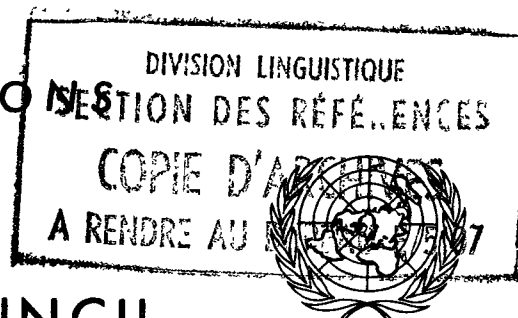


UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



Distr.  
GENERAL

E/CN.4/930  
~~E/CN.4/Sub.2/271~~  
27 January 1967

ORIGINAL: ENGLISH

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

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

New York, 4-23 January 1967

Rapporteur: Mr. Zeev W. ZELTNER

# CONTENTS

<u>Chapter</u>	<u>Paragraphs</u>	<u>Page</u>
I. ORGANIZATION OF THE SESSION . . . . .	1-22	5
Opening and duration of the session . . . . .	1-2	5
Attendance . . . . .	3-9	5
Election of officers . . . . .	10	9
Secretariat . . . . .	11	9
Agenda . . . . .	12-13	9
Meetings, resolutions and documentation . . . . .	14-22	10
II. STUDY OF DISCRIMINATION AGAINST PERSONS BORN OUT OF WEDLOCK . . . . .	23-204	12
Comments on the report as a whole . . . . .	30-33	14
Comments on particular sections of the report . . . . .	34	15
I. Historical background . . . . .	35-36	16
II. Scope of discrimination against persons born out of wedlock . . . . .	37-38	17
A. General observations on the ratio of persons born out of wedlock . . . . .	37	17
B. Factors leading to birth out of wedlock . . . . .	38	18
III. Basis of the Study . . . . .	39-68	18
A. The principle of equality of rights between persons born in wedlock and out of wedlock . . . . .	39-40	18
B. Limitations which may be imposed upon the enjoyment of equality of rights between persons born in wedlock and out of wedlock . . . . .	41-42	20
C. Forms of discrimination against persons born out of wedlock . . . . .	43-68	20
Examination of the General Principles formulated by the Special Rapporteur . . . . .	69-196	27
Preamble . . . . .	71-80	28
Principle 1 . . . . .	81-90	30
Principle 2 . . . . .	91-96	32
Principle 3 . . . . .	97-103	33
Principle 4 . . . . .	104-111	35

/...

CONTENTS (continued)

<u>Chapter</u>	<u>Paragraphs</u>	<u>Page</u>
Principle 5 . . . . .	112-116	37
Principle 6 . . . . .	117-123	37
Additional Principle . . . . .	124-126	39
Principle 7 . . . . .	127-130	39
Principle 8 . . . . .	131-136	40
Principle 9 . . . . .	137-143	41
Principle 10 . . . . .	144-149	42
Principle 11 . . . . .	150-156	43
Principle 12 . . . . .	157-166	45
Principle 13 . . . . .	167-173	46
Principle 14 . . . . .	174-178	48
Principle 15 . . . . .	179-182	50
Principle 16 . . . . .	183-191	50
Title . . . . .	192-196	52
Consideration of the draft resolution on the study .	197-203	53
<u>Resolution 1 (XIX)</u> . . . . .	204	57
<u>Annex:</u> General principles on equality and non-discrimination in respect of persons born out of wedlock . . . . .		59
III. STUDY OF EQUALITY IN THE ADMINISTRATION OF JUSTICE . .	205-222	63
<u>Resolution 2 (XIX)</u> . . . . .	222	68
IV. SPECIAL STUDY OF RACIAL DISCRIMINATION IN THE POLITICAL, ECONOMIC, SOCIAL AND CULTURAL SPHERES . . . . .	223-242	69
<u>Resolution 3 (XIX)</u> . . . . .	242	74
V. PERIODIC REPORTS ON HUMAN RIGHTS AND REPORTS ON FREEDOM OF INFORMATION . . . . .	243-282	76
Documentation before the Sub-Commission . . . . .	243-250	77
Request for Study by the Special Rapporteur . . . . .	251-259	79
Issues discussed . . . . .	260-271	82
Consideration of draft resolution . . . . .	272-282	83
<u>Resolution 4 (XIX)</u> . . . . .	281	86

CONTENTS (continued)

<u>Chapter</u>	<u>Paragraphs</u>	<u>Page</u>
VI. 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 OTHER DEPENDENT COUNTRIES . . . . .	283-298	88
<u>Resolution 5 (XIX)</u> . . . . .	298	94
<u>Annex:</u> Draft resolution submitted by Mr. Ferguson (E/CN.4/Sub.2/L.456/Corr.1) .		96
VII. REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED . . . . .	299-316	100
A. Discrimination in education . . . . .	302	101
B. Discrimination in the field of employment and occupation . . . . .	303	101
C. Elimination of all forms of racial discrimination .	304	102
D. Elimination of all forms of religious intolerance .	305	102
E. Manifestations of racial prejudice and national and religious intolerance . . . . .	306	103
F. Publication on the prevention of discrimination and protection of minorities . . . . .	307	103
G. Further consideration by the Commission on Human Rights of matters relating to the prevention of discrimination and the protection of minorities . .	308-309	103
H. Consideration of draft resolution . . . . .	310-315	104
<u>Resolution 6 (XIX)</u> . . . . .	316	109
VIII. CONSIDERATION OF THE FUTURE WORK OF THE SUB-COMMISSION .	317-319	111
IX. COMMUNICATIONS RELATING TO PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES . . . . .	320-325	112
X. ADOPTION OF THE REPORT OF THE SUB-COMMISSION TO THE COMMISSION ON HUMAN RIGHTS . . . . .	326	114
ANNEX I FINANCIAL IMPLICATIONS OF DECISIONS TAKEN BY THE SUB-COMMISSION AT ITS NINETEENTH SESSION . . . . .		115
ANNEX II LIST OF DOCUMENTS BEFORE THE SUB-COMMISSION AT ITS NINETEENTH SESSION . . . . .		117

## I. ORGANIZATION OF THE SESSION

### Opening and duration of the session

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities held its nineteenth session at the Headquarters of the United Nations, New York, from 4 to 23 January 1967, inclusive.
2. The session was opened by Mr. Wojciech Ketrzynski (Poland), Chairman of the Sub-Commission at its eighteenth session (482nd meeting).

### Attendance

3. Attendance at the session was as follows:

#### MEMBERS AND ALTERNATES

Mr. Mohammed A. Abu Rannat	(Sudan)
Mrs. Phoebe Asiyo	(Kenya)
Mr. J.K. Koinange (Alternate)	
Mr. Mohamed Awad	(United Arab Republic)
Mr. M. Aboul Nasr (Alternate)	
Mr. Antonio Martínez Báez	(Mexico)
Mrs. Mercedes Cabrera (Alternate)	
Mr. Peter Calvocoressi	(United Kingdom of Great Britain and Northern Ireland)
Mr. Francesco Capotorti	(Italy)
Mr. Carlos Rossi-Arnaud (Alternate)	
Mr. Clyde Ferguson, Jr.	(United States of America)
Mr. John Carey (Alternate)	
Mr. John P. Humphrey	(Canada)
Mr. José D. Inglés	(Philippines)
Mr. Privado G. Jiménez (Alternate)	
Mr. S.P. Jagota (Alternate)	(India)
Mr. Pierre Juvigny	(France)
Mr. Claude Chayet (Alternate)	
Mr. Wojciech Ketrzynski	(Poland)
Mr. Evgeny Nasinovsky (Alternate)	(Union of Soviet Socialist Republics)
Mr. Veli Pancarci (Alternate)	(Turkey)
Mr. Vieno Voitto Saario	(Finland)
Mr. Kurt A. Uggerdahl (Alternate)	

/...

Mr. Hernán Santa Cruz	(Chile)
Mr. Eduard Schiller	(Austria)
Mr. Zeev W. Zeltner	(Israel)
Mr. Yoram Dinstein (Alternate)	

4. Messrs. Nath Pai (India), Yakov Ostrovski (USSR) and İlhan Unat (Turkey), informed the Secretary-General that they were unable to attend the session and, in accordance with rule 70 of the rules of procedure of the functional commissions of the Economic and Social Council, and with the consent of their Governments, appointed as their alternates Messrs. S.P. Jagota, E. Nassimovsky and Veli Pancarci, respectively. Mrs. Phoebe Asiyo and Messrs. Mohamed Awad, Antonio Martínez Báez, Francesco Capotorti, Clyde Ferguson, José Inglés, Pierre Juvigny, Vieno V. Saario, and Zeev W. Zeltner were unable to attend certain meetings of the Sub-Commission and, with the consent of their Governments, designated as their alternates Messrs. J.K. Koinange, Aboul Nasr, Mrs. Mercedes Cabrera, Messrs. Carlos Rossi-Arnaud, John Carey, Privado G. Jiménez, Claude Chayet, Kurt A. Uggerdahl and Yoram Dinstein, respectively. The Secretary-General was in full agreement with these nominations and the alternates therefore enjoyed during the session the same status as members of the Sub-Commission, including the right to vote.

5. The following observers from Governments attended the session:

<u>Costa Rica:</u>	Mr. Luis R. Tinoco-Alvarado
<u>India:</u>	Mr. J.S. Teja Mr. L.N. Piparsania
<u>Iraq:</u>	Mr. Salim A. Saleem Mr. Abdul H. Alisa
<u>Nicaragua:</u>	Miss Thelma Ocon-Solórzano
<u>Nigeria:</u>	Mr. A.A. Mohammed
<u>Pakistan:</u>	Mr. Naseem Mirza
<u>Saudi Arabia:</u>	Mr. Jamil Baroodi
<u>South Africa:</u>	Mr. A.L. Hattingh Mr. F.D. Tothill
<u>Turkey:</u>	Mrs. Filiz Dinçmen
<u>Ukrainian SSR:</u>	Mr. Viktor Petrovich Cherniavsky
<u>United Arab Republic:</u>	Mr. Mahmoud Aboul Nasr
<u>United States of America:</u>	Mr. Stephen C. Schott Mrs. Kirsten C. Paulos
<u>Yugoslavia:</u>	Mr. Zoran Lazarević

## COMMISSION ON THE STATUS OF WOMEN

6. In accordance with Economic and Social Council resolution 48 (IV), the Commission on the Status of Women was represented at the session by:

Miss María Lavalle Urbina (Mexico)

## SPECIALIZED AGENCIES

7. The following representatives of the specialized agencies attended the session:

<u>International Labour Organisation (ILO):</u>	Mr. Faisal Abdel-Rahman
	Mrs. María Tanco de López
	Mr. William Knight
<u>United Nations Educational, Scientific and Cultural Organization (UNESCO):</u>	Mr. Asdrúbal Salsamendi
	Mr. Arthur Gagliotti
<u>United Nations Children's Fund (UNICEF):</u>	Mr. John J. Charnow
	Mrs. Elena Mederos de Gonzalez

## INTER-GOVERNMENTAL ORGANIZATIONS

8. The following observers from inter-governmental organizations attended the session:

<u>Council of Europe</u>	Mr. A.H. Robertson
<u>League of Arab States:</u>	Mr. Rashad Mourad
	Mr. Burhan Hammad (Alternate)
<u>Organization of African Unity:</u>	Miss Eudora Kombo
	Miss Hazel Bryan (Alternate)
<u>Organization of American States:</u>	Mr. Enrico Penteado

## NON-GOVERNMENTAL ORGANIZATIONS

9. The following observers from non-governmental organizations in consultative status attended the session:

### CATEGORY B

<u>Agudas Israel World Organization:</u>	Mr. Isaac Lewin
<u>Commission of the Churches on International Affairs, The:</u>	Mr. O. Frederick Nolde
	Mr. Richard M. Fagley
<u>Consultative Council of Jewish Organizations:</u>	Mr. Moses Moskowitz
	Mrs. Helene B. Kadane
<u>Co-ordinating Board of Jewish Organizations:</u>	Mr. William Korey
<u>Friends World Committee for Consultation:</u>	Mrs. Nancy Smedley
	Mr. Walter Martin

<u>International Alliance of Women:</u>	Mrs. William B. Doyle
<u>International Catholic Child Bureau:</u>	Miss Margaret M. Bedard
<u>International Commission of Jurists:</u>	Mr. Charles Raphael
<u>International Conference of Catholic Charities:</u>	Dr. Louis Longarzo
<u>International Council of Jewish Women:</u>	Mrs. I. Lee Levy Mrs. Helene K. Plant
<u>International Council of Women:</u>	Mrs. Eunice Carter
<u>International Federation for the Rights of Man:</u>	Miss Roberta Cohen
<u>International Federation of University Women:</u>	Mrs. Dorothy Weston
<u>International Federation of Women Lawyers:</u>	Mrs. Rose Korn Hirschmann Mrs. Marie Whitesell-Balboa Miss Anna R. Kumin
<u>International League for the Rights of Man, The:</u>	Dr. Jan Papanek Mr. Sidney Liskofsky Mrs. Dora Roitburd
<u>International Union for Child Welfare:</u>	Miss Frieda S. Miller
<u>International Union for Family Organizations:</u>	Mrs. Peter L. Collins Mrs. Raymond A. Werbe
<u>Pan Pacific and South-East Asia Women's Association:</u>	Mrs. Leah Horwitz
<u>Women's International League for Peace and Freedom:</u>	Mrs. Elsie L. Picon
<u>World Alliance of Young Men's Christian Association:</u>	Mrs. Dalton F. McClelland
<u>World Federation of Catholic Young Women and Girls:</u>	Mrs. Rosemary Higgins Cass
<u>World Jewish Congress:</u>	Mr. Max Melamet Mr. Maurice L. Perlzweig
<u>World Union of Catholic Women's Organizations:</u>	Miss Catherine Schaefer Mrs. Theresa Rooney
<u>World Young Women's Christian Association:</u>	Mrs. James G. Forsyth
REGISTER	
<u>International Humanist and Ethical Union:</u>	Mrs. Walter M. Weis Mr. Gerald Wendt
<u>St. Joan's International Alliance:</u>	Miss Frances McGillicuddy

/...



Election of officers

10. At its 482nd meeting, the Sub-Commission elected the following officers:

<u>Chairman</u>	Mr. Wojciech Ketrzynski (Poland)
<u>Vice-Chairman:</u>	Mr. Mohammed Abu Rannat (Sudan)
<u>Rapporteur:</u>	Mr. Zeev W. Zeltner (Israel)

Secretariat

11. Mr. Marc Schreiber, Director of the Division of Human Rights, and Mr. Edward Lawson, Deputy Director, represented the Secretary-General. Mr. Ilhan Lütem acted as Secretary of the Sub-Commission.

Agenda

12. At its 482nd meeting, the Sub-Commission adopted the following items listed in the provisional agenda (E/CN.4/Sub.2/264):

1. Election of officers
2. Adoption of the agenda
3. Invitation to the Commission on the Status of Women
4. Study of discrimination against persons born out of wedlock (E/CN.4/Sub.2/265)
5. Study of equality in the administration of justice (E/CN.4/Sub.2/266)
6. Special study of racial discrimination in the political, economic, social and cultural spheres (E/CN.4/Sub.2/267)
7. Periodic Reports on Human Rights and Reports on Freedom of Information (E/CN.4/Sub.2/268, 273, E/CN.4/892 and Add.1-25, E/CN.4/893, E/CN.4/915, E/CN.4/917 and Add.1-3, E/CN.4/918 and Adds.1 and 2)
8. 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 other dependent countries (E/CN.4/Sub.2/269)
9. Review of further developments in fields with which the Sub-Commission has been concerned (E/CN.4/Sub.2/270, 271 and 272):
  - (a) discrimination in education
  - (b) discrimination in the field of employment and occupation

/...

- (c) discrimination in the matter of religious rights and practices
  - (d) discrimination in the matter of political rights
  - (e) discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country
  - (f) manifestations of racial prejudice and national and religious intolerance
  - (g) elimination of all forms of racial discrimination
  - (h) elimination of all forms of religious intolerance
10. Protection of minorities
  11. Genocide (E/CN.4/Sub.2/Rev.1) (English, Spanish, Russian), (E/CN.4/Sub.2/259/Rev.2) (French)
  12. Consideration of the future work of the Sub-Commission
  13. Communications relating to the prevention of discrimination and protection of minorities (E/CN.4/Sub.2/CR.11)
  14. Report of the nineteenth session of the Sub-Commission to the Commission on Human Rights

13. Item 10 of the provisional agenda "Measures to be taken for the cessation of any advocacy of national, racial or religious hostility that constitutes an incitement to hatred and violence, jointly or separately" was not included in the agenda adopted by the Sub-Commission.

#### Organization of work

14. At its 484th meeting, the Sub-Commission decided to consider items 5, 4, 6, 8 and 7 of its agenda in that order.

#### Meetings, resolutions and documentation

15. The Sub-Commission held twenty-six plenary meetings. The views expressed at those meetings are summarized in the records of the 482nd to 507th meetings (E/CN.4/Sub.2/SR.482-507).

16. At its 502nd, 504th, 505th and 506th meetings, the Sub-Commission heard statements by the observers of Iraq (Mr. Salim A. Saleem), Pakistan (Mr. Naseem Mirza), Saudi Arabia (Mr. Jamil Baroody), South Africa (Mr. A.L. Hattingh), United Arab Republic (Mr. Mahmoud Aboul Nasr and the United States of America (Mr. Stephen C. Schott).

/...

17. At its 482nd, 485th, 487th, 490th, 495th and 498th meetings, the Sub-Commission heard statements by the representative of the Commission on the Status of Women (Miss María Lavalle Urbina).

18. At its 499th and 501st meetings, the Sub-Commission heard statements by the representative of the ILO (Mr. William Knight). At its 496th meeting, the Sub-Commission heard a statement by the representative of UNESCO (Mr. Asdrúbal Salsamendi). At its 491st meeting, the Sub-Commission heard a statement by the representative of UNICEF (Mrs. Elena Mederos de Gonzalez).

19. At its 497th meeting, the Sub-Commission heard statements by Mr. Gabriel d'Arboussier, Executive Director, and Mr. Luis Costa-Pinto, Senior Research Officer of the United Nations Institute for Training and Research.

20. In accordance with rule 75 of the rules of procedure of the functional commissions of the Economic and Social Council, the Sub-Commission granted hearings (492nd, 496th, 497th, 499th and 504th meetings), to representatives of the following non-governmental organizations:

Category B: Agudas Israel World Organization (Mr. Isaac Lewin)  
Co-ordinating Board of Jewish Organizations (Mr. William Korey)  
International League for the Rights of Man (Mr. Sidney Liskofsky)  
World Federation of Catholic Young Women and Girls  
(Mrs. Rosemary Higgins Cass)  
World Jewish Congress (Mr. Maurice Perlzweig)

21. The resolutions (1 to 6 (XIX)) and decisions of the Sub-Commission appear below under the appropriate headings.

22. A statement of financial implications of decisions taken by the Sub-Commission is reproduced in annex I. The documents before the Sub-Commission are listed in annex II.

/...

## II. STUDY OF DISCRIMINATION AGAINST PERSONS BORN OUT OF WEDLOCK

### Item 4 of the agenda

23. At the 486th to 495th and 498th meetings, the Sub-Commission considered item 4 of its agenda, "Study of discrimination against persons born out of wedlock".

24. The Sub-Commission had before it a report on discrimination against persons born out of wedlock (E/CN.4/Sub.2/265) drawn up by its Special Rapporteur, Mr. Vieno Voitto Saario, in accordance with resolution 1 (XVIII) of the Sub-Commission (E/CN.4/Sub.2/263, para. 60), and the general directives governing studies of discrimination approved by the Sub-Commission and the Commission on Human Rights.<sup>1/</sup>

25. The report was divided into four parts, preceded by an introduction and followed by six annexes. The introduction contained four sections. Section I, on "Historical background", dealt with the evolution throughout the centuries of the position of persons born out of wedlock in certain systems of law or societies. Section II, on "Scope of discrimination against persons born out of wedlock", contained some general observations on the ratio of persons born out of wedlock and a description of the factors leading to birth out of wedlock. Section III, entitled "Basis of the Study", referred to the provisions of various United Nations instruments which could be considered as the legal basis of the study. It also included indications on the various forms of direct and indirect discrimination which have been noted in the countries surveyed. Section IV dealt with questions of designation and status of persons born out of wedlock as compared with persons born in wedlock.

26. Part One of the report, on "Discrimination against persons born out of wedlock in the establishment of their filiation", was divided into five chapters. Chapter I was on discrimination in the establishment of maternal filiation; chapter II covered paternal filiation; chapter III dealt with the acquisition and loss of the status of a person born in wedlock in countries where the law provides for more

---

<sup>1/</sup> See Official Records of the Economic and Social Council, Eighteenth Session, Supplement No. 7, para. 377.

/...

than one status; chapter IV referred to special procedures concerning filiation and/or designations in countries where the law provides for a single status; chapter V contained conclusions on the establishment of filiation. Part Two, on "The various fields of discrimination against persons born out of wedlock", dealt with the various manifestations of discrimination against persons born out of wedlock once their filiation has been established. It contained two chapters. The first, chapter VI, covered questions of name, parental authority, domicile, maintenance, inheritance rights. The second, chapter VII, dealt with matters of nationality, public rights and social welfare services and social position. Part Three, on "Other aspects of the problem" contained two chapters - chapters VIII and IX - dealing respectively with the question of disclosure of the fact of birth out of wedlock and with that of the institution of adoption as a means of improving the position of persons born out of wedlock. In Part Four, proposals for action were submitted, including a series of draft general principles on equality and non-discrimination in respect of persons born out of wedlock.

27. The report included six annexes. Annex I was devoted to the procedure followed in the preparation of the study. Annexes II and III dealt respectively with the consideration of the position of persons born out of wedlock by various United Nations bodies, on the one hand, and by the League of Nations and the International Labour Office on the other. Annex IV contained a sampling of constitutional provisions concerning persons born out of wedlock. Annex V was a reproduction of the statistical information furnished by the Governments of the countries surveyed. Annex VI contained the outline used for the collection of information.

28. The Sub-Commission considered the various parts of the report, together with the relevant general principles proposed by the Special Rapporteur and amendments thereto. The amendments, together with the proposed general principles, were put to a vote at the end of the debate on the substantive parts of the report. Subsequently, the Sub-Commission, after having decided not to take a stand as to the proposals for action of the Special Rapporteur adopted at its 498th meeting a resolution on the study of discrimination against persons born out of wedlock including a series of general principles on equality and non-discrimination against persons born out of wedlock (see para. 204 of this report), which it submitted to the Commission on Human Rights for further action.

29. Statements and observations were made by various members of the Sub-Commission, the representative of the Commission on the Status of Women, the representative of the United Nations Children's Fund (UNICEF), and the representative of the World Federation of Catholic Young Women and Girls, a non-governmental organization in category B. They are summarized in documents E/CN.4/Sub.2/SR.486-495 and 498.

