CN.4/Sub.2/236 and Add.1) drawn up by its Special Rapporteur, Mr. V.V. Saario, in accordance with resolution 3 (XV) of the Sub-Commission. The report was divided into two chapters, preceded by an introduction and followed by an annex.
3. In the introduction the Special Rapporteur indicated that he had revised the Outline for the collection of information submitted by him at the fifteenth session of the Sub-Commission, after taking into account the views expressed by the members, and reported on the countries and non-governmental organizations which had sent information based upon the Outline. In chapter I he reviewed the consideration during 1963 of the problem of persons born out of wedlock by various organs and bodies within the framework of the United Nations. In chapter II he outlined a few general tendencies, some of historic and others of contemporary interest, in the treatment of persons born out of wedlock. The revised Outline was presented in annex I.
4. In introducing the report, Mr. Saario pointed out that information based upon the Outline had been received from about fifty Governments, but that the study had not yet progressed to the point where any serious substantive evaluation of the problem could be made. He stressed that discrimination against persons born out of wedlock should be abolished and that equality of status between persons born in and out of wedlock should be achieved.
5. In the course of the debate members of the Sub-Commission joined in thanking the Special Rapporteur for his valuable work. It was pointed out that discrimination against persons born out of wedlock affected a great many individuals all over the world, and that the problem was very closely linked with tradition. In his view a complete history of the various customs and practices relating to the subject would be most interesting and useful.

6. The view was expressed that the question of equality of rights between persons born in and out of wedlock was a very delicate one, and that only when the final report was submitted would it be possible to draw up principles.
7. One member expressed the hope that the next report would include, inter alia, a summary of the debates which took place in the Third Committee, at the eighteenth session of the General Assembly, on the article on the rights of the child inserted in the draft Covenant on Civil and Political Rights.
8. A draft resolution on the study of discrimination against persons born out of wedlock was suggested by the Chairman (E/CN.4/Sub.2/L.355). It was adopted unanimously, as follows:

RESOLUTION ____ (XVI)

STUDY OF DISCRIMINATION AGAINST PERSONS BORN OUT OF WEDLOCK

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having considered the progress report on the study of discrimination against persons born out of wedlock submitted by the Special Rapporteur, Mr. V.V. Saario (E/CN.4/Sub.2/236 and Add.1),

1. Expresses its warm appreciation to Mr. Saario for his highly informative progress report, which represents a substantial step forward in the Sub-Commission's work in this field;
2. Joins with Mr. Saario in thanking the Governments and non-governmental organizations which have responded to his request for information, and requests those Governments and non-governmental organizations which have not already supplied information to do so as soon as possible;
3. Invites Mr. Saario, taking into account the exchange of views on his progress report during the sixteenth session of the Sub-Commission, to submit a draft report, approximating as far as possible the final report on the study, in time for it to be considered by the Sub-Commission at its seventeenth session.

V. STUDY OF EQUALITY IN THE ADMINISTRATION OF JUSTICE

Item 7 of the agenda

9. At its 429th meeting, the Sub-Commission considered item 7 of its agenda, "Study of Equality in the Administration of Justice".

10. The Sub-Commission had before it the preliminary report (E/CN.4/Sub.2/237), submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat, in accordance with resolution 1 (XV) of the Sub-Commission, resolution 5 (XIX) of the Commission on Human Rights, and resolution 958 C (XXXVI) of the Economic and Social Council. In the absence of Mr. Mohammed Ahmed Abu Rannat, the preliminary report was presented to the Sub-Commission by his alternate, Mr. Mohammed Yousef Mudawi.

11. The report contained an introduction and a chapter indicating the progress made in the collection of material for the study; these were followed by three annexes. In the introduction, the Special Rapporteur outlined the procedure which he intended to follow in the preparation of the study, and indicated how he intended to collect the data required for use in the study. In Annex I he submitted, for consideration by the Sub-Commission, the Outline which he had prepared for the collection of information. In Annex II he summarized the development of Article 10 of the Universal Declaration of Human Rights, and in Annex III he summarized the development of Article 14 of the draft covenant on civil and political rights.

12. In introducing the report, Mr. Mudawi pointed out that the problem of ensuring equality in the administration of justice was a complicated one, and that the Outline was not yet in its final form. He invited members of the Sub-Commission to suggest improvements in the Outline, as well as additional questions on which information should be obtained.

13. Because of the shortage of time the debate on the preliminary report was brief. Various members commended the Special Rapporteur for his work and in particular for the detailed Outline for the study which he had prepared. It was pointed out that there was wide-spread interest in the subject to be studied, and that the problem of equality in the administration of justice was one which affected millions of persons in every part of the world.

/...

14. Various members made suggestions for additional matters to be covered by the Outline. In general it was suggested that the problem of discrimination should occupy a more important place in the study than was accorded to it in the Outline, and that greater attention should be given to the problem of guarantees which should be extended to persons accused of crime.

Consideration of the draft resolution

15. A draft resolution on the study of equality in the administration of justice (E/CN.4/Sub.2/L.356) was suggested by the Chairman in view of the shortage of time. The draft resolution was adopted unanimously as follows:

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having examined the preliminary report submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat (E/CN.4/Sub.2/237 and Add.1 and Corr.1) on the study of equality in the administration of justice,

1. Expresses its grateful appreciation to the Special Rapporteur for his valuable work;
2. Requests the Special Rapporteur to continue his study and to present to the Sub-Commission, at its seventeenth session, a progress report taking into account the views expressed in the debate on this question;
3. Expresses the hope that all Governments Members of the United Nations and of the specialized agencies, specialized agencies, and non-governmental organizations in consultative status will provide the Special Rapporteur with relevant material as soon as possible.

VI. CONSIDERATION OF THE FUTURE WORK OF THE SUB-COMMISSION

Item 13 of the agenda

16. At its 429th meeting the Sub-Commission examined item 13 of the agenda, "Consideration of the future work of the Sub-Commission".

17. The Sub-Commission had before it a note by the Secretary-General on this subject (E/CN.4/Sub.2/233). In the note the Secretary-General indicated that: "The resources normally available to the Sub-Commission are sufficient to enable it to carry out two studies in the field of discrimination simultaneously. A new study can be undertaken only when the necessary financial and staff resources become available. It would therefore be possible for the Sub-Commission to initiate a new study only at its eighteenth session, in 1966, after completing its examination of the final report on discrimination against persons born out of wedlock. In these circumstances the Secretary-General makes no proposal or recommendation on the Sub-Commission's programme of future work at this stage. However, the Sub-Commission might wish to examine the various proposals and suggestions summarized above with a view to formulating a tentative programme of work for future years in terms of priority requirements."

18. The Sub-Commission also had before it a statement submitted by the Coordinating Board of Jewish Organizations, a non-governmental organization in consultative status (E/CN.4/Sub.2/NGO/33).

19. In the brief debate on this item, it was pointed out that the Sub-Commission had been requested to undertake several extremely important and urgent tasks at its sixteenth session, but had not been provided with the time or the facilities necessary to complete these tasks properly. It had been compelled to work at a forced pace in order to deal with the two main items on its agenda within the three-week period of its session, and consequently had been unable to complete its work because of the lack of time. It was further pointed out that in 1965 the Sub-Commission again would have an extremely heavy agenda, including the examination of the draft report on the study of discrimination against persons born out of wedlock and the preparation of further international instruments relating to the elimination of all forms of religious intolerance. If this were the case, a session of three weeks would not be long enough.

/...

20. The Sub-Commission decided, without a record vote, to request the Commission on Human Rights to ask the Economic and Social Council to arrange for the Sub-Commission's 1965 session to be of four-weeks duration, particularly in view of the heavy agenda anticipated for that session and the fact that the discussion of several items on the agenda of the sixteenth session had been hurried and incomplete. Messrs. Calvocoressi and Capotorti requested that their abstention in regard to this decision should be noted.

VII. PROTECTION OF MINORITIES

Item 10 of the agenda

21. At its 429th meeting the Sub-Commission considered item 10 of its agenda "Protection of minorities".

22. In connexion with this item the Sub-Commission had before it a draft resolution (E/CN.4/Sub.2/L.351) submitted by Mr. Matsch. The draft resolution requested the Sub-Commission to print as one publication the Memorandum listing and classifying special protective measures of international character for ethnic, religious or linguistic groups (E/CN.4/Sub.2/221), and the Compilation of the texts of those international instruments and similar measures of international character which are of contemporary interest and which provide special protective measures for ethnic, religious or linguistic groups (E/CN.4/Sub.2/214).

23. The Sub-Commission also had before it a note by the Secretary-General (E/CN.4/Sub.2/L.351/Add.1) setting out the financial implications of the draft resolution.

24. In presenting the proposal Mr. Matsch explained that it was particularly of administrative character, and that the small cost of printing would be offset by revenue from sales.

25. In his view, many persons are interested in measures taken in various parts of the world for the protection of minorities particularly in view of the recent resurgence of this problem in certain areas. He felt that the Sub-Commission's memorandum would be useful to such persons, and would provide guidance and assistance to Governments interested in ensuring the protection of minorities within territories under their jurisdiction. He expressed regret that the Sub-Commission had not had the time for a full discussion of the problem of protection of minorities at its sixteenth session and proposed that the item should be included in the provisional agenda of the seventeenth session.

26. The draft resolution submitted by Mr. Matsch was adopted by 8 votes to none, with 1 abstention, as follows:

RESOLUTION ____ (XVI)

PROTECTION OF MINORITIES

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting the memorandum by the Secretary-General, listing and classifying special protective measures of an international character for ethnic, religious or linguistic groups (E/CN.4/Sub.2/221) and the compilation of the texts of those international instruments and similar measures of an international character which are of contemporary interest and which provide special protective measures for ethnic, religious or linguistic groups (E/CN.4/Sub.2/214),

Considering that a joint publication of the compilation and memorandum, available also to the public, would contribute to the understanding of the problems involved,

1. Requests the Secretary-General within the frame of appropriated means to print the memorandum and the compilation as one publication;
2. Decides that the question of the Protection of Minorities remains on the agenda of the Sub-Commission.