Comments on the report as a whole

30. In introducing the report, the Special Rapporteur indicated that it was based primarily on the draft report (E/CN.4/Sub.2/252) which he had submitted to the Sub-Commission at its eighteenth session. In preparing the final text, he had taken into account, as far as possible, the comments and suggestions made by the members of the Sub-Commission in past discussions. In addition, he had expanded the draft report by adding the data made available to him during the past year. The final report had been prepared on the basis of information appearing in seventy-one "country monographs" (Conference Room Papers 1-71). He indicated that in order to make the report illuminating, countries were referred to by name in the foot-notes of the report for illustration purposes. He stressed that the report was essentially legal in nature; social discrimination against persons born out of wedlock had not been dealt with as extensively because of the limited information gathered on this aspect of the problem. He further explained that all substantive parts of the report contained conclusions which were a synthesis of the findings made and reflected trends concerning the various fields of discrimination studied. He finally referred to the proposed general principles contained in the report which not only reflected his own conclusions based on the information gathered, but also were in line with the over-all encouraging trend in the countries surveyed toward equality between persons born in wedlock and those born out of wedlock.

31. The Special Rapporteur thanked all who had assisted him in the collection of material and in the preparation of the study.

32. Various members of the Sub-Commission joined in expressing their appreciation of the very valuable report which Mr. Saario had submitted. It was commended, in particular, for its comprehensiveness, its objectivity, its clear structure, all qualities which made it most interesting not only for the general public, but for

/...

the legislator concerned with the problem of discrimination against persons born out of wedlock. It was felt that the fact that the report referred to countries by name contributed greatly to making it most illuminating. The opinion was expressed that it maintained the very high standard which had been set by earlier studies of discrimination and that it reflected the greatest credit upon the Sub-Commission as well as upon the Special Rapporteur and the Secretariat.

33. A few members regretted the absence, in the report, of any reference to some important areas of the world and to tribal societies. In this connexion, the Special Rapporteur explained that on the one hand, he was bound by the procedure set out for the preparation of the studies undertaken by the Sub-Commission, studies which were to be concerned with State Members of the United Nations and of the specialized agencies, and that, on the other hand, the information gathered had not described in any meaningful extent the situation prevailing in tribal societies with regard to the problem under consideration.

#### Comments on particular sections of the report

##### Introduction

34. Referring to the introduction of his report, the Special Rapporteur explained that it was divided into four sections. The first, giving the historical background, had been somewhat expanded and slightly revised in accordance with a suggestion made at the Sub-Commission's previous session. Section II, on "Scope of discrimination against persons born out of wedlock" was divided into two parts: sub-section A on "General observations on the ratio of persons born out of wedlock" although not a statistical analysis, gave an indication, at the beginning of the report, of the numerical importance of the persons affected by the problem. His efforts to obtain from other United Nations organs information on "Factors leading to birth out of wedlock", the subject of sub-section B, had not really produced the desired result. However, he felt that the diversity of such factors had been described. Section III on "Basis of the study", was divided into two parts. The first part referred to the relevant provisions of the Universal Declaration of Human Rights, of the Declaration of the Rights of the Child and of the draft Covenants on Human Rights (now the Covenants). In the light of the exchange of views on the interpretation of the articles of the Universal Declaration

/...

which took place during the debate on the draft report at the last session, he had thought it appropriate not to give any interpretation of those provisions, the text of which was now given in the report without comment. The second part was devoted to the various forms of discrimination against persons born out of wedlock. With regard to section IV on "Questions of designation and status", he indicated that the law usually, but not always, designated in a certain manner those persons whose parents had been united in lawful wedlock at the time of their conception or birth and in a different manner those whose parents had not been so united. In addition, persons born out of wedlock were often designated in a particular way depending on the special nature of their birth. With regard to the status of persons born out of wedlock, he had been able to distinguish two main groups of countries: those where the law provided for more than one status - one for persons born in wedlock and another for persons born out of wedlock - and those where a single status was enjoyed by all.

#### I. Historical background

35. All members of the Sub-Commission were of the opinion that the historical background contained in the introduction of the report was most interesting and useful. However, some members, although they realized the difficulty of preparing a comprehensive historical background, expressed their regret that the Special Rapporteur confined himself to highlighting some outstanding historical moments of the evolution of the problem under consideration and had left out certain important systems of law or had dealt with them too succinctly. One of them expressed the opinion that a chronological order should have been followed in the description of systems or societies. It was felt, also, that, although the Special Rapporteur had indicated in paragraph 2 the very modest purpose of such background, it would have been appropriate, in order to prevent any unjustified criticism, to explain fully the basis for his selection of systems or societies. In addition, the following suggestions were made: the expression "before the Roman Empire" used at the beginning of paragraph 3 should be replaced by an expression such as "before the final period of the Roman Empire" or the like, since the subsequent paragraphs of the report were concerned with the reforms of the Emperors Constantine and Justinian; paragraph 14 on European States with a socialist system, could be placed

/...



at the end of the whole section where it would, as it were, mark the culmination of the process; paragraphs 19 and 24 relating to the evolution of the problem in Hindu and pre-Islamic and Islamic societies would be better placed after paragraph 7 relating to Roman law; the validity of the link made in paragraph 5 between "Canon law and Roman law" should be reconsidered since it was doubtful whether Canon law had modified in any extent Roman law; the word "flight" used in paragraph 20 in connexion with Mohammed's departure from Mecca should be replaced by a more appropriate term since it could give the wrong impression that he was forced to leave Mecca, while the truth is that he went to Medina because he was told that his mission would thus have a greater chance of success. Such departure took place in 622 A.D.

36. The Special Rapporteur indicated that he had had mixed feelings as to whether any historical background at all should be included in the introduction of the report, since it could not possibly refer to all systems of law or all societies. However, he had decided to include it because, in his opinion, it was necessary to arouse from the outset of the report the interest of the reader by casting some light on the evolution of the problem in certain of the important systems of law of societies where an evolution could be traced throughout the centuries. An exhaustive historical background was not within the purview of this study. Furthermore, such an attempt would by itself, constitute a major study, different from the one he was entrusted with. He added that, inasmuch as possible, he would take into account the suggestions made during the debate.

## II. Scope of discrimination against persons born out of wedlock

### A. General observations on the ratio of persons born out of wedlock

37. Most members of the Sub-Commission agreed that the problem under consideration was an important one, worth the concern of the United Nations. The use of statistics, although limited, was hailed as constituting a precedent which should be followed for future studies undertaken by the Sub-Commission. Furthermore, the analysis of the statistical information gathered was witness of the magnitude of the number of persons born out of wedlock in many areas of the world, and therefore of the importance of the problem under consideration, which at times had been

/...

questioned in the past. Some members, however, felt that this problem, although it affected a great number of persons in the world, was less important than others which were the concern of the United Nations, because it lent itself more to national than to urgent international action.

B. Factors leading to birth out of wedlock

38. The factors leading to birth out of wedlock as described in the report were considered as having been well analysed. However, two members deplored the absence of any reference to political factors and one of them stressed that it would have been necessary to refer to racial policies, a factor which should be dealt with in all studies of the United Nations. On the other hand, because of the special importance of the lack of education as a factor leading to birth out of wedlock, two members expressed the opinion that it should be placed in the context of social factors but singled out as a particularly important one. One member indicated that the incidence of the absence of divorce laws as well as of the difficulties in getting a divorce on births out of wedlock could perhaps be formulated more clearly. The Special Rapporteur agreed to take these suggestions into account, in so far as possible. However, concerning political factors, he explained that he had no information on that particular type of factor and that, in any event, his view was that it was rather the prevailing legal and social system in a given country which had an influence on births out of wedlock.

III. Basis of the study

A. The principle of equality of rights between persons born in wedlock and out of wedlock

39. A few members of the Sub-Commission expressed the opinion that the Special Rapporteur had wrongfully dealt with the question of equality of status between persons born in wedlock and persons born out of wedlock and aimed at such equality, while the study was concerned with discrimination against persons born out of wedlock as its very title proved it. They felt that the approach of the Special Rapporteur should have been twofold: he should have investigated as to whether persons born out of wedlock suffer from any discrimination as to the rights enumerated in the Universal Declaration of Human Rights and then he should have

/...

considered what special measures of social protection could be adopted to improve the lot of children born out of wedlock on the basis of article 25 (2) of the Declaration as well as of the relevant articles of the International Covenants of Human Rights. In particular, they felt that, since inheritance rights were not mentioned in such instruments, the Special Rapporteur should not have been concerned with them. Many members of the Sub-Commission expressed disagreement with this narrow interpretation of the Special Rapporteur's terms of reference. In their view, the very mention, in the outline for the collection of information for the study, of various rights which are not specifically proclaimed in the Universal Declaration of Human Rights was evidence of the fact that the mandate of the Special Rapporteur was to compare the respective status of persons born in wedlock and those born out of wedlock, to examine the question of equality between the two status, and by so doing to point to the discrimination which existed against persons born out of wedlock. They expressed their deep conviction that the Universal Declaration of Human Rights was not an exhaustive catalogue of rights and that United Nations instruments, since 1948, had gone farther than the Declaration in defining human rights. Moreover there were certain rights, such as inheritance rights, the exercise of which was a pre-condition for the exercise of other rights listed in the Universal Declaration, such as those proclaimed in paragraphs 25, 26 and 27. A few members, however, emphasized that while full equality between persons born in wedlock and those born out of wedlock was still the final objective, it must be borne in mind that it was an ideal and that the rate of development toward that ideal would undoubtedly vary not only from one country to another, but also, in certain countries, depending on the rights involved. In any event, according to one member, the issue raised was rather academic since the Special Rapporteur alone was responsible for his report and for his own conclusions.

40. The Special Rapporteur expressed the opinion that the only way to determine whether and how persons born out of wedlock were discriminated against was to compare their status with that enjoyed by persons born in wedlock. This comparison had led him to conclude that the differences in their respective legal status were discriminatory in nature. In particular he had come to the conclusion that substantial differences in the inheritance rights of the two categories of persons

/...

were undeniably discriminatory and could not have been ignored in the context of this study. He also pointed out that the draft report submitted to the Sub-Commission at the last session, which was intended to be as close as possible to the final report, followed the same approach.

B. Limitations which may be imposed upon the enjoyment of equality of rights between persons born in wedlock and out of wedlock

41. There was general agreement that the question of the protection to be given the family as the natural and fundamental group unit of society was relevant to the problem under consideration. In this connexion, most members felt that the problem which faced the Sub-Commission was to formulate the principles of equality and non-discrimination between persons born in wedlock and those born out of wedlock without violating the concept of the family as the natural and fundamental group unit of society. However, a few members feared a weakening of the institution of the family if persons born out of wedlock were to be given the same legal status as persons born in wedlock. Others, on the contrary, stated that statistics showed no threat to the family in countries where steps had been taken in favour of persons born out of wedlock.

42. Some misgivings were expressed as to the heading of sub-section B as well as on the wording of paragraph 60 which gave the impression that the Special Rapporteur believed that in order to safeguard the rights of the family, limitations might be placed on the equality of rights between the two categories of persons. Therefore, it was suggested that the heading should be rephrased to read "Arguments put forward in favour of limitations of the enjoyment of equality of rights between persons born in wedlock and out of wedlock", and that the beginning of the second sentence of paragraph 60 be rephrased in order to make it clear that the Special Rapporteur considers invalid the traditional argument according to which differences between the status enjoyed by the two categories of persons, particularly in the field of inheritance rights, are necessary in order to safeguard the family. The Special Rapporteur agreed to make the suggested changes.

C. Forms of discrimination against persons born out of wedlock

43. One member felt that paragraph 68, on the impossibility for children born to persons within a certain degree of consanguinity or affinity to be legitimated by

/...

the subsequent marriage of their parents, as a form of indirect discrimination needed some clarification as to the degree of consanguinity or affinity involved. The Special Rapporteur agreed to clarify the text.

PART ONE: "Discrimination against persons born out of wedlock"

44. In introducing Part One of the report the Special Rapporteur mentioned the various aspects of the position of persons born out of wedlock which had been considered. In connexion with chapter I, on "Discrimination in the establishment of maternal filiation", he indicated that the following questions had been examined: the various forms of establishment of maternal filiation; what persons have a right to the establishment of their maternal filiation; the extension of the relationship of the person born out of wedlock to the relatives of the mother; the effects of the establishment of maternal filiation on the designation and status of a person born out of wedlock; the loss of maternal filiation and its effects on the designation and status of a person born out of wedlock.

45. With reference to chapter II, on "Discrimination in the establishment of paternal filiation", he pointed out that he had referred both to the cases of existence and non-existence of the marriage of the parents. In the first case he had examined the following aspects of the question: the establishment of paternal filiation, that is the presumption of paternity and its scope of application; the legal period of gestation; the effects of the establishment of paternal filiation on the designation and status of a person born in wedlock; the loss of paternal filiation, that is the important question of the disavowal of paternity; the effects of the loss of paternal filiation on the designation and status of a person born in wedlock.

46. In the second case, where the parents are not married to each other, he had examined the following aspects of the problem: the possibility of establishing paternal filiation and the various forms of such establishment; what persons born out of wedlock can have a right to the establishment of their paternal filiation; the extension of the relationship to the relatives of the father; the effects of the establishment of paternal filiation on the designation and status of a person born out of wedlock; the loss of paternal filiation and its effects on the designation and status of a person born out of wedlock.

/...

47. In connexion with chapter III, on "Acquisition and loss of the status of a person born in wedlock in countries when the law provides for more than one status", he indicated that he had examined the question of the legitimation of a person born out of wedlock by the subsequent marriage of his parents as well as other forms of legitimation. He had also described various situations entailing the loss of the status of a person born in wedlock, particularly the effects of void and voidable marriages.

48. In relation to chapter IV, on "Special procedures concerning filiation and/or designation in countries where the law provides for a single status", he indicated that it dealt with the establishment of filiation or acquisition of the designation of a person born in wedlock as well as the loss of filiation and/or designation of a person born in wedlock in countries where the law provides for a single status applicable to all persons irrespective of descent.

49. With respect to chapter V, on "Conclusions concerning the establishment of filiation", he indicated that he had set out conclusions in this most important subject. On the one hand they summarized approaches which appeared to be beneficial to persons born out of wedlock and which would serve as examples for certain countries. On the other hand they pointed to situations which were undoubtedly discriminatory and which should be eradicated. Therefore in a sense these conclusions reflected trends concerning various aspects of the problem. They also contained suggestions as to measures that could be taken at the national level to help alleviate or eliminate discrimination. Thus, such conclusions would supplement the proposals made in Part Four of the report.

50. There was general agreement that Part One of the report was clear and well-conceived, and that it was concerned with questions of crucial importance since, usually, the enjoyment of any status at all by a person born out of wedlock depends upon the establishment of his parental filiation.

51. One member was of the opinion that, since chapters I and II were essentially descriptive, their titles could be reworded so as to read "Establishment of maternal filiation" and "Establishment of paternal filiation" respectively. On the other hand, the title of chapter V could be expanded in order to reflect its contents more completely since it contained not only the conclusions of the Special Rapporteur but also suggestions as to measures that could be taken in favour of persons born out of wedlock. The Special Rapporteur agreed to these suggestions.

52. In connexion with paragraph 192 of the report, one member stated that, at Hindu law, the rule "Once illegitimate, always illegitimate" is not quite so rigid in practice.

53. In connexion with paragraphs 215-218 of the report, which dealt with the loss of the status of a person born in wedlock as a result of the invalidity or annulment of the marriage of his parents, one member felt that the Special Rapporteur should have been concerned also with the consequences of marriages annulled on grounds of miscegenation.

54. With reference to paragraphs 252-255 of the report, referring to the conclusions of the Special Rapporteur on the scope of application of the presumption "Pater is est quem nuptiae demonstrant", a few members disagreed with the larger interpretation advised by the Special Rapporteur since the above-mentioned presumption could attribute to the husband the paternity of children born to his wife and to another man and thus could prevent the establishment of the paternity of the natural father.

PART TWO: "Various fields of discrimination against persons born out of wedlock"

55. In introducing Part Two of the report, the Special Rapporteur explained that it dealt with the legal status of persons born out of wedlock as compared with that of persons born in wedlock. It contained two chapters, chapters VI and VII.

56. Chapter VI, on "Legal status of persons born out of wedlock as compared with that of persons born in wedlock as regards parents and relatives", was concerned with specific aspects of status, namely: name, parental authority, domicile, maintenance and inheritance rights. With respect to name the Special Rapporteur indicated that after some general considerations as to the legal nature of the name of a person and the recognition of the right to a name in international instruments, the report focused mainly on situations where filiation is established in relation to one or both parents, then on the effects of the loss of parental filiation, and the effects of the acquisition and of the loss of the status of a person born in wedlock in countries where the law provides for more than one status. He also drew conclusions based on his analysis and suggested some remedial measures to be taken.

/...

57. In connexion with parental authority, the Special Rapporteur indicated that discrimination was found to exist in countries where the law provides for more than one status. The following questions were examined in the report:

(i) discrimination in determining which parent is called upon to exercise parental authority; (ii) discrimination as regards the contents of the rights attached to parental authority; (iii) the effects of a change of status in parental authority and certain relevant customary laws. He also drew conclusions based on the analysis made and suggested some remedial measures to be taken.

58. Concerning domicile, the Special Rapporteur expressed some doubts as to whether this question should be kept in the report. Although little information was gathered, it appeared that domicile was always that of the person or authority who exercised parental authority over the child.

59. In relation to maintenance, the Special Rapporteur explained that most of the section dealt with the obligation of maintenance when filiation has been established as regards both parents. Although the person born out of wedlock is entitled, in principle, to maintenance from his parents and their relatives, differences existed in law as regards maintenance of a person born in wedlock and that of a person born out of wedlock concerning persons who are under a legal obligation of maintenance, the content and extent of the obligation of maintenance, the preference given to some persons over others. The question of the maintenance obligation as a liability imposed on the estate of the deceased parent was also examined. He drew conclusions based on the analysis made and suggested remedial measures to be taken.

60. In connexion with inheritance rights, the Special Rapporteur explained that the report dealt with intestate as well as testamentary succession. Under "Intestate succession", the following questions were examined: (i) distinctions as to the persons from whom children born in wedlock and those born out of wedlock may inherit; (ii) distinctions as to the share of children born out of wedlock when they take with children born in wedlock or with other legal heirs; (iii) distinctions made in law as regards the portion of the estate taken by persons born out of wedlock as sole heirs. The question of the succession to the estate of a person born out of wedlock was dealt with very briefly. Concerning testamentary succession, the distinctions made in law between persons born in

/...



wedlock and those born out of wedlock were examined in the following systems: (i) legal systems in which freedom to dispose of property by will is restricted to a determined portion of the estate, the other being reserved in favour of forced heirs; (ii) legal systems in which freedom to dispose of property by will is only limited by the maintenance obligations of the deceased existing at his death; (iii) legal systems in which freedom to dispose of property by will is neither restricted nor limited. The question of the loss of parental filiation and change of status on inheritance rights was also considered. He drew conclusions based on the analysis made and suggested remedial measures to be taken.

61. Concerning chapter VII of the report on "Position of persons born out of wedlock as compared with that of persons born in wedlock as regards the State and Society", the Special Rapporteur explained that it covered matters such as public rights and social welfare services, and social position. With respect to nationality he indicated that after a brief reference to article 15 of the Universal Declaration of Human Rights and other international instruments which recognize the right to a nationality, and a succinct mention of the two basic modes of original acquisition of nationality, the following questions were examined as regards distinctions between persons born in wedlock and persons born out of wedlock: (i) the determination of the nationality of persons born in wedlock and persons born out of wedlock whose filiation has been established in relation to one or both parents; (ii) naturalization, particularly the effects of naturalization of the parents on their minor children; (iii) the effects of a change of status on nationality in countries where the law provides for more than one status. He also drew conclusions on the most important aspects of discrimination and suggested remedial measures to be taken.

62. Concerning public rights and social welfare services, the Special Rapporteur indicated that although the information gathered did not enable him to go into any depth into this aspect of the question, it could be said, however, that the general trend is one of no distinction either in law or in fact between the two categories of persons with respect to those rights. Moreover, the report revealed the existence of a definite trend towards increased assistance to the mother and child by the State as well as by voluntary organizations. He drew conclusions based on his analysis.

/...

63. In connexion with social position the Special Rapporteur pointed out that only scarce information on this aspect of discrimination was gathered and stressed the complexity of the matter. The report described various situations ranging from one of no social discrimination to one where there existed a disparity of attitudes within a given country which depended on various circumstances or to one where persons born out of wedlock were the object of outright social discrimination. The report also dealt briefly with the general reasons which may cause such social discrimination and the effects of social discrimination on the actual life of the person concerned. He drew conclusions on this most important aspect of the problem and suggested remedial measures.

64. The members of the Sub-Commission did not discuss the content of Part Two of the report, but a few members commented on the legislation of their countries with regard to name and maintenance. One member concerned with the social position of persons born out of wedlock in his country expressed surprise at the statement contained in paragraph 508 of the report. He requested that either the paragraph be revised or the source indicated.

PART THREE: "Other aspects of the problem"

65. In introducing Part Three of the report the Special Rapporteur explained that while the questions examined did not constitute by themselves other fields of discrimination against persons born out of wedlock, they were closely linked to the problem. Part III contains two chapters, chapters VIII and IX.

66. In connexion with chapter VIII on "Disclosure of the fact of birth out of wedlock", the Special Rapporteur indicated that after some general considerations on the social harm that can result from the disclosure of the fact of birth out of wedlock, the following forms of disclosure were described in the report:

(i) Disclosure of the fact of birth out of wedlock in the content of certificates, extracts and/or attestations of the birth registration; (ii) Disclosure of the fact of birth out of wedlock by the access to the birth registration, and the availability of certificates, extracts and/or attestations thereof to persons other than those directly concerned. He drew conclusions on the basis of his analysis and suggested remedial measures to be taken.

/...

67. Concerning chapter IX on "Institution of adoption as a means of improving the position of persons born out of wedlock", the Special Rapporteur indicated that the report stressed the fact that in countries where the law provides for more than one status, the institution of adoption may have the effect of improving the position of persons born out of wedlock. He said that after a few general remarks on the nature of adoption and the conditions required for a valid adoption, the following aspects of the question were examined in the report: (i) legal requirements and legal procedure, (ii) the nature of the change brought about by adoption in the status of a person born out of wedlock, (iii) the degree of equalization of adopted persons to persons born to the adopter in lawful wedlock. Under this last heading were covered, among others, the following fields: the recognition of family relationship, the right to bear the name of the adopter, inheritance rights. Conclusions were drawn on the basis of his analysis and remedial measures suggested.

68. The members of the Sub-Commission did not discuss the content of Part Three of the report.

Examination of the general principles formulated by the Special Rapporteur

69. The Sub-Commission accepted the proposal of the Special Rapporteur that it should formulate a series of draft principles on equality and non-discrimination in respect of persons born out of wedlock which could be sent forward to superior bodies of the United Nations for consideration and adoption. It took as the basis of its work the general principles which had been formulated by the Special Rapporteur, who moved their adoption.

70. The Sub-Commission first considered the preamble prepared by the Special Rapporteur and related amendments submitted by various members of the Sub-Commission. It then considered the Special Rapporteur's principles one by one, together with the amendments thereto. It finally considered the title of the principles. The Sub-Commission took no decision recommending a particular form of international instrument in which the principles should eventually be incorporated.

/...

Preamble

71. As formulated by the Special Rapporteur, the preamble read as follows:

"Whereas the peoples of the world have, in the Charter of the United Nations, proclaimed their determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to promote social progress and better standards of life in larger freedom,

Whereas the Charter sets forth, as one of the purposes of the United Nations, the promotion and encouragement of respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Whereas the Universal Declaration of Human Rights proclaims that all human beings are equal in dignity and rights and, elaborating the principle of non-discrimination, further proclaims that everyone is entitled to all the rights and freedoms set forth therein without distinction of any kind.

Whereas a portion of the population of the world is composed of persons born out of wedlock most of whom, because of the nature of their birth, are the victims of legal or social discrimination, a situation which is a violation of the purposes set forth in the Charter of the United Nations and of the principles of equality and non-discrimination proclaimed in the Universal Declaration of Human Rights,

Now therefore, with a view to eliminating this form of discrimination, the following general principles are proclaimed:"

72. In presenting the preamble, the Special Rapporteur explained that reference had been made in it, in very general terms, to the principles of equality and non-discrimination embodied in the Charter of the United Nations and in the Universal Declaration of Human Rights, since no international instrument dealt specifically with the legal status of persons born out of wedlock. The penultimate paragraph mentioned the existence of legal and social discrimination against a portion of the population of the world based on the fact of birth out of wedlock.

73. There was general agreement on the text of the first three preambular paragraphs. The fourth paragraph gave rise to an exchange of views. Some members felt that an indication of the great numerical importance of people affected by the problem should be included, since the report had established that a great number of persons were actually born out of wedlock and were discriminated against because of the nature of their birth. A few other members felt the opposite way because, in their view, the United Nations ought to be concerned with discrimination per se,

/...

whatever the numerical importance of people affected by it and, also, because the existence of such discrimination depended upon the culture prevailing in a given society. They suggested, therefore, to replace the beginning of the paragraph by expressions such as "Whereas in numerous cases" or "Whereas persons born out of wedlock" and to substitute for the expression "are the victims of" expressions such as "may be the victims" or "may be the subject of". The Special Rapporteur disagreed with these suggestions for the reasons advanced by the members who held the first view.

74. One member suggested the replacement of the words "a situation which is a violation" by the words "in violation". The Special Rapporteur accepted this suggestion.

75. Various members were of the opinion that, in one way or another, a specific reference to the International Covenants on Human Rights should be made. One member added that the relevant articles of other international instruments mentioned in the report should be referred to as well. The Special Rapporteur, while accepting the first suggestion, felt that he could not accept the second one since no such instruments contained a specific reference to the legal status of persons born out of wedlock except for article 25 (2) of the Universal Declaration which dealt merely with social protection.

76. The Special Rapporteur submitted a new text in replacement of the fourth preambular paragraph (E/CN.4/Sub.2/L.432), which read as follows:

"Whereas a sizable portion of the population of the world is composed of persons born out of wedlock many of whom, because of the nature of their birth, are the victims of legal or social discrimination in violation of the principles of equality and non-discrimination set out in the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of All Forms of Racial Discrimination and the International Covenants on Human Rights."

77. Amendments were submitted by Messrs. Calvocoressi and Zeltner jointly (E/CN.4/Sub.2/L.433) and by Mr. Capotorti (E/CN.4/Sub.2/L.434). In the joint amendment submitted by Messrs. Calvocoressi and Zeltner it was proposed to replace the text of paragraph 4 of the preamble by a new text to read:

"Whereas persons born out of wedlock are, because of the nature of their birth, frequently the victims of discrimination in violation of the purposes set forth in the Charter of the United Nations and of the principles proclaimed in the Universal Declaration of Human Rights,

/...

"Whereas persons born out of wedlock are numerous throughout the world,".

78. In the amendment submitted by Mr. Capotorti, the insertion was proposed, between the third and fourth paragraphs of the preamble, of a new paragraph reading:

"Whereas the principle of the same social protection for all children, whether born in or out of wedlock, has been proclaimed in article 25, paragraph 2, of the Universal Declaration of Human Rights and confirmed by article 10, paragraph 3, of the Covenant on Economic, Social and Cultural Rights and by article 24 of the Covenant on Civil and Political Rights,".

79. The Special Rapporteur proposed (E/CN.4/Sub.2/L.442), in replacement of draft principle 14 (see paras. 174-178 infra), the insertion of an additional penultimate paragraph in the preamble, as follows:

"Whereas efforts should be made, through all possible means, to promote respect for the inherent dignity and worth of the human person, so as to enable all members of society, including persons born out of wedlock, to enjoy the equal and inalienable rights to which they are entitled,".

80. The amendment submitted by Mr. Capotorti was adopted by 12 votes to 1, with 3 abstentions. The joint amendment submitted by Messrs. Calvocoressi and Zeltner was rejected by 7 votes to 7, with 2 abstentions. The preamble as a whole was adopted unanimously.

#### Principle 1

81. As formulated by the Special Rapporteur, draft principle 1 read as follows:

"1. Every person born out of wedlock shall be entitled to legal recognition of his maternal and paternal filiation. Filiation, once established, shall entail in all cases a status equal to that of a person born in wedlock."

82. In presenting principle 1, the Special Rapporteur stressed that it was very wide in scope and that, in a way, the fifteen principles that followed were an application of this principle to various specific fields of discrimination. It was important, in his opinion, to establish from the outset the basis from which all subsequent principles would be derived. Principle 1 affirms the right for all persons born out of wedlock to have their maternal and paternal filiation recognized in law, that is to have a legal mother, a legal father and legal relatives, in relation to whom they will enjoy a status equal to that enjoyed by persons born in wedlock.

83. Most members of the Sub-Commission approved of the text proposed by the Special Rapporteur, although a few of them stressed that it could be accepted only as an ideal. Concerning the first sentence of the text, one member felt that to recognize the right for all persons born out of wedlock to have a legal mother and a legal father was in contradiction with principle 4 which limited the cases where the presumption of paternity of the husband could be destroyed, thus preventing the possibility of establishing filiation as regards the real father in certain circumstances. The Special Rapporteur did not share this view and stressed again the importance of formulating the basic principle of the right to establish parental filiation for all persons born out of wedlock.

84. Concerning the second sentence of the text, a few members were of the opinion that to adopt the principle that all persons born out of wedlock including those born to parents who were not free to marry at the time of their conception or birth, should enjoy a status equal to that of persons born in wedlock would put in jeopardy the very existence of the legitimate family. It was therefore suggested that the second sentence should include a reference to limitations imposed by the protection of the legitimate interests of the family. But in the view of many members, a view which the Special Rapporteur shared fully, if there was to be a conflict of interests between the family, as the fundamental unit of society and the child born out of wedlock, it should be resolved in favour of the latter. Furthermore, provisions to protect the family were and would be always part of national law and practice.

85. A few members felt that the second sentence went too far in advocating full equalization of status between persons born in wedlock and persons born out of wedlock, since no principle could ever impose on the parents the obligation to actually treat both categories of children in exactly the same manner. In order to obviate any possible misunderstanding as to the meaning of status, one member suggested the insertion of the word "legal" before the word "status", a suggestion which the Special Rapporteur accepted.

86. Some members were of the opinion that the second sentence of the principle did not belong logically there because it was concerned with status, while the whole of Part I of the draft principles dealt exclusively with questions of establishment of filiation. They proposed that this sentence be placed instead in the second part

/...

of the draft principles which dealt with the effects of the establishment of filiation. Although he had no major objection to this suggestion, the Special Rapporteur did feel that the sentence properly emphasized the importance of establishing filiation.

87. Amendments were submitted by Mr. Jagota (E/CN.4/Sub.2/L.436) and by Mr. Capotorti (E/CN.4/Sub.2/L.438). Mr. Jagota proposed the deletion of the second sentence of the principle. Mr. Capotorti proposed the same deletion and also the addition, at the end of the first sentence, of the words "in a manner compatible with the principle of the protection of the family".

88. The Special Rapporteur accepted to delete the second sentence of the principle as proposed by Mr. Jagota and Mr. Capotorti and to place it in Part II of the principles as a new additional principle, which would be principle 7, all other principles being renumbered accordingly.

89. The second part of the amendment of Mr. Capotorti was accepted by 8 votes to 6, with 3 abstentions.

90. No vote was taken on Principle 1 as amended.

#### Principle 2

91. As formulated by the Special Rapporteur, draft principle 2 read as follows:

"2. The fact of birth shall automatically result in the establishment of maternal filiation."

92. In presenting the principle, the Special Rapporteur stressed that in his opinion it could not give rise to any difficulty since it was already incorporated in many systems of law. The principle meant that the mere fact of the birth of a child to a woman should establish maternal filiation between that child and that woman and no acknowledgement by the latter of the former should be necessary in order to establish maternal filiation.

93. Some members felt that the wording of the principle was not sufficiently precise since it did not indicate the relation between the child and the woman who give birth to him. One of them suggested a reformulation of the principle which would establish such relation. The Special Rapporteur accepted to consider the proposed rewording.

/...



94. One member referred to the existence of many legal systems where the fact of birth did not automatically entail the establishment of maternal filiation because a civil act recognizing the child was necessary. He further stressed that it would be a restriction of the human rights of the mother if she was legally recognized as the mother of a child conceived without her consent. The Special Rapporteur stated that to have the establishment of maternal filiation depend on the will of the mother to acknowledge her child would be a violation of the right of the child to have a legal mother as embodied in principle 1.

95. An amendment was submitted by Mr. Jagota (E/CN.4/Sub.2/L.436), to substitute for the text of the principle, the following: "The fact of birth of a child to a woman shall by itself establish maternal filiation". After an exchange of views as to whether the words "to a woman" conveyed or not the idea that filiation would be established as regards the particular parties concerned, Mr. Zeltner proposed orally the deletion of these words and the addition, at the end of the text proposed by Mr. Jagota, of the words "to the woman who gave birth to that child". The Special Rapporteur accepted the text of Mr. Jagota as orally sub-amended by Mr. Zeltner.

96. The amendment, as orally sub-amended, was adopted by 14 votes to none, with 4 abstentions.

### Principle 3

97. As formulated by the Special Rapporteur, draft principle 3 read as follows:

"The establishment of paternal filiation shall be provided for by law through a variety of means, including acknowledgement, recognition of legal presumptions and judicial decision. Judicial proceedings to establish paternal filiation shall not be subject to any time-limits".

98. In presenting the principle, the Special Rapporteur explained that it dealt with various forms of establishment of paternal filiation of a person born out of wedlock. Although three basic forms were mentioned, the idea underlying the principle was that such establishment should be as simple and easy as possible and therefore, should be provided through the widest variety of means.

99. While most members approved of the text of the draft principle, one member objected to the idea contained in the second sentence of the principle that judicial proceedings to establish paternal filiation shall not be subject to any time-limit.

/...

In his view, in the best interest of the child born out of wedlock, of his parents, and of the legitimate family that such parents may have founded, reasonable time-limits should be set, because after too long a period of time, it is usually difficult or impossible to establish paternity. On the other hand, another member suggested that in order to convey the idea embodied in paragraphs 260 and 273 of the report, that the death of the child or of his father should not prevent the judicial establishment of paternal filiation, the words "or condition" should be added at the end of the draft principle. Another member suggested that the principle should mention that the cost of judicial proceedings to establish paternity should be waived in favour of the mother and the child, who otherwise would be prevented from introducing them in case of bad financial circumstances. The Special Rapporteur thought that this aspect of the question would better be incorporated in principles to be formulated in connexion with the Study of equality in the administration of justice.

100. One member suggested that principle 3 should take also into account the situation of the adopted child whose status in relation to his natural parents should be absolutely terminated so as to prevent any possible claim from either part. Many members opposed the suggestion because in their view, to prevent the subsequent establishment of maternal or paternal filiation of an adopted child could be detrimental to him particularly in case of death of the adoptive parents. While some of them objected to the suggestion wherever its place among the principles, other members felt that a mention relating to the finality of adoption would be better placed in principle 16 which was concerned with adoption and its consequences. The Special Rapporteur said that the study had shown that there existed at least four different types of adoption which involved in a variety of degrees integration of the adopted child in the family of the adopter and rupture of the links between the adopted child and his natural family. In any event, in his opinion, any reference to adoption should be incorporated either in principle 16, or in a separate principle after principle 3.

101. An amendment (E/CN.4/Sub.2/L.439) was submitted by Mr. Carey to add at the end of principle 3 the following: "However, when a child has been adopted, there shall be no right to the subsequent establishment of maternal or paternal filiation." Mr. Carey later revised his amendment to read: "Notwithstanding the provisions

/...

herein above, when a child has been the subject of an adoption with full effects, there shall be no right to the subsequent establishment of maternal or paternal filiation". He subsequently withdrew his amendment in the light of Mr. Saario's revised text of draft principle 16 (E/CN.4/Sub.2/L.449) where, after the first sentence, the following one was inserted: "After such an adoption, there shall be no right to the subsequent establishment of maternal or paternal filiation." (See paragraph 187 infra.)

102. A separate vote was taken on the second sentence of draft principle 3. The second sentence of the draft principle was adopted by 11 votes to 3, with 3 abstentions.

103. The draft principle, as a whole, was adopted by 17 votes to none, with 1 abstention.

#### Principle 4

104. As formulated by the Special Rapporteur, draft principle 4 read as follows:

"The husband shall be presumed to be the father of the children born to his wife whether they are conceived or born during the marriage. This presumption may be overcome only by a judicial decision based upon evidence that the paternity of the husband was impossible. Proceedings to that end shall be initiated within a limited period of time."

105. In presenting the draft principle, the Special Rapporteur explained that it related to the operation of the presumption of paternity of the husband. He recalled that the report had shown that there existed two approaches as to the scope of this presumption and that he had retained the wider interpretation according to which the husband shall be presumed to be the father of children born to his wife during the marriage whether they are conceived before or after the celebration of the marriage. The second sentence of the draft principle referred to the rebuttal of the presumption. It was worded in such a way as to permit the operation of the presumption in all cases unless it is established, to the satisfaction of the court, that it was impossible for the husband to have fathered the child. The last sentence was aimed at limiting the occasions of disturbing prevailing family situations.

106. While most members approved of the text proposed by the Special Rapporteur, a few objected to the wider interpretation of the presumption of paternity retained

/...

by the Special Rapporteur. They felt that, in order to prevent the attribution to the husband of the paternity of the children born to his wife and another man, the insertion between the words "born to" and the words "his wife", of the words "himself and to" was necessary. The Special Rapporteur disagreed with the proposed insertion, which would destroy the meaning of the presumption in question since, by definition, a presumption assumes a fact. Another member proposed that the text should be in the singular, while another felt that it should refer to any child, in conformity with the wording used in the other principles. All members, including the Special Rapporteur, agreed to the use of the words "any child".

107. Concerning the evidence on which a judicial decision destroying the presumption of paternity of the husband should be based, one member expressed the view that it should be clear and convincing, while another indicated that it was up to the Court to decide whether it was convincing or not. The Special Rapporteur explained that in some countries, the proof of the impossibility for the husband to have fathered the child is strict while in others it is enough to establish that, at the time of conception of the child, his mother had relations with a man other than her husband.

108. With reference to the last sentence of the text that proceedings (to overcome the presumption) shall be initiated within a limited period of time, one member expressed the opinion that it should be deleted altogether because it was not a very successful attempt to establish a principle on that particular point.

109. Amendments were submitted by Mr. Calvocoressi (E/CN.4/Sub.2/L.435), by Mr. Jagota (E/CN.4/Sub.2/L.436) and by Mr. Carey (E/CN.4/Sub.2/L.439).

110. Mr. Calvocoressi's proposal was aimed at inserting the words "himself and" between the words "born to" and the words "his wife". He later withdrew his amendment. In his amendment, Mr. Jagota proposed to delete the words "the children born to his wife whether they are" and substitute for them the words "a child born to himself and to his wife whether it is". In his amendment Mr. Carey proposed to replace, in the second sentence, the words "evidence that the paternity of the husband was impossible" by the words "clear and convincing evidence that the husband is not the father". He subsequently revised the text so proposed by deleting the words "clear and convincing". The Special Rapporteur accepted the revised text of Mr. Carey's amendment.

111. A separate vote was taken on the last sentence of draft principle 4. It was adopted by 5 votes to 3, with 10 abstentions. Principle 4, as a whole, and as amended, was adopted unanimously.

Principle 5

112. As formulated by the Special Rapporteur, draft principle 5 read as follows:

"Any child born before the celebration of the marriage of his parents to each other shall be considered as born of that marriage."

113. In presenting draft principle 5, the Special Rapporteur explained that it dealt with the effects of the marriage of the parents subsequent to the birth of the child. Such effects, in his opinion, should result automatically from the celebration of the marriage with no necessity of any other formality, such as an acknowledgement or a judicial decision establishing filiation.

114. Most of the members of the Sub-Commission approved of the text of the draft principle. However a few drafting changes were suggested in order to make it clear that the marriage referred to in the principle was that of the parents of the child to each other. The Special Rapporteur stated that he would welcome any drafting changes which might improve the text. One member was of the opinion that the word "considered" was inappropriate because under many legislations, in addition to the subsequent marriage of the parents, a legal act expressing the will to legitimize was required.

115. Amendments were submitted by Mr. Calvocoressi (E/CN.4/Sub.2/L.435) and by Mr. Jagota (E/CN.4/Sub.2/L.436). The proposal contained in the amendment of Mr. Calvocoressi was to substitute for the text of the principle the following: "Any child born of parents who intermarry after the birth of that child shall be considered to be born of that marriage". In his amendment, Mr. Jagota proposed the following text in replacement of that of the draft principle: "Any child born to a woman from a man before the celebration of their marriage to each other shall be considered as born of that marriage."

116. The Special Rapporteur accepted the text proposed by Mr. Calvocoressi in replacement of his own. Mr. Jagota later withdrew his amendment.

Principle 6

117. As formulated by the Special Rapporteur, draft principle 6 read as follows:

"Every person born in wedlock, or considered to be born in wedlock as a result of the subsequent marriage of his parents, shall remain so notwithstanding the invalidity or annulment of the marriage."

/...

118. In presenting the draft principle, the Special Rapporteur explained that it dealt with the effects of the invalidity or annulment of a marriage on the filiation and designation of the children born of it, or considered to be born of it in the case of a marriage subsequent to their birth. The principle was intended to prevent such children to be the victims of the invalidity or annulment of such marriage.

119. Most members of the Sub-Commission approved of the text of the draft principle. However, according to one member, the text was too rigid and could produce absurd results, as, for example, in the case of a child born during a marriage which is annulled on the ground of the impotence of the husband who would still be considered as born of the marriage. Another member wondered whether the text so formulated would cover the case of a marriage annulled on the ground of miscegenation. Still another member felt that the word "dissolution" should be substituted for the words "invalidity or annulment". One member proposed a drafting change aimed at replacing the words "shall remain so" by "shall retain his status".

120. The Special Rapporteur welcomed any drafting changes that might improve the text. However he indicated that the word "dissolution" would not be appropriate because it was usually linked to the concept of the termination of a marriage by divorce, separation or death, in which cases no problems were raised in connexion with filiation.

121. An amendment was submitted by Mr. Humphrey (E/CN.4/Sub.2/L.437) to replace the words "shall remain so" by the words "shall retain that status". It was accepted by the Special Rapporteur.

/...

## PART II

122. The majority of the members of the Sub-Commission endorsed the views expressed by the Special Rapporteur and indicated their fundamental agreement with Part II of the draft principles. They were therefore ready to accept most of the proposed principles. However, several members were convinced that their implementation, at least the implementation of some of them, particularly the principle on inheritance rights, would require an improbable evolution of public and legislative opinion.
123. Some other members showed a certain reluctance to give their whole-hearted support to the draft principles. They explained that they had difficulty in defining their attitude as they were not sure whether the draft general principles he proposed were intended to form the basis for an international instrument or were only goals for the future.

### Additional principle

124. As formulated by the Special Rapporteur, the new principle to be inserted at the beginning of Part II read as follows:

"A person born out of wedlock, once his filiation has been established, shall have the same legal status as a person born in wedlock".

125. In presenting this principle, the Special Rapporteur explained that it was the text of the second sentence of draft principle 1 which had been deleted and that he had slightly revised by incorporating a suggestion made during the debate on principle 1 that the word "legal" be placed before "status" (see paras. supra).
126. No vote was taken on this additional principle.

### Principle 7

127. As formulated by the Special Rapporteur, draft principle 7 read as follows:

"Every person born out of wedlock whose filiation is established in relation to both parents shall have the right to bear a surname determined as in the case of a person born in wedlock. If his filiation is established in relation only to his mother, he shall be entitled to bear her surname, modified, if necessary in such a manner as not to reveal the fact of birth out of wedlock."

128. In presenting the principle the Special Rapporteur explained that there should be no distinction between the two categories of persons as regards name, when filiation of a person born out of wedlock has been established in relation to both parents.

129. The view expressed by the Special Rapporteur was not challenged. However, one member objected to the use of the word "modified" in the second sentence because he did not believe that a child born out of wedlock should be given the right to make a fundamental modification in his mother's surname.

130. Principle 7, as formulated by the Special Rapporteur, was adopted unanimously.

#### Principle 8

131. As formulated by the Special Rapporteur, draft principle 8 read as follows:

"The rights and obligations pertaining to parental authority shall be the same, whether the child is born in wedlock or out of wedlock. Unless otherwise decided by the court in the best interest of the child born out of wedlock, parental authority shall be exercised according to the same rules as for a child born in wedlock if his filiation is established in relation to both parents, or by his mother alone if his paternal filiation is not established."

132. In presenting this principle, the Special Rapporteur referred to the report which established that discrimination against persons born out of wedlock is widely practised. He expressed the view that such a situation could and should be eliminated.

133. There was little discussion on the text of the principle, but the idea of excessive equalization was opposed by a few members who felt that its application to children born to parents who were free to marry at the time of their conception or birth as well as to the children whose parents were not free to do so would lead to insoluble problems.

134. An amendment was submitted by Mr. Calvocoressi (E/CN.4/Sub.2/L.443).

Mr. Calvocoressi proposed to substitute a new text for principle 8. It read as follows:

"The rights and obligations pertaining to parental authority in respect of a child born out of wedlock shall be the same as those applicable in respect of children born in wedlock. Unless otherwise determined by a court acting in the best interest of the child, parental authority in respect of a child born out of wedlock shall be exercised by the father if filiation has been established in relation to both parents, by the mother if only maternal filiation has been established."



135. After an exchange of views, Mr. Calvocoressi withdrew his amendment.
136. Principle 8, as formulated by the Special Rapporteur, was unanimously adopted.

#### Principle 9

137. As formulated by the Special Rapporteur, draft principle 9 read as follows:

"The domicile of any child born out of wedlock shall be determined according to the same rules as for a child born in wedlock."

138. In presenting the principle, the Special Rapporteur indicated that it was not a controversial proposition, since it was widely accepted that the domicile of any child, whether born in wedlock or out of wedlock was that of the person or organ exercising parental authority over him.

139. This principle gave rise, however, to an exchange of views. Some members doubted that its inclusion was necessary. Many members held the view that there was a definite connexion between the problem raised by domicile and nationality and favoured grouping principles 9 and 10. Others felt that principle 9 might lead to results contrary to its aims, since it provides for the application of identical rules to different kinds of situations. It was also pointed out that some national provisions were more advanced than what was stated in principle 9.

140. Amendments were submitted by Messrs. Calvocoressi (E/CN.4/Sub.2/L.443), Capotorti (E/CN.4/Sub.2/L.444) and Jagota (E/CN.4/Sub.2/L.445). Mr. Calvocoressi proposed to substitute the following for principle 9: "The domicile of a person born out of wedlock shall be determined by the same rules as those applicable to persons born in wedlock". Mr. Capotorti proposed to delete paragraphs 9 and 12 and to replace them by the following: "The nationality and the domicile of any child born out of wedlock, whose filiation is established in relation to both parents, shall be determined according to the same rules as for children born in wedlock. If the filiation is established in relation to the mother alone, appropriate rules shall ensure in any case that the child has a domicile and a nationality".

- Mr. Jagota proposed to insert a comma after the word "wedlock" in the middle of the text and to add the following: "once his filiation is established".

141. The Special Rapporteur, supported by many members, emphasized that nationality and domicile were two different concepts which should be kept separated, but, taking into consideration the different views expressed during the debate, proposed orally

a new text for principle 9 which read as follows: "The domicile of any child born out of wedlock whose filiation is established in relation to both parents shall be determined according to the same rules as children born in wedlock. If filiation is established in relation to the mother alone, his domicile shall be that of his mother".

142. In the course of the debate some members expressed also the view that the new text did not cover all cases. The Special Rapporteur maintained his revised text, but accepted an oral amendment proposed by Mr. Ferguson aimed at modifying the second sentence as follows: "If the filiation is established to the mother alone, appropriate measures shall ensure that in any case the child has a domicile".

143. Messrs. Calvocoressi, Capotorti and Jagota withdrew their amendments. The revised text proposed by the Special Rapporteur, as orally amended by Mr. Ferguson, was adopted unanimously.

#### Principle 10

144. As formulated by the Special Rapporteur, draft principle 10 read as follows:

"Every person born out of wedlock, once his filiation is established, shall have the same maintenance rights as a person born in wedlock. The fact of birth out of wedlock shall not affect the order to priority in case of a plurality of claimants."

145. In presenting the principle the Special Rapporteur explained that it implied that: (i) the obligation of the parents to maintain their minor children should be the same, whether their children were born in wedlock or out of wedlock; (ii) maintenance obligations should extend to the same members of the family in both cases; (iii) entitlement to maintenance should subsist as long as there is need of assistance, on the one part, and ability to maintain, on the other.

146. While some members stressed the importance of this principle, many others insisted that paragraph 10 should specify that persons born out of wedlock must also have the same obligations as persons born in wedlock, in order to eliminate any idea of a privilege in favour of persons born out of wedlock. Others felt that the principle should not deal with the standard of maintenance.

147. Amendments were submitted by Messrs. Calvocoressi (E/CN.4/Sub.2/L.443) and Jagota (E/CN.4/Sub.2/L.445). Mr. Calvocoressi proposed to substitute the following

/...

text for principle 10: "Every person born out of wedlock shall, once his filiation has been established, have the same maintenance rights as persons born in wedlock. Birth out of wedlock shall not affect the order of priority of claimants whose rights are otherwise equal". Mr. Jagota proposed the following changes: "At the end of the third sentence, insert a comma and add the words: 'within any ceiling that may be provided by law'. In the fourth sentence, delete the words 'in all cases'."

148. Mr. Calvocoressi indicated that he would press his amendment if the Special Rapporteur maintained the second paragraph of the original text. Mr. Saario, taking into consideration some of the objections raised during the debate, proposed a new text (E/CN.4/Sub.2/L.441) which he maintained during the course of the debate, despite new objections raised by some members.

149. No vote was taken on the amendments and the revised text proposed by the Special Rapporteur was adopted unanimously by the Sub-Commission.

#### Principle 11

150. As formulated by the Special Rapporteur, draft principle 11 read as follows:

"Once his filiation is established, every person born out of wedlock shall have the same inheritance rights as a person born in wedlock.

"Legal limitations or restrictions which may be imposed on the freedom of the testator to dispose of his property shall afford equal protection to his heirs whether they are born in wedlock or out of wedlock."

151. In presenting the principle the Special Rapporteur referred to the relevant part of the report (E/CN.4/Sub.2/265, paras. 440-454) which described the wide variety of distinctions of a discriminatory nature between persons born in wedlock and persons born out of wedlock. He firmly believed that the law should afford equal protection to both categories of heirs, and accordingly, the principle is aimed at preventing discrimination in intestate as well as in testamentary succession.

152. Although the majority of the members approved the text of principle 11, certain members showed great reluctance to accept the Special Rapporteur's proposal of total equality, and the view was expressed that, in the matter of inheritance,

it was doubtful whether one could even speak of "right". The question of inheritance was said to be closely linked to the cultural traditions of a country. It was also pointed out that the principle of full equality in inheritance rights would require a radical change in the evolution of public opinion in many countries. Such a process appears unlikely in the near future. A few members, therefore, strongly objected to the use of the commanding word "shall" in the second sentence. The Special Rapporteur observed, however, that in any future national legislative reform concerning inheritance rights, discrimination on account of birth out of wedlock should be excluded. Furthermore, he added that it was not necessary to replace the word "shall" by "should" if the principles were accepted as goals to be attained.

153. In the light of the debate, the Special Rapporteur proposed a new text for principle 11 (E/CN.4/Sub.2/L.441) which read as follows:

"Every person born out of wedlock shall, once his filiation has been established, have the same inheritance rights as persons born in wedlock. Legal limitations or restrictions on the freedom of a testator to dispose of his property shall afford equal protection to persons entitled to inheritance, whether they are born in wedlock or out of wedlock."

154. Amendments were submitted by Messrs. Calvocoressi (E/CN.4/Sub.2/L.443), and Mr. Jagota (E/CN.4/Sub.2/L.445). Mr. Calvocoressi proposed a new text reading as follows: "Every person born out of wedlock shall, once his filiation has been established, have the same inheritance rights as persons born in wedlock. Legal limitations or restrictions on the freedom of a testator to dispose of his property shall not discriminate between persons born in and out of wedlock". Mr. Jagota proposed to delete in the first sentence the word "shall" and substitute for it the word "should".

155. In the course of the debate, Mr. Nasinovsky proposed the deletion of the second sentence of the new text proposed by the Special Rapporteur as meaningless while Mr. Santa Cruz suggested a rewording of this sentence in order to make it more explicit. The Special Rapporteur, however, maintained his revised text and Mr. Calvocoressi withdrew his amendment.

156. Mr. Jagota's amendment was rejected by 13 votes to 4. The second sentence of the revised text proposed by the Special Rapporteur was put to a vote separately and was adopted by 11 votes to 2 with 5 abstentions. The revised text, as a whole, was adopted by 13 votes to none with 5 abstentions.

Principle 12

157. As formulated by the Special Rapporteur, draft principle 12 read as follows:

"The same rules pertaining to the determination of nationality shall apply to all persons whether they are born in wedlock or out of wedlock.

"Special protection against statelessness shall be provided for persons born out of wedlock. In particular, when only the maternal filiation of a person born out of wedlock is established, its effects shall be the same as in the case of paternal filiation".

158. In presenting the principle, the Special Rapporteur pointed out that, as revealed by the report (E/CN.4/Sub.2/265, para. 490), the possibility of discrimination against persons born out of wedlock arises when nationality is determined by filiation whether exclusively or principally. The first paragraph of the principle is aimed at that kind of discrimination. The second deals with statelessness. It also provides that maternal filiation should have the same effects as paternal filiation.

159. The view of the Special Rapporteur that persons born out of wedlock were more subject to statelessness than persons born in wedlock was not unanimously shared. Several members held the opinion that a principle on statelessness should be excluded as this matter is outside the scope of this study. Some members indicated that the principles on nationality and domicile should be linked, and raised objections similar to those voiced about principle 9 on the question of domicile. They felt that some changes in the draft were necessary.

160. Amendments were submitted by Mr. Calvocoressi (E/CN.4/Sub.2/L.443), by Mr. Capotorti (E/CN.4/Sub.2/L.444) and by Mr. Jagota (E/CN.4/Sub.2/L.445).

Mr. Calvocoressi proposed the substitution for the text formulated by the Special Rapporteur, of a new text as follows: "The nationality of a person born out of wedlock shall be determined by the same rules as those applicable to persons born in wedlock. A person born out of wedlock shall be protected against statelessness in the same way as persons born in wedlock. Where only maternal filiation has been established, that filiation shall have the same effects as paternal filiation".

Mr. Capotorti proposed to delete principles 9 and 12 and replace them by a new text reading as follows:

/...

"The nationality and the domicile of any child born out of wedlock, whose filiation is established in relation to both parents, shall be determined according to the same rules as for children born in wedlock.

"If the filiation is established in relation to the mother alone, appropriate rules shall ensure in any case that the child has a domicile and a nationality."

161. Mr. Jagota proposed the deletion, in the first sentence of the text proposed by the Special Rapporteur, of the word "determination" and its replacement by the words "acquisition and termination".

162. Mr. Ferguson suggested that the term "citizenship" should be added to the text in order to encompass all legal systems. In the light of the comments and suggestions made, the Special Rapporteur revised the first paragraph of his original text by inserting the word "citizenship".

163. All three amendments were withdrawn.

164. Mr. Capotorti suggested that the approach to paragraph 12 should be similar to that taken on paragraph 9. He therefore orally proposed that in the first paragraph, the words "whose filiation has been established with respect to both parents" should be inserted between the words "wedlock" and "shall", that a sentence reading "When only maternal filiation is established, appropriate rules shall determine in any case that the child has a nationality or citizenship" should be added to the first paragraph, and that the second paragraph should be deleted.

165. The Special Rapporteur accepted the proposal orally submitted by Mr. Capotorti although it omitted any reference to statelessness, but later reverted to his original text, as revised, when many members strongly indicated that they considered the question of statelessness as very important.

166. The oral amendment of Mr. Capotorti was rejected by 8 votes to 7 with 2 abstentions. The principle, as revised, was adopted unanimously.

### Principle 13

167. As formulated by the Special Rapporteur, draft principle 13 read as follows:

"Public rights and social welfare services shall be enjoyed equally by all persons, whether they are born in wedlock or out of wedlock. In addition, children born out of wedlock and their mothers shall be entitled to special care and assistance."

/...

168. In presenting the principle the Special Rapporteur pointed out that in that field the concept of equality between persons born in wedlock and persons born out of wedlock is widely respected. He strongly emphasized the importance of the second sentence of principle 13, as, in his opinion, a special additional protection should be provided for children born out of wedlock who are usually deprived of a normal family life, and for their mothers.

169. The views of the Special Rapporteur were the object of a lengthy debate. Several members maintained that principle 13, as drafted, would put the person born out of wedlock in a privileged position and constituted a breach of the concept of equality in his favour. They said that assistance should be given, not because the person was born out of wedlock but because he was poor; they requested therefore the deletion of a reference to special care and assistance and the reference to the unwed mother. Others, while recognizing the need for special care to persons born out of wedlock, felt, however, that the principle could be formulated in non-discriminatory terms. Many members also thought that the terms "public rights" were incorrect in the context of the principle, or inappropriate. It was also pointed out that in some languages those words had no specific meaning. A few members, while in agreement with the goals of principle 13, found it rather unclear. They suggested that the organs responsible for aid and assistance, particularly the State, should be mentioned. Equality, they insisted, must be felt in a concrete way, by material and not only by moral aid or legal reform. Conflicting views were expressed on the need or place of the principle. While some members favoured its deletion, some members drew a distinction between principles which were of a legal nature and those which were not, to conclude that that principle was out of place. They suggested that as principle 14 it should have been inserted in the preamble, or been the object of a special resolution. Still others insisted that that principle belonged to the operative part of the general principles. There was however a consensus on the need for a reformulation of the principle.

170. Various members made oral suggestions. The Special Rapporteur, while insisting that the idea of "special care" should be retained, accepted however to reformulate the principle in order to correct what many members considered as a contradiction between the first and second sentences. He proposed a revised text (E/CN.4/Sub.2/L.441) which read as follows:

/...

"Public rights and social welfare services shall be enjoyed equally by all persons, whether they are born in wedlock or out of wedlock, without prejudice to the special care which shall be provided to children born out of wedlock and their mothers when necessary."

171. Three amendments were submitted by Mr. Jagota (E/CN.4/Sub.2/L.440). The first was aimed at inserting after the words "social welfare services" the words: "including special care and assistance". The second proposed the insertion, after the first sentence, of the words "and by their mothers". The third amendment proposed the deletion of the second sentence. He later withdrew his amendments.

172. After an exchange of views on the exact terminology to be used, the Special Rapporteur pointed out that the terms "public rights and social services" referred to in principle 13 were spelled out in paragraph 491 of the report. He rejected the term "human rights" as inappropriate in the context of the principle and proposed a revised text in which the words "Political, economic, social and cultural rights" were substituted for the words "public rights and social services".

173. The final text proposed by the Special Rapporteur was adopted unanimously.

#### Principle 14

174. As formulated by the Special Rapporteur, draft principle 14 read as follows:

"Special efforts shall be made, through education and all other possible means, to promote respect for the inherent dignity and worth of the human person, so as to enable all members of society, including persons born out of wedlock, to enjoy the equal and inalienable rights to which they are entitled."

175. In presenting the principle the Special Rapporteur explained that he considered it necessary to stress the importance of promoting respect, through education or other means, for the inherent dignity of the human being, since only in that way could prejudice be eliminated.

176. Although the Sub-Commission generally agreed that the ideas expressed in principle 10 were very relevant, and should be retained, conflicting views were expressed as to whether it should remain in the operative part of the general principles. For some members, principle 14 belonged to the operative part. Several others, on the contrary, suggested to place it in the preamble or in the resolution to be adopted arguing that all the principles under consideration were legal and



were meant to induce States to adopt or amend legislative or statutory texts. It was also pointed out that the idea that special efforts should be made to convince public opinion and the legislators that children born out of wedlock should have the same rights as children born in wedlock, as stated in the other principles, would imply that the latter principles, which were normative, could not really be applied. Principle 14 might thus weaken the others.

177. The Special Rapporteur, taking into consideration the objections raised by the members of the Sub-Commission, made a proposal to delete principle 14 and to insert it in the preamble.

178. The Special Rapporteur's proposal was accepted.

/...

PART III

Principle 15

179. As formulated by the Special Rapporteur, draft principle 15 read as follows:

"Information in birth and other registers containing personal data which might disclose the fact of birth out of wedlock shall be available only to persons or authorities having a legitimate interest with respect to filiation.

"In referring to persons born out of wedlock, any designation which might carry a derogatory connotation shall be avoided."

180. In presenting the principle the Special Rapporteur pointed out that the mere fact of designating a person born out of wedlock as such is the most potent form of disclosure of the fact of birth out of wedlock, a disclosure which in many countries can be harmful to the person concerned. He believed that such a practice should be abolished.

181. This view was not challenged. However, the Special Rapporteur accepted Mr. Humphrey's suggestion that the last words of the first paragraph should read: "with respect to the filiation" because it was the particular filiation that mattered.

182. Principle 15, as amended, was unanimously adopted.

Principle 16

183. As formulated by the Special Rapporteur draft principle 16 read as follows:

"In case of adoption, the adoptee shall be fully integrated in the family of the adopter so as to create the same legal relationship as that resulting from filiation through wedlock.

"Restrictions on the right to adopt shall be limited to such requirements as are necessary to establish a parent-child relationship and to assure the best interest of the adoptee."

184. In presenting the principle, the Special Rapporteur emphasized that if the institution of adoption is to be considered as a means of improving the situation of a person born out of wedlock, full assimilation of the adopted person in the family of the adopter should result from it. Moreover, he stressed that

/...

requirements for adoption should not be such that they might lead to discriminatory limitations on the right to adopt or to be adopted.

185. The members of the Sub-Commission were divided as to whether rules on adoption should be included in the general principles and many members favoured the deletion of principle 16. They believed that the Special Rapporteur had gone too far in his quest for equality, since adoption has only an indirect link with the question of discrimination against persons born out of wedlock and was not really relevant to the study. Furthermore they argued that it would be illogical to state in parts I and II that no stigma attached to children born out of wedlock and then introduce a remedy for such stigma in part III. Others, on the contrary, referring to the report, maintained that adoption can help and should be encouraged. There was, they insisted, no institution which could contribute more to reduce the incidence of illegitimacy. Some members proposed a reformulation of the principle in order to stress that adoption is but one method of eliminating discrimination against persons born out of wedlock. Indeed, it should be stated in paragraph 16 that "adoptee" refers specifically to a child born out of wedlock. One member insisted on a view, strongly opposed by some, that the principle unequivocally state that adoption would bar any subsequent establishment of the filiation of persons born out of wedlock. The members were also divided on the question as to whether adoption should cut all ties between the adoptee and his natural family.

186. An amendment to the principle was submitted by Mrs. Asiyo and Mr. Awad jointly (E/CN.4/Sub.2/L.450). It was aimed at adding at the end of the text, the following: "Adoption procedure should be carried out under the supervision of the State and/or a competent social welfare agency to ensure full protection of the child and his well-being".

187. The Special Rapporteur accepted the amendment presented by Mrs. Asiyo and Mr. Awad, and in the light of the comments made, proposed a new text (E/CN.4/L.449) which read as follows:

"In case of adoption of a child born out of wedlock, the adoptee shall be fully integrated in the family of the adopter so as to create the same legal relationship as that resulting from filiation through wedlock. After such an adoption, there shall be no right to the subsequent establishment of maternal or paternal filiation.

/...

"Restriction on the right to adopt shall be limited to such requirements as are necessary to establish a parent-child relationship and to assure the best interests of the adoptee. In particular, no restrictions based solely on a difference of race, colour or national origin shall be permitted."

188. In the course of the debate, Mr. Humphrey suggested the inclusion of the word "religion" in the second paragraph, after the word "colour". Mr. Calvocoressi proposed an oral amendment to replace the first sentence of the text as revised by the Special Rapporteur by a new text in order to focus on the necessity of assimilating the position of children born out of wedlock to that of children born in wedlock. It read as follows: "The adoption of a child born out of wedlock shall be subject to the same rules and shall have the same consequences as the adoption of a child born in wedlock." The Sub-Commission was also divided as to whether to keep the second sentence of the first paragraph of principle 16 as revised by the Special Rapporteur.

189. After an exchange of views, the Special Rapporteur accepted the amendment of Mr. Calvocoressi and proposed the deletion of the second sentence of the first paragraph of his revised text.

190. Mr. Calvocoressi's amendment together with the second paragraph of the Special Rapporteur's revised text was adopted by 10 votes to 3 with 2 abstentions. The amendment submitted by Mrs. Asiyo and Mr. Awad was adopted by 5 votes to 1, with 9 abstentions.

191. Principle 16, as a whole, as amended, was adopted by 14 votes to none, with 1 abstention.

#### Title

192. Mr. Capotorti recalled that the question of the title of the text on the General Principles remained to be discussed.

193. As formulated by the Special Rapporteur, the title read as follows:

"General Principles on Equality and Non-Discrimination in Respect of Persons Born out of Wedlock".

194. As the Special Rapporteur maintained that, in his opinion, the title was correct as it stood, Mr. Capotorti submitted orally a formal amendment proposing to replace the present title by the following: "Draft Principles Concerning the Elimination of Discrimination against Persons Born out of Wedlock".

/...

195. The amendment of Mr. Capotorti was rejected by 7 votes to 5, with 6 abstentions.

196. The general principles on equality and non-discrimination in respect of persons born out of wedlock (E/CN.4/Sub.2/265, para. 620), as a whole, as amended, were adopted by 12 votes to none, with 1 abstention. They are contained in document E/CN.4/Sub.2/L.453 and appear in the annex to resolution 1 (XIX) below. Messrs. Humphrey and Santa Cruz who were absent when the vote took place indicated their acceptance of the general principles.

Consideration of the draft resolution on the study

197. A draft resolution on the study of discrimination against persons born out of wedlock (E/CN.4/Sub.2/L.447) was submitted by Mr. Calvocoressi. It read as follows:

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

Having considered the final report (E/CN.4/Sub.2/265) on the study of discrimination against persons born out of wedlock, presented by the Special Rapporteur, Mr. Vieno Voitto Saario,

A

1. Expresses its deep appreciation to the Special Rapporteur for his valuable work on the study and congratulates him warmly on his final report;
2. Expresses its gratitude to the States Members of the United Nations and of the specialized agencies, to the Commission on the Status of Women and to the non-governmental organizations concerned, for their collaboration;
3. Expresses its thanks to the Secretary-General for the assistance given to the Special Rapporteur in the preparation of the study;
4. Transmits the Special Rapporteur's report to the Commission on Human Rights, together with the summary records of the discussion at the nineteenth session of the Sub-Commission, for early consideration;
5. Transmits also to the Commission, for consideration and adoption, the draft general principles on equality and non-discrimination in respect of persons born out of wedlock annexed to this resolution;
6. Decides to retain the question of discrimination against persons born out of wedlock as an item on its agenda, in order that it may keep in touch with efforts to eradicate such discrimination.

/...

B

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

Requests the Commission on Human Rights to recommend to the Economic and Social Council the adoption of the following draft resolution:

'The Economic and Social Council,

'Taking into account the important contribution made by the study of discrimination against persons born out of wedlock (E/CN.4/Sub.2/265) submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its nineteenth session by its Special Rapporteur,

'1. Expresses its appreciation to the Special Rapporteur, Mr. Vieno Voitto Saario, for his valuable study;

'2. Requests the Secretary-General to print the Special Rapporteur's study and circulate it as widely as possible.'"

198. The Sub-Commission was unanimous in its support of the resolution presented by Mr. Calvocoressi, although many members thought that some of its articles should be modified. Several members objected to article 6 of part A and felt that the question of discrimination against persons born out of wedlock should not be placed as a regular item on the agenda of the Sub-Commission at its next meetings. They also objected to the use of the word "early" in paragraph 4 of part A, and of the word "adoption" in paragraph 5 of part A. They did not think that the Sub-Commission should give instructions to the Commission on Human Rights. While they favoured the use of more flexible terms, some members, however, insisted that the Sub-Commission should demonstrate in some way its anxiety to see the Commission on Human Rights consider more earnestly the studies it transmits. The attention of the Sub-Commission was drawn to the fact that the requests addressed to the Commission on Human Rights were much stronger in part A than in part B, and some members hoped that the higher organs would not limit themselves to strict application of what is requested in part B. A suggestion to delete paragraph 3 of part A was opposed by most members. It was also considered impracticable to list in paragraph 2 of part B a number of persons or institutions to which the study should be sent. One member proposed the addition of a new paragraph which should

/...

request the Commission on Human Rights to invite the Special Rapporteur to attend its meetings when it undertakes the consideration of the report.

199. Mr. Humphrey submitted an amendment (E/CN.4/Sub.2/L.452) in which he proposed that the report on the study be also transmitted to the Commission on the Status of Women. He also proposed to add in the preamble of the resolution, after the word "report" the words "and the draft general principles".

200. Mr. Calvocoressi accepted Mr. Humphrey's amendment and, in the light of the comments and suggestions made, submitted a revised text (E/CN.4/Sub.2/L.447/Rev.1) to read as follows:

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

Having considered the final report (E/CN.4/Sub.2/265) on the study of discrimination against persons born out of wedlock, presented by the Special Rapporteur, Mr. Vieno Voitto Saario,

A

1. Expresses its deep appreciation to the Special Rapporteur for his valuable work on the study and congratulates him warmly on his final report;
2. Expresses its gratitude to the States Members of the United Nations and of the specialized agencies, to the Commission on the Status of Women and to the non-governmental organizations concerned, for their collaboration;
3. Expresses its thanks to the Secretary-General for the assistance given to the Special Rapporteur in the preparation of the study;
4. Transmits the Special Rapporteur's report to the Commission on Human Rights, together with the summary records of the discussion at the nineteenth session of the Sub-Commission, for its earliest practicable consideration;
5. Transmits also to the Commission, for examination and decision on subsequent action, the draft general principles on equality and non-discrimination in respect of persons born out of wedlock annexed to this resolution;
6. Requests the Secretary-General to bring the report of the Special Rapporteur and the draft general principles on equality and non-discrimination in respect of persons born out of wedlock to the attention of the Commission on the Status of Women at its twentieth session.

/...

B

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

Requests the Commission on Human Rights to recommend to the Economic and Social Council the adoption of the following draft resolution:

'The Economic and Social Council,

'Taking into account the important contribution made by the study of discrimination against persons born out of wedlock (E/CN.4/Sub.2/265) submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its nineteenth session by its Special Rapporteur,

'1. Expresses its appreciation to the Special Rapporteur, Mr. Vieno Voitto Saario, for his valuable study;

'2. Requests the Secretary-General to print the Special Rapporteur's study and circulate it as widely as possible;

'3. Requests the Secretary-General to make arrangements for Mr. Vieno Voitto Saario, Special Rapporteur for the Study of discrimination against persons born out of wedlock, to attend the meetings of the Commission on Human Rights when it undertakes the consideration of his report."

201. Mr. Nasinovsky proposed to delete the words "and of the specialized agencies" in paragraph 2 of part A, to delete paragraph 3 of part A, and also the words "for its earliest practicable consideration" in paragraph 4 of part A. He requested a separate vote on each of his proposals.

202. Mr. Capotorti, with the approval of Mr. Chayet, requested that in paragraphs 5 and 6 of part A, in the French text of the resolution, the words "le projet de principe" and not "les projets" be used.

203. By 13 votes to 1, with 3 abstentions, the Sub-Commission voted to keep the words "and of the specialized agencies", in paragraph 2 of part A. By 13 votes to none, with 3 abstentions, the Sub-Commission voted to keep paragraph 3 of part A. By 11 votes to none, with 6 abstentions, the Sub-Commission voted to keep the words "for its earliest practicable consideration" in paragraph 4 of part A.

204. The revised text of the draft resolution, as a whole, was adopted by 16 votes to none, with 1 abstention, as follows:

/...



Resolution 1 (XIX)

STUDY OF DISCRIMINATION AGAINST PERSONS BORN OUT OF WEDLOCK

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

Having considered the final report (E/CN.4/Sub.2/265) on the study of discrimination against persons born out of wedlock, presented by the Special Rapporteur, Mr. Vieno Voitto Saario,

A

1. Expresses its deep appreciation to the Special Rapporteur for his valuable work on the study and congratulates him warmly on his final report;
2. Expresses its gratitude to the States Members of the United Nations and of the specialized agencies, to the Commission on the Status of Women and to the non-governmental organizations concerned, for their collaboration;
3. Expresses its thanks to the Secretary-General for the assistance given to the Special Rapporteur in the preparation of the study;
4. Transmits the Special Rapporteur's report to the Commission on Human Rights, together with the summary records of the discussion at the nineteenth session of the Sub-Commission, for its earliest practicable consideration;
5. Transmits also to the Commission, for examination and decision on subsequent action, the draft general principles on equality and non-discrimination in respect of persons born out of wedlock annexed to this resolution;
6. Requests the Secretary-General to bring the report of the Special Rapporteur and the draft general principles on equality and non-discrimination in respect of persons born out of wedlock to the attention of the Commission on the Status of Women at its twentieth session.

B

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

Requests the Commission on Human Rights to recommend to the Economic and Social Council the adoption of the following draft resolution:

"The Economic and Social Council,

"Taking into account the important contribution made by the study of discrimination against persons born out of wedlock (E/CN.4/Sub.2/265) submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its nineteenth session by its Special Rapporteur,

"1. Expresses its appreciation to the Special Rapporteur, Mr. Vieno Voitto Saario, for his valuable study;

"2. Requests the Secretary-General to print the Special Rapporteur's study and circulate it as widely as possible; 1/

"3. Requests the Secretary-General to make arrangements for Mr. Vieno Voitto Saario, Special Rapporteur for the Study of discrimination against persons born out of wedlock, to attend the meetings of the Commission on Human Rights when it undertakes the consideration of his report."

---

1/ For the financial implications see annex I.

Annex

GENERAL PRINCIPLES ON EQUALITY AND NON-DISCRIMINATION IN  
RESPECT OF PERSONS BORN OUT OF WEDLOCK

Preamble

Whereas the peoples of the world have, in the Charter of the United Nations, proclaimed their determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to promote social progress and better standards of life in larger freedom,

Whereas the Charter sets forth, as one of the purposes of the United Nations, the promotion and encouragement of respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Whereas the Universal Declaration of Human Rights proclaims that all human beings are equal in dignity and rights and, elaborating the principle of non-discrimination, further proclaims that everyone is entitled to all the rights and freedoms set forth therein without distinction of any kind,

Whereas the principle of the same social protection for all children, whether born in or out of wedlock, has been proclaimed in article 25, paragraph 2, of the Universal Declaration of Human Rights and confirmed by article 10, paragraph 3, of the Covenant on Economic, Social and Cultural Rights and by article 24 of the Covenant on Civil and Political Rights,

Whereas a sizable portion of the population of the world is composed of persons born out of wedlock many of whom, because of the nature of their birth, are the victims of legal or social discrimination in violation of the principles of equality and non-discrimination set out in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenants on Human Rights,

Whereas efforts should be made, through all possible means, to promote respect for the inherent dignity and worth of the human person, so as to enable all members of society, including persons born out of wedlock, to enjoy the equal and inalienable rights to which they are entitled,

Now therefore, with a view to eliminating this form of discrimination, the following general principles are proclaimed:

Part I

1. Every person born out of wedlock shall be entitled to legal recognition of his maternal and paternal filiation in so far as compatible with the principle of the protection of the family.

2. The fact of birth of a child shall by itself establish maternal filiation to the woman who gives birth to the child.

3. The establishment of paternal filiation shall be provided for by law through a variety of means, including acknowledgement, recognition of legal presumptions and judicial decision. Judicial proceedings to establish paternal filiation shall not be subject to any time-limits.

4. The husband shall be presumed to be the father of any child born to his wife whether he is conceived or born during the marriage. This presumption may be overcome only by a judicial decision based upon evidence that the husband is not the father. Proceedings to that end shall be initiated within a limited period of time.

5. Any child born of parents who intermarry after the birth of that child shall be considered to be born of that marriage.

6. Every person born in wedlock, or considered to be born in wedlock as a result of the subsequent marriage of his parents, shall retain his status notwithstanding the invalidity or annulment of the marriage.

Part II

7. Every person, once his filiation has been established, shall have the same legal status as a person born in wedlock.

8. Every person born out of wedlock whose filiation is established in relation to both parents shall have the right to bear a surname determined as in the case of a person born in wedlock. If his filiation is established in relation only to his mother, he shall be entitled to bear her surname, modified, if necessary, in such a manner as not to reveal the fact of birth out of wedlock.

/...

9. The rights and obligations pertaining to parental authority shall be the same, whether the child is born in wedlock or out of wedlock. Unless otherwise decided by the court in the best interest of the child born out of wedlock, parental authority shall be exercised according to the same rules as for a child born in wedlock if his filiation is established in relation to both parents, or by his mother alone if his paternal filiation is not established.

10. The domicile of any child born out of wedlock whose filiation is established in relation to both parents shall be determined according to the same rules as for children born in wedlock.

If the filiation is established in relation to the mother alone, appropriate rules shall ensure in any case that the child has a domicile.

11. Every person born out of wedlock shall, once his filiation has been established, have the same maintenance rights as persons born in wedlock. Birth out of wedlock shall not affect the order of priority of claimants.

12. Every person born out of wedlock shall, once his filiation has been established, have the same inheritance rights as persons born in wedlock. Legal limitations or restrictions on the freedom of a testator to dispose of his property shall afford equal protection to persons entitled to inheritance, whether they are born in wedlock or out of wedlock.

13. The nationality or citizenship of a person born out of wedlock shall be determined by the same rules as those applicable to persons born in wedlock.

Special protection against statelessness shall be provided for persons born out of wedlock. In particular, when only the maternal filiation of a person born out of wedlock is established, its effects shall be the same as in the case of paternal filiation.

14. Political, social, economic and cultural rights shall be enjoyed equally by all persons, whether they are born in wedlock or out of wedlock, without prejudice, as regards social welfare services, to the special care which shall be provided to children born out of wedlock and their mothers, by the State or society, when necessary.

/...

Part III

15. Information in birth and other registers containing personal data which might disclose the fact of birth out of wedlock shall be available only to persons or authorities having a legitimate interest with respect to filiation.

In referring to persons born out of wedlock, any designation which might carry a derogatory connotation shall be avoided.

16. The adoption of a child born out of wedlock shall be subject to the same rules and provisions and shall have the same consequences as the adoption of children born in wedlock.

Restrictions on the right to adopt shall be limited to such requirements as are necessary to establish a parent-child relationship and to assure the best interests of the adoptee. In particular, no restrictions based solely on a difference of race, colour or national origin shall be permitted.

Adoption procedure should be carried out under the supervision of the State and/or a competent social welfare agency to ensure full protection of the child and his well-being.

/...

### III. STUDY OF EQUALITY IN THE ADMINISTRATION OF JUSTICE

#### Item 5 of the Agenda

205. At its 484th to 486th and 501st meetings the Sub-Commission considered item 5 of its agenda, "Study of Equality in the Administration of Justice".

206. The Sub-Commission had before it the progress report (E/CN.4/Sub.2/266) submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat, in accordance with resolution 2 (XVIII) of the Sub-Commission. In his report the Special Rapporteur summarized the origin and development of the study recalled and commented on certain aspects of the debate on the study at the eighteenth session of the Sub-Commission, and set out his conception of the structure and content of the study. A brief outline of a proposed chapter III of the study, dealing with grounds on which discrimination operates in the administration of justice, was presented as an appendix to the report.

207. In introducing his report Mr. Abu Rannat said that, following its issuance on 31 October 1966, work had been completed on monographs dealing with seven additional countries, namely Australia, Byelorussian SSR, Canada, Ivory Coast, Niger, Nigeria and Norway. Monographs had therefore been completed on a total of twenty-five countries, and twelve of those had also become the subject of conference room papers. Work was progressing on monographs dealing with Colombia, the Democratic Republic of the Congo, Ecuador, France, India, Lebanon, South Africa, the USSR, the United Kingdom and the United States of America. The Special Rapporteur added that he envisaged placing before the Sub-Commission a brief outline of the draft of his study later in 1967, a draft of the study in 1968 and the final report in 1969.

208. In view of the questions concerning the availability of Secretariat personnel to assist him in his study which the Special Rapporteur had raised in his progress reports (E/CN.4/Sub.2/253 and E/CN.4/Sub.2/266), the representative of the Secretary-General gave an assurance that, subject to future decisions of the Sub-Commission, officers in same numbers as and having similar experience to those who had been engaged in work connected with the study of discrimination

/...

against persons born out of wedlock could now assist the Special Rapporteur in the study of equality in the administration of justice.

209. The progress report of the Special Rapporteur was generally welcomed, and the importance of various statements made in it was stressed by speakers, especially the reference to discrimination on grounds of race or colour, sex and property. A number of questions were raised on specific aspects of the report.

210. The question was asked what was the meaning of the administration of justice and with what types of proceedings and organs the study should deal. Several members voiced the opinion that the study should refer not only to ordinary courts, but to administrative and quasi-judicial proceedings also others emphasized that the study should cover only traditional judicial systems. The Special Rapporteur recalled that, according to resolution 958 C (XXXVI) of the Economic and Social Council, his study was to be one of "equality in the administration of justice, in accord with article 10 of the Universal Declaration of Human Rights". The study was therefore being prepared with article 10 of the Universal Declaration constantly in mind. The variety of the organs which could be regarded as tribunals for the purposes of article 10 was shown in the opening paragraphs under heading I of the Outline for the Collection of Information, which appeared as the annex to document E/CN.4/Sub.2/246. In the points of the Outline for the Collection of Information, particular attention was given to criminal, civil and administrative proceedings. The information available to the Special Rapporteur and being used in the preparation of conference room papers appropriately covered a wide range of organs. Certain members of the Sub-Commission drew attention to the need for the study to be based also on the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights adopted by the General Assembly.

211. To the question of what constituted equality in this connexion, the Special Rapporteur replied that he had followed the enumeration of grounds of discrimination set out in article 2 of the Universal Declaration of Human Rights, as had been done in the previous studies of discrimination undertaken by the Sub-Commission.

/...



212. Several speakers described institutions existing in their countries for securing the independence of the judiciary, by protecting their appointments and other treatment against executive and other pressures. Some speakers referred to various modes of appointment of judges - by the executive, by elections, or by mixed bodies - and stressed the importance of appointments which are as far as possible free of political considerations. The same applied to the advancement of judges. The importance of security of tenure was also stressed. The importance of considering the question of financial standing as a factor of inequality in the administration of justice was also emphasized. Some speakers referred to the value of systems of legal aid and to the necessity for arrangements for the protection of the interests of persons having an insufficient command of the language used in court. Reference was also made to courts, having simplified and less costly procedures, which dealt with certain types of cases in some countries. The Special Rapporteur said that he intended to include those matters in chapter IV of the study, which would describe the methods adopted to combat inequality in the administration of justice. He also intended to make, among others, recommendations for methods aimed at the further eradication of discrimination on grounds of lack of financial resources.

213. The question was asked whether the Special Rapporteur's approach to the study made an adequately complete distinction between civil and criminal procedures. He recalled that civil and criminal procedures and other procedures had been mentioned in the appendix to his report where relevant to the type of discrimination being described. It would probably be necessary to treat criminal procedures, civil procedures and other procedures separately in chapter II of the study, which would be devoted to the meaning of equality in the administration of justice.

214. Since some doubt was thrown on the relevance to the study of the Ombudsman, mentioned in paragraph 23 of the report, the Special Rapporteur drew attention to point 42 of the Outline for the Collection of Information, which asked whether any particular body or person was entrusted in a country with the task of overseeing that equality in the administration of justice was observed.

/...

215. The question was asked why the country referred to in paragraph 1 of the appendix to the progress report was not identified as South Africa. The Special Rapporteur recalled his statement, in paragraph 22 of his report, that the appendix was intended merely as an outline of the future chapter III; the appendix mentioned no countries whatsoever and the question of naming countries would need to be settled. Several speakers said that countries should be identified where their experience or shortcomings were dealt with in the study, in order to give it substance and meaning.

216. Explaining his reference in paragraph 37 of the appendix to the placing of the accused in the dock, the Special Rapporteur recalled that some writers claimed that to put the accused in the dock violated the presumption of his innocence, impeded his physical access to his lawyer and tended to intimidate particularly the less educated person. Some restraint on the accused was of course clearly warranted.

217. Attention was drawn to the reference, in paragraph 41 of the appendix, to the immunities from suit of diplomats and of members of legislatures which, it was said, were not discriminatory but were necessary and beneficial. The Special Rapporteur replied that those privileges should not be completely overlooked and that the expanded version of chapter III would place them in their proper perspective.

218. In addition to thus replying to certain points raised during the debate, the Special Rapporteur assured the members of the Sub-Commission that all their remarks and suggestions would be taken into account in the writing of his study. Among those were the following: that apartheid should be identified as such where it existed; that more stress should be placed on inequalities in the administration of justice in Trust and Non-Self-Governing Territories; that the study should acknowledge that the number of women in the legal and judicial professions was increasing; that a clearer distinction could profitably be made in the study between legal discrimination against unmarried and against married women; that the requirement of oaths in judicial proceedings discriminated not only against those whose religion did not permit them to take oaths but also against those who professed no religion at all; that it was normal for members of

/...

the judiciary, of juries and of the bar to be required to be nationals of the country in which they carried out their functions, since only nationals of a country know the milieu thereof; that the study should take account of the widespread existence of xenophobia, causing prejudice against foreigners when involved in court proceedings; that, while the requirement that an alien should make a financial deposit in order to bring a case before the courts might be an act of discrimination in the case of resident aliens, it might be reasonable in the case of non-resident aliens; that delays in the judicial process were particularly injurious to persons of small financial means; that differences in the treatment by judges or juries of similar situations were by no means always the result of discriminatory attitudes, and that legal limits were usually placed on judicial discretion; that the generalizations concerning types of discrimination appearing in the appendix to the Special Rapporteur's report should be documented as well as possible; that access to the courts, once regarded as a privilege, should now be recognized as a public service which should be available free and equally to all, and that the structure of the legal profession and judicial apparatus should reflect that view.

219. At the 485th meeting, Mr. Schiller introduced a draft resolution (E/CN.4/Sub.2/L.431) reading as follows:

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

"Having considered the progress report on the study of equality in the administration of justice submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat (E/CN.4/Sub.2/266),

"1. Expresses its warm appreciation to Mr. Abu Rannat for his report which represents a further step forward in the Sub-Commission's work in this field;

"2. Invites Mr. Abu Rannat, taking into account the exchange of views on his progress report during the nineteenth 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 twenty-first session."

220. The Special Rapporteur indicated that the draft resolution fitted his programme, as described in paragraph 3 above, which was dictated by the amount of

/...

information supplied by Governments or non-governmental organizations, covering eighty-three countries, and the Secretariat assistance available to aid him in his task. He added that there was insufficient time to prepare the customary draft report before August 1967, and the number of conference room papers prepared by the middle of 1967 would not be enough to form a satisfactory basis for a draft report. The examination of a draft report would therefore await the session of the Sub-Commission in 1968.

221. In view of the uncertainty concerning the relationship between the programmes for the studies of equality in the administration of justice and of racial discrimination in the political, economic, social and cultural spheres, the debate on the draft resolution was deferred.

222. At its 501st meeting, the Sub-Commission adopted the draft resolution by 17 votes to none with 1 abstention, as follows:

#### RESOLUTION 2 (XIX)

##### STUDY OF EQUALITY IN THE ADMINISTRATION OF JUSTICE

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

Having considered the progress report on the study of equality in the administration of justice submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat (E/CN.4/Sub.2/266),

1. Expresses its warm appreciation to Mr. Abu Rannat for his report which represents a further step forward in the Sub-Commission's work in this field;
2. Invites Mr. Abu Rannat, taking into account the exchange of views on his progress report during the nineteenth 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 twenty-first session.

/...

#### IV. SPECIAL STUDY OF RACIAL DISCRIMINATION IN THE POLITICAL, ECONOMIC SOCIAL AND CULTURAL SPHERES

##### Item 6 of the agenda

223. At its 495th to 499th and 501st meetings, the Sub-Commission considered item 6 of its agenda, "Special study of racial discrimination in the political, economic, social and cultural spheres".

224. The Sub-Commission had before it the report (E/CN.4/Sub.2/267), submitted by the Special Rapporteur, Mr. Hernán Santa Cruz, in accordance with resolution 8 (XVIII) of the Sub-Commission. The report was divided into two parts.

225. Part I contained an introduction setting out the background information relating to the study; the views of members of the Sub-Commission regarding the implications of the word "spheres", as used in the terms of reference and their suggestions as to matters which should be included in the draft outline for collection of information to be used in that study; a statement concerning the activities of the United Nations and of the specialized agencies relating to race and writings on race; and finally, a statement of the procedure to be followed in carrying out the study.

226. Part II of the report contained four annexes. Annex I reproduced an outline for the collection of information for the study. It was pointed out that in preparing the outline, the Special Rapporteur had taken into consideration the views and suggestions of the members of the Sub-Commission who had replied to his query, and, in particular, had based the outline on the United Nations Declaration on the Elimination of All Forms of Racial Discrimination. Part I of the outline, entitled "Background Information of a General Character", called for information on statistical and other data indicating a given country's total population and on the relevant constitutional provisions, statutes, regulations and judicial decisions. Part II of the outline, entitled "Information on the elimination of racial discrimination", called for information on racial discrimination, on prohibition and elimination of racial discrimination in the enjoyment of certain human rights, on racial segregation and apartheid, racist propaganda and organizations, protection and remedies against acts of racial discrimination and action against prejudice which leads to racial discrimination.

/...

227. Annex II contained an annotated list of the principal resolutions and publications of the United Nations and specialized agencies relating to race.

228. Annex III comprised an annotated list of writings on race and related subjects. In a foot-note it was stated that the list was not intended to be exhaustive and included only some selected titles in English. Annex IV set out a selected list of books and articles on race and related subjects. In a foot-note it was indicated that the list was not intended to be exhaustive and included only titles in English, French, Spanish and Russian.

229. In introducing his report, Mr. Santa Cruz reviewed the history of the study and recalled that in resolution 8 (XVIII), the Sub-Commission had appointed him as Special Rapporteur for 1966 and requested him to formulate a provisional plan of work, including the draft of an outline for the collection of information to be used in the study, and to present it to the Sub-Commission at its nineteenth session. The resolution, he pointed out, also requested him to bear in mind, in formulating the provisional plan of work, the standard directives relating to the preparation of studies and recommendations for action set out in resolution B of the Sub-Commission, adopted at its sixth session, as amended by the Commission on Human Rights at its tenth session (E/CN.4/703, para. 97). The resolution further requested him to ascertain and report to the Sub-Commission on any material relevant to the study which might be available from the specialized agencies, and on any assistance which those agencies might give the Sub-Commission in carrying out the study. In this connexion, he had sought and had received the active co-operation of the ILO and UNESCO.

230. The Special Rapporteur stated that in approaching his task, he was confronted with the problem of the scope and the nature of the study since the Sub-Commission had given no clear guidelines on these matters. Accordingly, he had written to members of the Sub-Commission requesting their views and suggestions but had received replies from only five members. After studying those replies and discussing the matter with the Secretariat, he had decided to follow the procedure of earlier studies and to begin by preparing country monographs. In this connexion, he drew the attention of the Sub-Commission to paragraphs 27 to 34 of his report. He pointed out that the study undertaken should be a serious and valuable work and while he fully appreciated the sense of urgency which was

/...

justified, he was also concerned with reconciling this sense of urgency with the preparation of a thorough study of high quality. Accordingly, he envisaged a five-year period for the study but felt that this period could be considerably reduced and the study completed in 1969, if the necessary steps were taken to reinforce the personnel of the Division of Human Rights.

231. The Special Rapporteur informed the Sub-Commission that he was preparing a general introduction to the study which would be presented to the members when completed. Statements and observations were made by various members of the Sub-Commission, by the Executive Director of the United Nations Institute for Training and Research (UNITAR), the representatives of the United Nations Educational, Scientific and Cultural Organization (UNESCO), of the International Labour Organisation (ILO), the representatives of the Agudas Israel World Organization, the Co-ordinating Board of Jewish Organizations, the International League for the Rights of Man, and the World Jewish Congress. They are summarized in documents E/CN.4/Sub.2/SR.495 to E/CN.4/Sub.2/SR.499, and in document E/CN.4/Sub.2/SR.501.

232. There was general consensus that Mr. Santa Cruz had, in the limited time at his disposal, produced a sound preliminary report which justified the confidence the Sub-Commission had placed in him. Members expressed the hope that he would continue as Special Rapporteur for the study until its completion.

233. With regard to the scope of the study, some members felt that the study should deal with political, economic, social and cultural rights as stated in the Universal Declaration of Human Rights and the Covenants on Human Rights and in the light of the Declaration and the Convention on the Elimination of All Forms of Racial Discrimination. On the other hand, the view was expressed that the word "spheres" in the terms of reference was intended to be interpreted in a sense wider than that of human rights and fundamental freedoms and that the rights and freedoms referred to in the Universal Declaration of Human Rights should not constitute a limitation. It was suggested that the study might include a consideration of the economic consequences of racial discrimination. In this connexion it was pointed out that the collection of de facto material on racial discrimination appeared to be within the scope of the study and that the report should include a historical survey of the struggle to eliminate racial

/...

discrimination in individual countries and, with respect to some countries, of the efforts to institute racial discrimination.

234. Several members expressed their awareness of the need to take appropriate steps to carry out the study as rapidly as possible and referred to the various resolutions to this effect that had been adopted by the Commission on Human Rights, the Economic and Social Council and the General Assembly. However, they agreed with the Special Rapporteur, that the quality of the study should not be sacrificed in the interests of speed. They agreed with the Special Rapporteur that the preparation of country monographs and the verification of their contents with the Governments concerned had in previous studies furnished the Special Rapporteur with an orderly and reliable basis for their work, and that that procedure should not be discontinued in the case of the present study. They feared that undue haste might adversely affect the quality of the work produced and damage the image of the Sub-Commission itself.

235. Some members, on the other hand, took the view that, in order to proceed as expeditiously as possible, the preparation of country monographs might conveniently be dispensed with. In their view, ample material already existed on which to base the study and it was only necessary to classify and systematize that material. They referred in particular to the Special Rapporteur's previous study of discrimination in the matter of political rights; the Periodic Reports on Human Rights; the information submitted by States on the measures that have been taken to implement the Declaration on the Elimination of All Forms of Racial Discrimination; the Yearbook on Human Rights; the report on the United Nations Human Rights Seminar on apartheid held in Brasilia; the material on racial discrimination submitted to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and to the Special Committee on policies of apartheid of the Government of the Republic of South Africa.

236. In the view of some members, the usefulness of preparing country monographs was itself open to doubt from the point of view of verifying the information supplied. Certain other members, while not discrediting the value of country monographs, felt that considerable time could be saved if the questions in the outline for the collection of information were simpler to answer and if the country monographs were not sent back to Governments for their comments.

/...



237. One member put forward a proposal for an organization of the study based on initial country monographs from regions of the world rather than on one based upon countries. It was his view that in a study that went beyond the political sphere there were factors to be considered that crossed national lines and for that reason, the monographs need not cover matters that could be dealt with on a regional basis. Certain other members felt, however, that this regional approach might raise more problems than it solved. In their view, it might lead to invidious comparisons between the regional studies and might not even prove to be a time-saving factor since material would still have to be collected and the data analysed.

238. Several members referred to the need to strengthen the personnel of the Division of Human Rights. The representative of the Secretary-General informed the Sub-Commission that the General Assembly at its twenty-first session, had authorized an increase in the staff of the Division to assist in work connected with the study. The question of the necessity of further strengthening of the staff of the Division remained controversial.

239. Some members pointed out that the report contained practical evidence of the necessity of the co-operation of UNESCO and the ILO. It was their view that those agencies as well as the United Nations Institute for Training and Research could be invited to co-operate in the preparation of material for the study.

240. Several members referred to annex I of the draft outline for the collection of material and offered suggestions which the Special Rapporteur promised to take into consideration.

241. Two draft resolutions on the special study of racial discrimination in the political, economic, social and cultural spheres were submitted by Mr. Nasinovsky (E/CN.4/Sub.2/L.454) and by Mr. Humphrey (E/CN.4/Sub.2/L.455). After an exchange of views between the members, the Sub-Commission proceeded to vote on document E/CN.4/Sub.2/L.455/Rev.1.

242. At its 501st meeting, the Sub-Commission adopted by 15 votes to none, with 1 abstention, the draft resolution (E/CN.4/Sub.2/L.455/Rev.1), as follows:

/...

RESOLUTION 3 (XIX)

SPECIAL STUDY OF RACIAL DISCRIMINATION IN THE POLITICAL, ECONOMIC, SOCIAL  
AND CULTURAL SPHERES

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

Recalling its resolution 8 (XVIII), in which it initiated the special study  
of racial discrimination in the political, economic and cultural spheres,

Bearing in mind General Assembly resolution 2017 (XX), Economic and Social  
Council resolution 1103 (XL), and Commission on Human Rights resolution 5 (XXII),  
all calling for the study to be carried out as rapidly as possible,

Having considered the preliminary study submitted by the Special Rapporteur,  
Mr. Hernán Santa Cruz (E/CN.4/Sub.2/267),

1. Expresses its warm appreciation and gratitude to the Special Rapporteur  
for the preliminary study;

2. Decides that Mr. Santa Cruz shall continue as Special Rapporteur for the  
study until its completion in 1969, and submit it to the Sub-Commission for final  
consideration;

3. Requests the Special Rapporteur to proceed with the study, following the  
standard directives for the preparation of studies of discrimination approved by  
the Sub-Commission, as amended by the Commission on Human Rights, bearing in mind  
the discussion at the nineteenth session of the Sub-Commission and in particular  
the suggestions concerning new techniques to be applied owing to the special  
character and urgency of the study;

4. Requests the Special Rapporteur to present a progress report on the  
study to the Sub-Commission at its twentieth session;

5. Welcomes the assurance of the Special Rapporteur that he will prepare,  
for inclusion in the progress report, a chapter outlining the scope of the study  
and in particular the meaning to be attached to the term, "racial discrimination  
in the political, economic, social and cultural spheres";

/...

6. Requests the Special Rapporteur to prepare also, with the assistance of the Secretary-General, and to include in the progress report, a chapter analysing the available materials relating to racial discrimination in the political, economic, social and cultural spheres, including those in studies carried out under the auspices of the United Nations, the specialized agencies and UNITAR, and on this basis to put forward, if possible, the preliminary conclusions he considers appropriate for inclusion;

7. Requests the Secretary-General to give the Special Rapporteur all necessary assistance in the preparation of his report, including the assignment of the staff necessary for the study, and to this end views with satisfaction the measures authorized by the General Assembly in view of the priority of the study;

8. Requests the specialized agencies, and in particular the International Labour Organisation and UNESCO, to render all possible assistance to the Special Rapporteur in the preparation of his report;

9. Requests the Secretary-General to invite the Special Rapporteur to attend the seminar on racial discrimination to be held in 1968 under the programme of advisory services in the field of human rights, and to arrange for his progress report to be made available to the seminar;<sup>1/</sup>

10. Requests the Secretary-General also to draw the Special Rapporteur's progress report to the attention of the Preparatory Committee for the International Conference on Human Rights as documentation which might usefully be made available to the Conference.

---

<sup>1/</sup> For the financial implications see annex I.

/...

V. PERIODIC REPORTS ON HUMAN RIGHTS AND REPORTS ON  
FREEDOM OF INFORMATION

Item 7 of the agenda

243. In resolution 1074 C (XXXIX) of 28 July 1965, on periodic reports on human rights and reports on freedom of information, the Economic and Social Council requested the Sub-Commission (para. 15):

"to undertake the initial study of the materials received under the terms of this resolution, to report thereon to the Commission on Human Rights and to submit comments and recommendations for consideration by the Commission."

244. At its eighteenth session the Sub-Commission had noted that it was not possible, because of the limited documentation before it, to prepare precise comments or recommendations as requested. It decided to give more thorough consideration to reports on civil and political rights at its next session and, inter alia, requested the Commission on Human Rights to indicate more precisely how the Sub-Commission could more usefully discharge its functions in relation to periodic reports.<sup>1/</sup>

245. The Commission on Human Rights at its twenty-second session (resolution 11 (XXII)) suggested to the Sub-Commission that its initial study of the information received under the periodic reporting system include:

- "(a) Examination and discussion of all the information received under Economic and Social Council resolution 1074 C (XXXIX) in relation to all aspects of the particular rights covered in the period under review, especially, when appropriate, the problem of racial discrimination;
- (b) Preparation of a report covering in so far as possible salient developments and trends during the period under review;
- (c) Submission of comments and recommendations for the consideration of the Commission;" <sup>2/</sup>

---

<sup>1/</sup> Sub-Commission resolution 3 (XVIII) adopted at its 479th meeting (E/CN.4/903, para. 102).

<sup>2/</sup> Commission resolution 11 (XXII) of 2 April 1966. Official Records of the Economic and Social Council, Forty-first Session, Supplement No. 8 (E/4184, para. 462).

/...

246. The Commission also, inter alia, urged Governments which had not yet submitted full reports on civil and political rights for the period under review to do so as soon as possible and decided that, in addition to considering information on economic, social and cultural rights (as scheduled by virtue of para. 6 of Council resolution 1074 C (XXXIX)) it would continue the study and evaluation of information received in the field of civil and political rights and prepare further recommendations at its next session.

247. The Sub-Commission considered the item at its 504th to 506th meetings.

248. During the discussion the Observers of Iraq (505th meeting), Saudi Arabia (504th and 505th meetings) and the United Arab Republic (504th meeting) addressed the Sub-Commission, stating that it would be undesirable to analyse or publish communications received from non-governmental organizations, which in their opinion, were biased and slanderous.

#### Documentation before the Sub-Commission

249. The Sub-Commission had before it:

(a) reports on civil and political rights for the period 1 January 1963 to 30 June 1965, from the following forty-four Governments (E/CN.4/892 and Add.1-25): Argentina, Austria, Byelorussian SSR, Canada, Central African Republic, China, Congo (Brazzaville), Costa Rica, Cuba, Denmark, El Salvador, Finland, France, Federal Republic of Germany, Ghana, India, Ireland, Israel, Italy, Jamaica, Kuwait, Laos, Lebanon, Liberia, Liechtenstein, Maldives Islands, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Poland, San Marino, Togo, Turkey, Ukrainian SSR, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom (also for the territories of Aden, Basutoland,<sup>3/</sup> Bechuanaland,<sup>4/</sup> Bermuda, British Honduras, British Solomon Islands Protectorate, Brunei, Dominica, Gilbert and Ellice Islands, Hong Kong, Mauritius, New Hebrides Condominium, St. Helena, Swaziland, Tonga, and Turks and Caicos Islands), United States of America, Upper Volta, Yugoslavia and Zambia;

---

<sup>3/</sup> This territory has since attained independence as the Kingdom of Lesotho.

<sup>4/</sup> This territory has since attained independence as the Republic of Botswana.

/...

(b) reports on economic, social and cultural rights for the period 1 January 1963 to 30 June 1966, from the following seventeen Governments (E/CN.4/917 and Add.1-8):

Austria, Byelorussian SSR, Cambodia, Central African Republic, Congo (Brazzaville), Denmark, Finland, Federal Republic of Germany, Ghana, India, Israel, Italy, Kuwait, Malagasy Republic, Nepal, New Zealand, Romania;

(c) a report on civil and political rights submitted by the International Labour Organisation (E/CN.4/893); and reports on economic, social and cultural rights submitted by the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, and the World Health Organization (E/CN.4/918 and Add.1 and 2). The International Civil Aviation Organization, the International Bank for Reconstruction and Development, the International Telecommunication Union and the International Atomic Energy Agency stated that they were not in a position to send the information requested (E/CN.4/918); and

(d) information submitted, in accordance with paragraph 12 of Council resolution 1074 C (XXXIX), by the following twenty-nine non-governmental organizations in consultative status with the Council:

Category A: International Chamber of Commerce, International Confederation of Free Trade Unions, International Co-operative Alliance, International Federation of Christian Trade Unions, International Organization of Employers, and World Federation of Trade Unions;

Category B: Amnesty International (together with comments thereon by the United Kingdom), Associated Country Women of the World, Friends World Committee for Consultation (together with comments thereon by Australia, the Federal Republic of Germany, Switzerland, the United States and Yugoslavia), International Abolitionist Federation, International Catholic Migration Commission, International Council of Jewish Women, International Council of Women (together with comments thereon by the United Kingdom and the United States), International Federation of Social Workers, International Federation of University Women, International Institute of Administrative Sciences, International League for the Rights of Man (together with comments thereon by Albania, Bulgaria and Kenya), International Prisoners' Aid Association, League of Red Cross Societies, Society of Comparative Legislation, World

/...

Confederation of Organizations of the Teaching Professions, and World Young Women's Christian Association;

Register: Catholic International Education Office, International Association of Universities, International Council of Scientific Unions, International Federation of Senior Police Officers, International Youth Hostel Federation, Open Door International (together with comments thereon by Australia, Norway, Sweden and the United States), and the World Association of Girl Guides and Girl Scouts.

250. The Sub-Commission also had before it a subject and country index (E/CN.4/Sub.2/273 and Add.1) to the reports received from Governments, prepared by the Secretary-General in accordance with paragraph 14 of Council resolution 1074 C (XXXIX); and a background note by the Secretary-General (E/CN.4/Sub.2/268).

Request for study by Special Rapporteur

251. At the 483rd meeting Mr. Ferguson submitted a draft resolution (subsequently issued as document E/CN.4/Sub.2/L.429) reading as follows:

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

"Requests its Rapporteur to act as Special Rapporteur for the periodic reports and other information received under Economic and Social Council resolution 1074 C (XXXIX), and invites him, bearing in mind the study prepared by the Rapporteur of the Ad Hoc Committee on Periodic Reports on Human Rights (E/CN.4/AC.20/L.1) and in accordance with resolution 11 (XXII) of the Commission on Human Rights:

"(a) To prepare, for consideration by the Sub-Commission, a draft report covering in so far as possible salient developments and trends during the period under review;

"(b) To submit draft comments and recommendations for the consideration of the Sub-Commission."

252. In the discussion which ensued, one member stated that it would be better for the Sub-Commission to examine the reports directly, without asking a Rapporteur to make a preliminary study. Other members held that a Rapporteur or a working group should be asked to do the preliminary work so as to enable the Commission to fulfil its mandate.

/...

253. Mr. Schiller proposed orally to replace in sub-paragraph (a) the words "draft report" by the words "short study"; and to insert at the beginning of sub-paragraph (b) the words "in so far as possible". These amendments were withdrawn at the 484th meeting.

254. At the 484th meeting, following consultations with other members of the Sub-Commission, Mr. Ferguson revised his draft resolution by deleting from the operative paragraph the words "and other information" and the phrase starting with "bearing in mind" and ending with "Commission on Human Rights"; inserting in sub-paragraph (a) after "to prepare" the words "with the assistance of the Secretariat"; replacing the words "draft report" by "short study"; and inserting after "developments and trends" the words "in civil and political and in economic, social and cultural rights"; and replacing in sub-paragraph (b) the words "and recommendations" by "in so far as possible". Mr. Ferguson also accepted a suggestion by Mr. Awad to insert in sub-paragraph (a), after "the Sub-Commission", the words "at the present session".

255. The draft resolution as orally revised was adopted at the 484th meeting, by 15 votes to none, with 1 abstention.

256. The resolution read as follows (E/CN.4/Sub.2/L.430):

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

"Requests its Rapporteur to act as Special Rapporteur for the periodic reports received under Economic and Social Council resolution 1074 C (XXXIX), and invites him:

"(a) To prepare, with the assistance of the Secretariat, for consideration by the Sub-Commission at the present session, a short study covering in so far as possible salient developments and trends in civil and political, and in economic, social and cultural rights, during the period under review; and

"(b) To submit draft comments in so far as possible for the consideration of the Sub-Commission."

257. In his study presented to the Sub-Commission (E/CN.4/Sub.2/L.458), the Special Rapporteur recalled that the system of periodic reports established by the Council<sup>5/</sup> was predicated on information supplied on a voluntary basis by

---

<sup>5/</sup> Economic and Social Council resolution 624 B (XXII), supplemented by resolutions 728 (XXVIII) and 888 B (XXXIV), and revised by resolution 1074 C (XXXIX).

/...



States Members of the United Nations or of the specialized agencies. He further recalled that the International Covenants on Human Rights recently adopted by the General Assembly<sup>6/</sup> provided for obligatory reports to be submitted by Contracting Parties. Once the Covenants were universally in force their mandatory implementation clauses might well supersede the optional system of periodic reports; but since a number of years might pass until that stage was reached, the existing system was of great significance, and strengthening it might even be regarded as essential in smoothing the transitional period until the Covenants became effective throughout the world.

258. The Special Rapporteur suggested that, to facilitate analysis and comparison, Governments might be asked to draw up their reports as far as possible in conformity with certain directives: a resumé should be submitted of conditions existing at the beginning of the period covered by the report; and a summary of pertinent legislative, judicial and administrative measures taken during the period covered by the report, an account of difficulties encountered in the application of the human right concerned, and a forecast as to the future course of developments should be furnished; the information to be arranged by reference to the various rights recognized in the Universal Declaration of Human Rights and the International Covenants on Human Rights.

259. Since the material at the Sub-Commission's disposal did not fully reflect the recommended approach, the Special Rapporteur felt unable at this stage to point out trends and developments, as these were clearly discernible only on a comparative basis. Appended to the draft report were four annexes, the first three containing, respectively, a tentative list of rights enumerated in the Universal Declaration of Human Rights and the International Covenants on Human Rights; a short summary of information contained in the reports received from Governments, and covering selected rights (illustrative of the approach suggested); and a short summary of information reported by specialized agencies regarding the rights and freedoms within their respective purviews. Annex IV consisted of a short summary of information contained in observations received from non-governmental organizations and of comments by Governments concerned, whenever available, and was issued as a restricted document (E/CN.4/Sub.2/R.1).

---

<sup>6/</sup> General Assembly resolution 2200 (XXI) of 16 December 1966.

/...

Issues discussed

260. Most of the discussion relating to item 7 centred on the study submitted by the Special Rapporteur (E/CN.4/Sub.2/L.458), in particular on annex IV thereto (E/CN.4/Sub.2/R.1); and on the Sub-Commission's precise role in the consideration of the periodic reports in general and of information submitted by non-governmental organizations in particular.

261. Those who welcomed the study pointed out that it represented a novel and difficult task, undertaken within terms of reference that were not entirely clear in all their aspects.

262. Others felt that, as the study did not point out salient developments and trends, it did not fulfil its mandate. One member rejected the study as such, considering that not only did it not fulfil the mandate given but that the suggestions to Governments included therein were impracticable and were calculated to discourage Governments from submitting reports; moreover, no one had the right to tell Governments how to prepare their reports.

263. On the question of annex IV, some members felt that since the information submitted by the non-governmental organizations was not verified, it should not be summarized in a document bearing the imprint of the United Nations. The opinion was expressed that the contents of this annex were slanderous; that it should never have been circulated as a United Nations document; that the Special Rapporteur had exceeded his mandate in summarizing the information submitted by the non-governmental organizations; and that the document should be destroyed. It was also felt that while summarizing the allegations made by certain organizations annex IV was extremely reserved in reflecting the substance of comments made by certain Governments concerned.

264. The question was raised as to the relationship which should exist as between communications received from non-governmental organizations under resolution 728 F (XXVIII) and those received under resolution 1074 C (XXXIX) when the latter contained complaints against Governments alleging violations of human rights.

265. Other members felt that the Sub-Commission could not decide whether or not the information in question was worthy of its consideration unless it familiarized itself with the contents; and that the Special Rapporteur, under his terms of reference had indeed been obliged to examine and report on the material.

/...

266. The question was raised in this connexion whether the Sub-Commission, a body of experts rather than of Government representatives, was in a position to evaluate what amounted to complaints against Governments. And the further question was raised as to whether the new task of considering periodic reports on human rights entrusted to the Sub-Commission might not change the Sub-Commission's role as originally envisaged, in particular if it involved such an evaluation. Several members suggested that clarification of the Sub-Commission's role in the study of periodic reports be sought from a higher organ.

267. At the 504th meeting Mr. Chayet moved that annex IV be considered a confidential document and be henceforth considered in closed meetings.

268. Mr. Nasinovsky moved that document E/CN.4/Sub.2/R.1 should be destroyed.

269. At the 505th meeting the Sub-Commission, by 8 votes in favour and 6 against, with 4 abstentions, decided to withdraw annex IV (document E/CN.4/Sub.2/R.1).

In explanation of vote some members raised stringent objections to that decision.

270. The Chairman subsequently stated that the Special Rapporteur's study would be revised to take account of this decision and would be re-issued under the symbol E/CN.4/Sub.2/L.458/Rev.1.

271. As for the tentative list of rights and freedoms contained in annex I, it was suggested to add the right of peoples to dispose freely of their natural wealth and resources (contained in article 1 of both International Covenants on Human Rights and Article 25 of the International Covenant on Economic, Social and Cultural Rights); and to list in greater detail the rights of accused persons, so as to specify the right to defence, to counsel of one's own choosing, to cross-examining witnesses, to compensation in cases of unlawful arrest and detention, and a number of others, as set forth in the International Covenant on Civil and Political Rights.

#### Consideration of draft resolution

272. At the 504th meeting Mr. Carey submitted a draft resolution reading as follows (E/CN.4/Sub.2/L.468):

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

"Recalling Economic and Social Council resolution 1074 (XXXIX) inviting States Members of the United Nations or members of specialized agencies to supply information regularly on human rights and fundamental freedoms in territories subject to their jurisdiction, within a continuing three-year cycle, inviting the specialized agencies to continue their contributions to the periodic reports on human rights in accordance with this schedule and with the provisions of Council resolution 624 B (XXII) and inviting the non-governmental organizations in consultative status to continue to submit objective information in accordance with the provisions of Council resolution 888 B (XXXIV) and in accordance with the subject and time schedule thereby established for submission of reports by Governments,

"Having received and discussed the study prepared by the Special Rapporteur (document E/CN.4/Sub.2/L.458),

"Expresses its grateful appreciation to the Special Rapporteur and to the Secretariat for their exceptional contribution to the work of the Sub-Commission in preparing the study in the short period of time and thereby facilitating the discussion by the Sub-Commission of the information provided by Governments, specialized agencies, and non-governmental organizations under the system of periodic reports;

"Decides to transmit the study to the Commission on Human Rights and its Ad Hoc Committee;

"Requests the Special Rapporteur to prepare resumés on conditions in the countries covered by the reports, for submission to the next session of the Sub-Commission, in the form envisaged by paragraph 4 (b) (i) of the report, utilizing information available from sources established for studies on human rights and to redraft the annexes to the study before the next session of the Sub-Commission so as to include on that basis and wherever possible a comparative study of developments and so as to reflect wherever he deems appropriate the comments and suggestions made by members of the Sub-Commission in the course of the discussion of the report; and

"Requests the Secretary-General to transmit as soon as practicable to the members of the Sub-Commission copies of all further documentation received from Governments, specialized agencies, and non-governmental organizations under the programme of periodic reports, both in the original language and, when available, in appropriate translation."

This was withdrawn at the 505th meeting.

273. At the 505th meeting, Mr. Calvocoressi submitted the following draft resolution (E/CN.4/Sub.2/L.473):

/...

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

"1. Thanks the Special Rapporteur for the study on the periodic reports on human rights and reports on freedom of information (E/CN.4/Sub.2/L.458);

"2. Transmits the study to the Commission on Human Rights for such use as it may wish to make of it;

"3. Calls the attention of the Commission on Human Rights to the doubts and contradictions involved in the Sub-Commission's examination of periodic reports, as evidenced by the debates in its present session, and requests the Commission to give further consideration to this matter."

274. At the same meeting, a draft resolution was submitted orally by Mr. Nasinovsky, reading as follows:

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

"Regretting that it did not have time to duly consider the question of periodic reports on human rights and freedom of information,

"1. Proposes to keep the above item on its agenda."

275. Further, Mr. Jagota submitted orally a draft resolution reading as follows:

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

"Recalling Economic and Social Council resolution 1074 C (XXXIX), which established a revised system of periodic reporting on human rights,

"Recalling resolution 3 (XVIII) of the Sub-Commission, in which it requested the Commission on Human Rights to indicate more precisely how the Sub-Commission could more usefully discharge its functions in relation to periodic reports,

"Recalling resolution 11 (XXII) of the Commission on Human Rights, in which it made suggestions as to how the Sub-Commission's initial study of the information received under the periodic reporting system should be undertaken,

"Recalling its decision of 5 January 1967 in appointing Mr. Z.W. Zeltner as Special Rapporteur to prepare a short study covering in so far as possible salient developments and trends in civil and political and in economic, social and cultural rights during the period under review, and submit it to the Sub-Commission for its consideration at its present session,

"1. Expresses its grateful appreciation to the Special Rapporteur and to the Secretariat for the study reported in E/CN.4/Sub.2/L.458;

/...

"2. Regrets that due to shortage of time at its disposal the Sub-Commission could not examine and discuss the report at its present session;

"3. Decides to consider this item at its next session."

276. Following consultation among the sponsors, the three draft resolutions submitted at the 505th meeting were withdrawn at the 506th meeting and a joint draft was presented orally, which, with the change referred to in the paragraph below, was adopted by the Sub-Commission,

277. At the suggestion of Mr. Santa Cruz, the authors agreed to replace the word "contradictions" appearing originally in paragraph 3 by the word "difficulties".

#### Voting

278. The Sub-Commission voted on the draft resolution at its 506th meeting. At the request of Mr. Nasinovsky, a separate vote was taken on paragraph 1.

279. Paragraph 1 was adopted by 17 votes to none, with 1 abstention.

280. The draft resolution as a whole was adopted by 16 votes to none, with 2 abstentions.

281. The resolution as adopted read as follows:

#### Resolution 4 (XIX)

##### PERIODIC REPORTS ON HUMAN RIGHTS AND REPORTS ON FREEDOM OF INFORMATION

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

Recalling Economic and Social Council resolution 1074 C (XXXIX), resolution 3 (XVIII) of the Sub-Commission, and resolution 11 (XXII) of the Commission on Human Rights,

Recalling its decision at this session to prepare a short study covering in so far as possible salient developments and trends in civil and political rights and in economic, social and cultural rights during the period under review,

1. Thanks the Special Rapporteur and the Secretariat for the study contained in E/CN.4/Sub.2/L.458;

/...

2. Regrets that due to shortage of time at its disposal the Sub-Commission could not examine and discuss the study at its present session;

3. Calls the attention of the Commission on Human Rights to the doubts and difficulties involved in the Sub-Commission's examination of periodic reports, as evidenced by the debates in its present session, and requests the Commission to give further consideration to this matter.

282. In explanation of vote, some members considered the decision taken satisfactory while others expressed their regret at the decision.

/...

VI. 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 OTHER DEPENDENT COUNTRIES

Item 8 of the agenda

283. At its 500th to 502nd meetings, the Sub-Commission considered item 8 of its agenda, "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 other dependent countries".

284. The Sub-Commission had before it a memorandum on the question submitted by the Secretary-General (E/CN.4/Sub.2/269). The memorandum noted that the Economic and Social Council, in resolution 1102 (XL) of 4 March 1966, had invited the Commission on Human Rights, at its twenty-second session, to consider as a matter of importance and urgency the 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 other dependent countries and territories, and to submit to the Council at its forty-first session its recommendations on measures to halt those violations. It was noted that in the same resolution the Council had requested the Secretary-General to prepare for the Council a document containing the texts of (or extracts from) decisions taken by United Nations bodies which contain any relevant provisions, to supplement this document annually with the texts of (or extracts from) new decisions and to submit the document to the Commission on Human Rights, the Commission on the Status of Women and the Sub-Commission.

285. In resolution 2 A (XXII) of 25 March 1966, the Commission on Human Rights had instructed the Sub-Commission to examine all relevant United Nations materials, including the resolution adopted by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples on 18 June 1965 in which that Committee had drawn the attention of the Commission on Human Rights to the evidence submitted by the petitioners concerning violations of human rights committed in Territories under Portuguese administration and also in South West Africa and Southern Rhodesia, and

/...



had expressed its profound shock at the violations of human rights committed in order to stifle the legitimate aspirations of the African population to self-determination and independence, and the documents referred to in paragraph 3 (d) of resolution 2 A (XXII) and in Council resolution 1102 (XL); and to submit to the Commission at its twenty-third session such recommendations or comments as it considered appropriate.

286. The document prepared by the Secretary-General in accordance with the request of the Economic and Social Council (see para. 284 above) was presented to the Council at its forty-first session (E/4226). It drew attention to the fact that at that session the Council considered the 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 other dependent countries and territories and adopted on 5 August 1966 resolution 1164 (XLI) on that question. The text of operative paragraphs 1-4 of the resolution was reproduced in annex I of the memorandum.

287. Attention was also drawn to the fact that, at its twenty-first session, the General Assembly had considered item 95 of its agenda, "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 other dependent countries and territories", and had, on 26 October 1966, adopted resolution 2144 (XXI) on that question. The text of the resolution was reproduced in annex II of the memorandum.

288. Statements and observations were made by various members of the Sub-Commission, the Observer from the Republic of South Africa and the Observer from Pakistan.

289. In the debate, members of the Sub-Commission concentrated their attention on two draft resolutions submitted by Mr. Nasinovsky (E/CN.4/Sub.2/L.451) and by Mr. Ferguson (E/CN.4/Sub.2/L.456 and Corr.1).

290. The draft resolution (E/CN.4/Sub.2/L.451) submitted by Mr. Nasinovsky read as follows:

/...

A

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

Recalling resolution 2 (XXII) of the Commission on Human Rights, in which the Commission instructed the Sub-Commission to examine all relevant United Nations materials, including the resolution of 18 June 1965 of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and the documents referred to in Economic and Social Council resolution 1102 (XL), and "to submit to the Commission at its twenty-third session such recommendations or comments as it considers appropriate",

Recalling further Economic and Social Council resolution 1164 (XLI) and General Assembly resolution 2144 (XXI), relating to the 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 other dependent countries and territories, and General Assembly resolution 2142 (XXI), relating to the elimination of all forms of racial discrimination,

Noting with satisfaction the important conclusions and recommendations contained in the report on the United Nations seminar on apartheid, which was held at Brasilia in 1966,

Mindful of its competence as a body whose task is to consider matters relating to the prevention of discrimination and the protection of minorities,

1. Shares the profound indignation of the Commission on Human Rights at violations of human rights committed in colonial and other dependent countries and territories, itself strongly condemns such violations, particularly the policies of racial discrimination and apartheid, and associates itself with the General Assembly's designation of them as "crimes against humanity";

2. Requests the Commission on Human Rights, in considering the question of the Commission's tasks and functions and its role in connexion with violations of human rights in all countries, including the provision of necessary assistance to the Special Committee in implementing, in so far as relates to questions of human rights, the Declaration on the Granting of Independence to Colonial

/...

Countries and Peoples and the General Assembly decisions based on the Declaration, to take account of the Sub-Commission's special interest in the prevention and elimination of violations which constitute discrimination, especially racial discrimination, or some other type of infringement of the rights of minorities, and in the preparation of appropriate recommendations;

3. Requests the Secretary-General to prepare for the next session of the Sub-Commission an analytical survey of the petitions and other materials on the basis of which the question of violations of human rights arose in the Special Committee and was brought to the attention of the bodies concerned with human rights in its resolution of 18 June 1965, with special reference to those phenomena which are regarded in the petitions and in the aforementioned materials as manifestations of discrimination and infringements of the rights of minorities;

4. Recommends to the Commission on Human Rights that it should prepare for consideration by the General Assembly a draft appeal by the United Nations to the States in question calling upon them to proceed forthwith to apply the Convention on the Elimination of All Forms of Racial Discrimination, without regard to compliance with the conditions for its formal entry into force, to those colonial and other dependent territories to which the Declaration on the Granting of Independence to Colonial Countries and Peoples is applicable;

5. Decides to include the 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 other dependent countries and territories, in the agenda of its next session.

291. A draft resolution (E/CN.4/Sub.2/L.456 and Corr.1) was submitted by Mr. Ferguson (for the text, see para. 298 below).

292. In introducing his draft resolution, Mr. Nasinovsky pointed out that the question of violation of human rights was a matter of extreme importance as was evidenced by the attention already accorded to it by the Commission on Human Rights, the Economic and Social Council and the General Assembly. He recalled the genesis of Council resolution 1102 (XL) and the resolution adopted on 18 June 1965 by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. He

was convinced that the task entrusted to the Sub-Commission by the Commission on Human Rights covered only violations of human rights in the colonial and dependent countries and territories, and in the independent country of South Africa where the policy of apartheid, one of the most shocking examples of racial discrimination in the world, was vigorously applied. It was his view that any attempt to deal in vague generalities and to discuss violations of human rights of every kind in various parts of the world would defeat the purpose of the mandate entrusted to the Sub-Commission.

293. Referring to the proposals in his draft resolution, Mr. Nasinovsky said that the main provisions were to be found in operative paragraphs 1, 3 and 4. In paragraph 3, the Secretary-General was requested to prepare an analytical survey of the petitions and other relevant materials, with special reference to manifestations of discrimination and infringements of the rights of minorities.

294. In introducing his draft resolution, Mr. Ferguson stated that the important matter with which the Sub-Commission was concerned was the question of the availability in the United Nations of methods and resources to eliminate violations of human rights wherever they occurred. In his view, resolution 2 (XXII) of the Commission on Human Rights, resolution 1164 (XLI) of the Economic and Social Council, and General Assembly resolution 2144 (XXI) left no room for doubt regarding the Sub-Commission's mandate; it was to submit to the Commission on Human Rights recommendations and comments as to the means by which the Commission might be more fully informed of violations of human rights, wherever they occurred, with a view to devising recommendations and measures to halt them. He pointed out that the essential purpose of his draft resolution was to ensure that the Commission and the Sub-Commission should be informed of violations of human rights through the process of gathering, collating and evaluating information from varying sources. These sources were enumerated in operative paragraph 4 of his draft resolution.

295. Various members expressed the view that the item before the Sub-Commission raised important, new and complex questions. They felt, however, that the Sub-Commission should be cautious, since any decision to take positive action in order to combat violations of human rights might run counter to its previously expressed view that its role should be purely advisory, except in so far as its activities relating to the prevention of discrimination and protection of

/...

minorities were concerned. Accordingly, they supported the draft resolution (E/CN.4/Sub.2/L.451 and Rev.1) submitted by Mr. Nasinovsky on the ground that it was more realistic in its approach to the problem and sought to provide some assurance that the Sub-Commission would examine the relevant materials and formulate recommendations, which was the most that could be done at the present stage.

296. Amendments to Mr. Nasinovsky's draft resolution, as revised (E/CN.4/Sub.2/L.451 and Rev.1) were submitted by Messrs. Calvocoressi and Capotorti (E/CN.4/Sub.2/L.460 and 463); by Mr. Santa Cruz (E/CN.4/Sub.2/L.464); by Mr. Ferguson (E/CN.4/Sub.2/L.465) and by Mr. Humphrey (E/CN.4/Sub.2/L.467). Mr. Ferguson also orally proposed to amend operative paragraph 4 of Mr. Nasinovsky's draft resolution (E/CN.4/Sub.2/L.451/Rev.1) by inserting the words "where eligible" between the phrases "Racial Discrimination and" and "to ratify forthwith". With the exception of this oral amendment and the amendment proposed in E/CN.4/Sub.2/L.465, the amendments were either accepted by Mr. Nasinovsky or were not pressed to a vote.

297. At its 502nd meeting, the Sub-Commission voted as follows:

- (a) by 6 votes to none with 11 abstentions the Sub-Commission approved the retention of the words "with satisfaction" in the third paragraph of the preamble;
- (b) by 7 votes to 6 with 4 abstentions the Sub-Commission adopted the proposal to insert the words "where eligible" between the phrases "Racial Discrimination and" and "to ratify forthwith" in operative paragraph 4;
- (c) by 14 votes to none with 3 abstentions the Sub-Commission adopted the text of operative paragraph 4, as revised;
- (d) by 13 votes to none with 4 abstentions the Sub-Commission adopted

Mr. Ferguson's amendment (E/CN.4/Sub.2/L.465) as orally revised.

By 15 votes to none, with 2 abstentions, the draft resolution (E/CN.4/Sub.2/L.451 and Rev.1) as amended, was adopted as follows:

/...

Resolution 5 (XIX)

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 OTHER DEPENDENT COUNTRIES

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

Recalling resolution 2 (XXII) of the Commission on Human Rights, in which the Commission instructed the Sub-Commission to examine all relevant United Nations materials, including the resolution of 18 June 1965 of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and the documents referred to in Economic and Social Council resolution 1102 (XL), and "to submit to the Commission at its twenty-third session such recommendations or comments as it considers appropriate",

Recalling further Economic and Social Council resolution 1164 (XLI) and General Assembly resolution 2144 (XXI), relating to the 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 other dependent countries and territories, and General Assembly resolution 2142 (XXI), relating to the elimination of all forms of racial discrimination,

Noting with satisfaction the important conclusions and recommendations contained in the report on the United Nations seminar on apartheid, which was held at Brasilia in 1966,

Mindful of its competence as a body whose task is to consider matters relating to the prevention of discrimination and the protection of minorities,

Sharing the profound indignation of the Commission on Human Rights at violations of human rights committed in colonial and other dependent countries and territories as can be seen from the findings of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,

/...

1. Strongly condemns all violations 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 other dependent countries;

2. Requests the Commission on Human Rights, in considering the question of the Commission's tasks and functions and its role in connexion with violations of human rights in all countries, including the provision of necessary assistance to the Special Committee in implementing, in so far as relates to questions of human rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples and the General Assembly decisions based on the Declaration, to take account of the Sub-Commission's special interest in the prevention and elimination of all forms of discrimination, especially racial discrimination, and the protection of minorities;

3. Requests the Secretary-General to prepare for the next session of the Sub-Commission an analytical survey of the petitions and other materials on the basis of which the question of violations of human rights arose in the Special Committee and was brought to the attention of the bodies concerned with human rights in its resolution of 18 June 1965, with special reference to those phenomena which are regarded in the petitions and in the aforementioned materials as manifestations of discrimination and infringements of the rights of minorities;

4. Recommends to the Commission on Human Rights that it should prepare for consideration by the General Assembly a draft appeal by the United Nations to all countries and in particular to colonial countries and countries which bear responsibilities for Non-Self-Governing Territories to fully apply the provisions of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and where eligible to ratify forthwith the Convention on the Elimination of All Forms of Racial Discrimination;

5. Recommends that the Commission on Human Rights shall adopt an appropriate method for the gathering, collation and evaluation of relevant information on 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 other dependent countries;

/...

6. Transmits herewith as an annex the draft resolution submitted by Mr. Ferguson, E/CN.4/Sub.2/L.456 and Corr.1, without approval or disapproval, as illustrative of a possible method together with the summary records of the discussions of this question held in the Sub-Commission;

7. Further recommends to the Commission on Human Rights that it define the mandate of the Sub-Commission contained in its resolution 2 A (XXII), taking into account the decision of the Sub-Commission to complete by 1969 the special study on racial discrimination in the political, economic, social and cultural spheres, and also in the light of the decisions to be taken by the Commission on Human Rights on the name and terms of reference of the Sub-Commission;

8. Decides to retain the 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 other dependent countries and territories, in the agenda of its next session.

#### Annex

##### Draft resolution submitted by Mr. Ferguson (E/CN.4/Sub.2/L.456/Corr.1)

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

Recalling resolution 2 A (XXII) of the Commission on Human Rights of 25 March 1966, instructing the Sub-Commission to examine all United Nations materials relevant to violations 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 other dependent countries and territories, including the resolution of 18 June 1965 of the Special Committee of Twenty-Four, and to submit to the Commission at its twenty-third session such recommendations or comments as the Sub-Commission considers appropriate,

Recommends to the Commission on Human Rights the adoption of the following resolution:

##### The Commission on Human Rights,

Recalling its resolution 2 B (XXII) in which it decided to consider, at its twenty-third session, its "tasks and functions and its role in relation to

/...



violations of human rights in all countries", and its decision "that in order completely to deal with the question of violations of human rights and fundamental freedoms in all countries, it will be necessary for the Commission to consider fully the means by which it may be more fully informed of violations of human rights with a view to devising recommendations for measures to halt them",

Having considered the report of the Sub-Commission on the question of the violations of human rights and fundamental freedoms,

Recommends to the Economic and Social Council the adoption of the following resolution:

The Economic and Social Council,

Recalling its resolution 1164 (XLI) of 5 August 1966 in which it welcomed the decision of the Commission on Human Rights "to consider at its twenty-third session the question of the Commission's tasks and functions and its role in relation to violations of human rights in all countries" and concurred in "the Commission's view that it will be necessary for it to consider fully the means by which it may be more fully informed of violations of human rights with a view to devising recommendations for measures to halt them",

Recalling General Assembly resolution 2144 (XXI) of 26 October 1966, in which the Assembly invited the Council and the Commission on Human Rights "to give urgent consideration to ways and means of improving the capacity of the United Nations to put a stop to violations of human rights wherever they may occur",

Having considered the recommendations of the Commission on Human Rights on this issue,

1. Requests the Commission and the Sub-Commission to give annual consideration to violations 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 other dependent countries and territories;

2. Decides that the Commission and the Sub-Commission shall be informed of such violations of human rights through the process of gathering, collating and evaluating information from varying sources;

/...

3. Requests the Sub-Commission at each session, using such procedures as it deems appropriate, to prepare an annual report on violations of human rights containing information gathered, collated and evaluated under the terms of this resolution, and such comments, observations and recommendations as it may consider appropriate;

4. Invites the Commission and the Sub-Commission, in their examination of violations of human rights, to utilize information from the following sources:

(a) Governments of States Members of the United Nations and of the specialized agencies, including, inter alia, information provided in accordance with Economic and Social Council resolution 1074 C (XXXIX) and other relevant resolutions,

(b) The Secretary-General, such as that provided in accordance with Commission on Human Rights resolution 2 (XXII),

(c) The Special Committee of Twenty-Four on the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,

(d) The Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa,

(e) The specialized agencies, provided in accordance with Economic and Social Council resolution 1074 C (XXXIX) and other relevant resolutions,

(f) Regional inter-governmental organizations, provided in accordance with Economic and Social Council resolution 1159 (XLI),

(g) Non-governmental organizations, provided in accordance with Economic and Social Council resolution 1074 C (XXXIX),

(h) Observation or investigation upon the request of the Government whose territory is concerned,

(i) The writings of recognized scholars and scientists, as authorized for human rights studies under Human Rights Commission resolution 2 (XXII) and subsequent resolutions;

5. Invites the Sub-Commission to utilize information in the lists of communications prepared for the Commission and Sub-Commission by the Secretary-General under Economic and Social Council resolution 728 F (XXVIII) in the preparation of its annual report where it has reasonable cause to believe

/...

that such information, in conjunction with other material, reveals any consistent pattern of violations of human rights and fundamental freedoms, including policies of racial discrimination, segregation and apartheid, in any country, with particular reference to colonial and other dependent territories, such lists to be air-mailed to the members of the Sub-Commission one month before the start of each Sub-Commission session.

/...

VII. REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH  
THE SUB-COMMISSION HAS BEEN CONCERNED

Item 9 of the agenda

299. At its 503rd and 504th meetings, the Sub-Commission examined item 9 of its agenda entitled "Review of further developments in fields with which the Sub-Commission has been concerned". The item was divided into eight parts, as follows:

- (a) Discrimination in education
- (b) Discrimination in the field of employment and occupation
- (c) Discrimination in the matter of religious rights and practices
- (d) Discrimination in the matter of political rights
- (e) Discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country
- (f) Manifestations of racial prejudice and national and religious intolerance
- (g) Elimination of all forms of racial discrimination
- (h) Elimination of all forms of religious intolerance

300. The Sub-Commission had before it a memorandum submitted by the Secretary-General reviewing developments between 1 November 1965 and 15 October 1966 relating to the following matters: elimination of all forms of racial discrimination, elimination of all forms of religious intolerance, manifestations of racial prejudice and national and religious intolerance, publication on prevention of discrimination and protection of minorities, and further consideration by the Commission on Human Rights of matters relating to the prevention of discrimination and the protection of minorities (E/CN.4/Sub.2/270); a memorandum submitted by the United Nations Educational, Scientific and Cultural Organization, summarizing recent activities of UNESCO in the field of combating discrimination in education and in race relations (E/CN.4/Sub.2/271); and a memorandum submitted by the International Labour Office relating to discrimination in respect of employment and occupation (E/CN.4/Sub.2/272).

301. The Sub-Commission heard a statement by the representative of the Co-ordinating Board of Jewish Organizations (504th meeting).

/...

A. Discrimination in education

302. The Sub-Commission was informed that the Convention Against Discrimination in Education, adopted by the General Conference at its eleventh session, in 1960, had, as of 19 January 1967, been ratified or accepted by thirty-six Member States,<sup>1/</sup> and that the Protocol to the Convention, providing for the establishment of a Conciliation and Good Offices Commission to seek a settlement of disputes arising between States Parties to the Convention, adopted by the General Conference at its twelfth session in 1962, had been ratified by eight Member States.<sup>2/</sup> The memorandum submitted by UNESCO dealt, inter alia, with the question of periodic reports by Member States on the implementation of the Convention and Recommendation Against Discrimination in Education, the question of access of girls and women to education, the Recommendation concerning the Status of Teachers, and race relations.

B. Discrimination in the field of employment and occupation

303. The Sub-Commission was informed, in the memorandum submitted by the International Labour Office, that the Discrimination (Employment and Occupation) Convention, 1958, (No. 111) had been ratified by five Member States during the year 1966, bringing the total number of ratifications to fifty-seven.<sup>3/</sup> The memorandum also set out the number of parties to the following ILO Conventions: Equal Remuneration Convention, 1951 (No. 100), Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), and Equality of Treatment (Social Security)

- 
- <sup>1/</sup> Albania, Argentina, Australia, Bulgaria, Byelorussian SSR, Central African Republic, China, Costa Rica, Cuba, Czechoslovakia, Dahomey, Denmark, France, Guinea, Hungary, Indonesia, Israel, Italy, Kuwait, Lebanon, Liberia, Madagascar, Malta, Mongolia, Netherlands, New Zealand, Norway, Peru, Philippines, Poland, Romania, Ukrainian SSR, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom and Yugoslavia.
- <sup>2/</sup> Denmark, France, Italy, Madagascar, Malta, Netherlands, Philippines and United Kingdom.
- <sup>3/</sup> Brazil, Bulgaria, Byelorussian SSR, Canada, Central African Republic, Chad, China, Costa Rica, Cuba, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, Ethiopia, Gabon, Federal Republic of Germany, Ghana, Guatemala, Guinea, Honduras, Hungary, Iceland, India, Iran, Iraq, Israel, Italy, Ivory Coast, Jordan, Liberia, Libya, Malagasy Republic, Malawi, Mali, Mauritania, Mexico, Morocco, Niger, Norway, Pakistan, Panama, Philippines, Poland, Portugal, Republic of Viet-Nam, Sierra Leone, Somalia, Sweden, Switzerland, Syrian Arab Republic, Tunisia, Upper Volta, Ukrainian SSR, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia.

/...

Convention, 1962 (No. 118). It dealt with two aspects of the work programme of the International Labour Office: (a) the Meeting of Experts on Discrimination in Employment and Occupation held at the ILO Office in Geneva from 31 October to 4 November 1966, and (b) the publications of the ILO dealing with discrimination issued during 1966, or planned for the near future. The memorandum also summarized the action taken to implement the Declaration concerning the policy of apartheid of the Republic of South Africa, adopted by the International Labour Conference in 1964.

C. Elimination of All Forms of Racial Discrimination

304. The Sub-Commission was informed that as of 15 January 1966, forty-eight States had signed and six had ratified or acceded to the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>4/</sup>

D. Elimination of All Forms of Religious Intolerance

305. The Sub-Commission was informed that the Commission on Human Rights, at its twenty-second session, had adopted five articles of a draft International Convention on the Elimination of All Forms of Religious Intolerance; these articles were in addition to the preamble and four articles which the Commission had adopted at its twenty-first session. The Commission decided in resolution 1 (XXII) to give the highest priority at its twenty-third session to the completion of the preparation of the draft Convention. The Economic and Social Council in resolution 1157 (XII) of 5 August 1966, requested the Commission to do its utmost to complete consideration of the draft Convention at its twenty-third session and drew the attention of the Assembly to resolution 1 (XXII) of the Commission.

---

<sup>4/</sup> As of 15 January 1967, the Governments of the following forty-eight States had signed the Convention: Algeria, Australia, Bolivia, Bulgaria, Brazil, Byelorussian Soviet Socialist Republic, Cambodia, Cameroon, Canada, Central African Republic, Chile, China, Costa Rica, Cuba, Cyprus, Czechoslovakia, Denmark, Finland, Gabon, Ghana, Greece, Guinea, Holy See, Hungary, Iceland, Israel, Jamaica, Mauritania, Mexico, Mongolia, Netherlands, New Zealand, Niger, Norway, Pakistan, Panama, Peru, Philippines, Poland, Sierra Leone, Sweden, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom, United States and Yugoslavia. The Governments of the following six States had ratified, or acceded to, the Convention: Bulgaria, Czechoslovakia, Ecuador, Ghana, Pakistan and Tunisia.

/...

E. Manifestations of racial prejudice and national and religious intolerance

306. The Sub-Commission was informed that the Secretary-General, in compliance with the request contained in General Assembly resolution 2019 (XX), had submitted to the Assembly at its twenty-first session a report (A/6347 and Add.1-3) on manifestations of racial prejudice and national and religious intolerance based on information received from Governments. The Assembly in resolution 2143 (XXI), took note of the reports on this subject.

F. Publication on the prevention of discrimination and protection of minorities

307. The Sub-Commission was informed that in resolution 13 (XXII), the Commission on Human Rights, on recommendation of the Sub-Commission, submitted to the Economic and Social Council for adoption a draft resolution calling for the printing and sale to the public of a 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). At its forty-first session, the Council, in resolution 1161 (XLI) of 5 August 1966, authorized the Secretary-General to take appropriate steps for printing, circulating and making available for sale to the public the memorandum and the compilation as one publication.

G. Further consideration by the Commission on Human Rights of matters relating to the prevention of discrimination and the protection of minorities

308. The Sub-Commission was informed that the Commission on Human Rights, in resolution 14 (XXII) of 2 April 1966, regretted that it had been unable, at the twenty-second session, to undertake the examination of the reports of the seventeenth and eighteenth sessions of the Sub-Commission, and requested the Sub-Committee to submit at its nineteenth session draft resolutions on those matters in the above-mentioned reports on which it desired that the Commission take action. The Commission, in resolution 17 (XXII) of 2 April 1966, noted, inter alia, that it had not been able to discuss a number of important items on its agenda, the

/...

consideration of which had been deferred from year to year, drew the attention of the Economic and Social Council to the problem and expressed the hope that the Commission would be afforded the necessary time for a more effective discharge of its tasks and responsibilities.

309. The Sub-Commission was also informed of the adoption, by the Economic and Social Council, of resolution 1165 (XLI), entitled "Revision of the work programme of the Commission on Human Rights". In that resolution, the Council, inter alia, recommended that the Commission give due consideration to the various questions under the "Prevention of discrimination and protection of minorities" and decided to authorize the Commission to have a longer session, but one not exceeding six weeks, beginning in 1967. Several members welcomed the Council's resolution and expressed the hope that the extended session would enable the Commission to consider the reports prepared by Mr. Krishnaswami on discrimination in the matter of religious rights and practices, by Mr. Santa Cruz on discrimination in regard to political rights, and by Mr. Ingles on discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, and the draft principles approved by the Sub-Commission and appended to these reports.

#### H. Consideration of draft resolution

310. A draft resolution relating to the review of further developments in fields with which the Sub-Commission had been concerned submitted by Mr. Ketrzynski (E/CN.4/Sub.2/L.462), read as follows:

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

A

Considering resolution 14 (XXII) of the Commission on Human Rights entitled: 'Reports of the Seventeenth and Eighteenth Sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities' in which the Commission requests the Sub-Commission to submit draft resolutions on those matters in the above-mentioned reports on which it desires that the Commission take action,

Recalling its resolutions 5 (XVII) and 4 (XVIII),

/...



Having received the memorandum submitted by the Secretary-General on the further developments in fields with which the Sub-Commission has been concerned (E/CN.4/Sub.2/270); the memorandum submitted by UNESCO on its recent activities in the field of discrimination in education and in the fields of race relations (E/CN.4/Sub.2/271); and the memorandum submitted by the International Labour Office on discrimination in the field of employment and occupation (E/CN.4/Sub.2/272),

1. Thanks the Secretary-General, the Director-General of ILO and the Director-General of UNESCO for the steps they have taken to apprise the Sub-Commission of further measures adopted by their organizations to prevent discrimination;

2. Takes note with satisfaction of the ratification by fifty-seven States members of ILO, of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111);

3. Also takes note with satisfaction of the ratification or acceptance by thirty-four States members of UNESCO, of the Convention Against Discrimination in Education, of the ratification by eight States members of UNESCO of the Protocol to that Convention providing for the establishment of a Conciliation and Good Offices Commission to seek settlement of disputes arising between States Parties;

4. Welcomes with satisfaction the adoption by the General Assembly of the Covenant on Civil and Political Rights, and the Covenant on Economic, Social and Cultural Rights;

5. Welcomes also resolution 1165 (XLI) adopted on 5 August 1966 by the Economic and Social Council, in which the Council, inter alia, recommends that the Commission on Human Rights give due consideration to the various questions under the item 'Prevention of discrimination and protection of minorities' and that it resume consideration of item 'Freedom of information';

6. Recommends the following draft resolutions to the Commission on Human Rights for consideration at its twenty-third session:

'The Commission on Human Rights,

Considering resolution 1165 (XLI) adopted on 5 August 1966 by the Economic and Social Council, in which the Council recommended that the Commission give due consideration to the various questions under the item "Prevention of discrimination and protection of minorities",

Taking note of the reports of the 17th, 18th and 19th sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

/...

Bearing in mind that the Commission, in preparing the draft declaration and draft convention on the elimination of all forms of religious intolerance, had given consideration to the Study of Discrimination in the Matter of Religious Rights and Freedoms prepared by the Sub-Commission's Special Rapporteur, Mr. Arcot Krishnaswami, and to the draft principles on equality and non-discrimination in the matter of religious rights and freedoms prepared by the Sub-Commission,

Decides to initiate at the appropriate time, consideration of the reports prepared by Mr. Santa Cruz on discrimination in regard to political rights, by Mr. Ingles on discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country and by Mr. V.V. Saario on discrimination against persons born out of wedlock, and the draft principles approved by the Sub-Commission and appended to these reports.'

'The Commission on Human Rights,

Taking into consideration the wish expressed in resolutions 5 (XVII) and 4 (XVIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Calls upon all States Members of the United Nations or members of the specialized agencies to sign and ratify or to accede without delay to the International Convention on the Elimination of All Forms of Racial Discrimination; to the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights; to the ILO Discrimination (Employment and Occupation) Convention and to the Convention Against Discrimination in Education.'

B

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

Recalling its resolution 5 B (XVII),

Desiring its members to be kept informed of current developments relating to the prevention of discrimination and the protection of minorities,

Requests the Secretary-General to prepare and circulate twice a year, to the members of the Sub-Commission and to the specialized agencies and non-governmental organizations which collaborate in the Sub-Commission's work, a news-letter summarizing current developments, within the United Nations system, relating to the prevention of discrimination and the protection of minorities."

/...

311. Mr. Ketrzynski agreed to accept the amendment made by Mr. Schiller (E/CN.4/Sub.2/L.470) to add, at the end of operative paragraph 1, the words "and to protect minorities".

312. The following amendments (E/CN.4/Sub.2/L.469) were proposed by Mr. Carey:

- (1) Add a fourth preambular paragraph in part A:

"Having discussed other relevant developments,".

- (2) After operative paragraph 3, add the following paragraph:

"Welcomes with satisfaction the signature by forty-nine States of the Convention on the Elimination of All Forms of Racial Discrimination and ratification by six and accession to it by one State."

- (3) In operative paragraph 4, following the words "Civil and Political Rights", add the words: "and optional Protocol thereto". At the end of the paragraph add the following: "as well as the signature by eight States of the two Covenants and the signature by six States of the Protocol."

- (4) In operative paragraph 6, in the second draft resolution recommended to the Commission on Human Rights, substitute the word "Invites" for the words "Calls upon" and following the words "Civil and Political Rights", add the words "and the optional Protocol thereto."

- (5) In the second preambular paragraph of Part B of the draft resolution, after the words "relating to", insert the words "its work, particularly".

- (6) In the operative paragraph of part B of the draft resolution, delete the words "which collaborate in the Sub-Commission's work", and substitute the words "in consultative status". In the same paragraph, revise the text following the word "summarizing" to read as follows: "current inter-governmental developments, both within and outside the United Nations system, relating to the subjects of concern to the Sub-Commission, especially prevention of discrimination and protection of minorities."

- (7) Add a second operative paragraph reading as follows:

"Invites the members of the Sub-Commission to call to the attention of the Secretary-General information for consideration by him for possible inclusion in such a news-letter."

/...

313. Several members addressed themselves to the part of the amendment of Mr. Carey which referred to the Optional Protocol to the International Covenant on Civil and Political Rights. Some members felt that it was appropriate for the Sub-Commission to call on Governments to sign the Protocol, since the Assembly had already done so when adopting the Protocol. Others, however, felt that States should not be requested to sign the Protocol because of its optional nature. Some members expressed reservations regarding operative paragraphs 2, 3 and 4 of the draft resolution, as well as the new operative paragraph 3 proposed by Mr. Carey, which indicated the number of signatories to the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the UNESCO Convention Against Discrimination in Education and the Convention on the Elimination of All Forms of Racial Discrimination. In their view, the number of signatories to the above-mentioned Conventions should not be included in the Sub-Commission's resolution, since these numbers change from time to time. Other members took the position that it was appropriate for the Sub-Commission to take note of the present status of these conventions.

314. Several members drew attention to the words "Calls upon all States Members of the United Nations or members of the specialized agencies" in the operative paragraph of the second draft resolution to the Commission on Human Rights contained in the draft resolution of Mr. Ketrzynski. One member suggested that the words "all States Members of the United Nations or members of the specialized agencies" should be deleted, so that the draft resolution would be addressed to all States. One member suggested that the operative paragraph should be addressed to all States. One member suggested that the operative paragraph should be revised to read as follows: "Calls upon all eligible States"; it was his position that this formulation was more accurate because, in each convention, the General Assembly or the specialized agencies had included provisions concerning eligibility for signature, ratification or accession.

315. Regarding Part B of the draft resolution, which dealt with the publication of a news-letter, several members expressed the hope that such a publication could be undertaken within the existing budgetary resources of the Secretary-General. A few members expressed opposition to the amendment of Mr. Carey which proposed that information from inter-governmental organizations be included in the news-letter. In the view of one member, these organizations represented a single

/...

political viewpoint, while, in the opinion of others, such organizations should not have access to United Nations publications as a forum for their programmes. One member noted that the news-letter could be of particular value to those members of the Sub-Commission who were not members of permanent delegations, since the news-letter would keep them informed of current developments within the United Nations family.

316. In the light of the debate, Mr. Carey withdrew his amendment and Mr. Ketrzynski revised the draft resolution by deleting the second, third, fourth and fifth operative paragraphs. The second draft resolution, addressed to the Commission, was also deleted. Mr. Ketrzynski suggested that the Sub-Commission postpone consideration of the question of the news-letter to its twentieth session, and proposed that Part B of the draft resolution be deleted; other members, however, supported the text as proposed. It was agreed that a separate vote would be taken on Part B of the draft resolution. Part B of the draft resolution was adopted by 10 votes to none, with 6 abstentions, while Part A of the draft resolution, as amended, was adopted unanimously. The resolution, as revised, was adopted unanimously as follows:

#### RESOLUTION 6 (XIX)

##### REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

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

###### A

Considering resolution 14 (XXII) of the Commission on Human Rights entitled: "Reports of the Seventeenth and Eighteenth Sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities" in which the Commission requests the Sub-Commission to submit draft resolutions on those matters in the above-mentioned reports on which it desires that the Commission take action,

Recalling its resolutions 5 (XVII) and 4 (XVIII),

Having received the memorandum submitted by the Secretary-General on the further developments in fields with which the Sub-Commission has been concerned (E/CN.4/Sub.2/270); the memorandum submitted by UNESCO on its recent activities in the field of discrimination in education and in the fields of race relations (E/CN.4/Sub.2/271); and the memorandum submitted by the International Labour Office on discrimination in the field of employment and occupation (E/CN.4/Sub.2/272),

/...

1. Thanks the Secretary-General, the Director-General of ILO and the Director-General of UNESCO for the steps they have taken to apprise the Sub-Commission of further measures adopted by their organizations to prevent discrimination and to protect minorities;

2. Recommends the following draft resolution to the Commission on Human Rights for consideration at its twenty-third session:

"The Commission on Human Rights,

"Considering resolution 1165 (XLI) adopted on 5 August 1966 by the Economic and Social Council, in which the Council recommended that the Commission give due consideration to the various questions under the item 'Prevention of discrimination and protection of minorities',

"Taking note of the reports of the 17th, 18th and 19th sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

"Bearing in mind that the Commission, in preparing the draft declaration and draft convention on the elimination of all forms of religious intolerance, has given consideration to the Study of Discrimination in the Matter of Religious Rights and Freedoms prepared by the Sub-Commission's Special Rapporteur, Mr. Arcot Krishnaswami, and to the draft principles on equality and non-discrimination in the matter of religious rights and freedoms prepared by the Sub-Commission,

"Decides to initiate, at the appropriate time, consideration of the reports prepared by Mr. Santa Cruz on discrimination in regard to political rights, by Mr. Ingles on discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country and by Mr. V.V. Saario on discrimination against persons born out of wedlock, and the draft principles approved by the Sub-Commission and appended to these reports."

B

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

Recalling its resolution 5 B (XVII),

Desiring its members to be kept informed of current developments relating to the prevention of discrimination and the protection of minorities,

Requests the Secretary-General to prepare and circulate twice a year, to the members of the Sub-Commission and to the specialized agencies and non-governmental organizations which collaborate in the Sub-Commission's work, a news-letter summarizing current developments, within the United Nations system, relating to the prevention of discrimination and the protection of minorities.

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

Item 12 of the agenda

317. With regard to the twentieth session of the Sub-Commission, the representative of the Secretary-General recalled that the calendar of conferences for 1967 approved by the Economic and Social Council (E/4292) provided for that session to be held in New York from 21 August to 1 September. Some members, and in particular the Special Rapporteur appointed to carry out the special study of racial discrimination in the political, economic, social and cultural spheres, had expressed the desire for a longer period between the nineteenth and twentieth sessions. Inquiries had accordingly been made which had indicated that there was a possibility of re-scheduling the session during the early part of October 1967, provided that it were held in Geneva.

318. The Sub-Commission unanimously agreed to recommend that the Economic and Social Council decide that its twentieth session should be held in Geneva during the period from 2 to 13 October 1967.<sup>1/</sup>

319. The Sub-Commission postponed consideration, to its twentieth session, of item 10 of its agenda, "Protection of Minorities", and of item 11, "Genocide".

---

<sup>1/</sup> For the financial implications, see annex I.

IX. COMMUNICATIONS RELATING TO PREVENTION OF DISCRIMINATION  
AND PROTECTION OF MINORITIES

Item 13 of the agenda

320. The Secretary-General distributed to the members of the Sub-Commission a confidential list of communications (Sub.2/Communications List No. 16) and replies of Governments (Human Rights Communications Nos. 468, 470, 471, 478, 495, 498, 502, 524 and 534). A non-confidential list of communications (E/CN.4/Sub.2/CR.11) was also distributed. The Sub-Commission considered these materials at its 506th meeting, on 20 January 1967.

321. During a part of the meeting which was held in private, some members expressed the view that the existing practice in relation to the handling of communications was unsatisfactory. Others, on the other hand, felt that the practice currently followed, as established by the relevant resolutions of the Economic and Social Council, was perfectly sound and that there was no reason to change it. One member proposed that the summary record of the closed meeting should be made public. Another member stated that such action would be inappropriate. One member drew attention to what he considered to be insulting and abusive language appearing in the list of communications, and suggested that the Secretariat should revise its procedures relating to the handling and summarization of complaints containing such language.

322. The Sub-Commission took note of the communications and decided to summarize the debate in its report.

323. At the resumed 506th meeting, held in public, the Sub-Commission heard a statement by the observer of the United States of America. At that meeting it had before it a draft resolution submitted by Mr. Carey (E/CN.4/Sub.2/L.172), which read as follows:

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

"Recalling Economic and Social Council resolution 728 F (XXVIII) and prior related resolutions, establishing a system for the handling of communications on human rights matters,

"Having received from the Secretary-General in accordance with resolution 728 F (XXVIII) Confidential Sub.2/Communications List No. 16, dated 17 October 1966 and Human Rights Communications Nos. 468, 470, 471, 478, 495, 498, 502, 524 and 534, and having discussed the procedure thereby illustrated,



"Requests the Commission on Human Rights to review the provisions of Economic and Social Council resolution 728 F (XXVIII) in order to determine whether to recommend to the Economic and Social Council the adoption of possible changes in this resolution."

324. In introducing the draft resolution, Mr. Carey stated that the debates at both this and the prior session had clearly indicated widespread dissatisfaction, on varying grounds, with the procedure relating to the handling of communications concerning human rights established by the Economic and Social Council in resolution 728 F (XXVIII). Other members of the Sub-Commission, however, opposed the adoption of the draft resolution. Some members considered that no change in the procedure was called for, while others pointed out that it was not appropriate for the Sub-Commission to recommend revision of the existing procedure without giving a clear indication of the changes which it considered to be necessary.

325. On the proposal of the Chairman, the Sub-Commission decided, by 10 votes in favour and 5 against, to adjourn the debate on the draft resolution until its twentieth session.

/...

X. ADOPTION OF THE REPORT OF THE SUB-COMMISSION TO  
THE COMMISSION ON HUMAN RIGHTS

Item 14 of the agenda

326. The Sub-Commission considered the draft report of its nineteenth session (E/CN.4/Sub.2/L.448 and Add.1-6) at its 507th meeting on 23 January 1967, and adopted this report, as revised by the Rapporteur, unanimously.

/...

Annex I

FINANCIAL IMPLICATIONS OF RESOLUTIONS ADOPTED BY THE  
SUB-COMMISSION AT ITS NINETEENTH SESSION

Of the resolutions adopted by the Sub-Commission at its nineteenth session, the following carry financial implications for the Organization.

Resolution 1 (XIX). Study of discrimination against persons born out of wedlock

Part B of this resolution requests the Commission on Human Rights to recommend to the Economic and Social Council the adoption of a further draft resolution which would, inter alia, request the Secretary-General to print the study and circulate it as widely as possible.

In accordance with Financial Regulation 13.1, the Representative of the Secretary-General informed the Sub-Commission that the cost of printing this study in English, French and Spanish would be \$8,500. The additional cost of printing the study in Russian would be \$3,000. If the Commission on Human Rights should so request and the Economic and Social Council should adopt the draft resolution, the Secretary-General would include provision for this item in the Revised Budget Estimates for 1968 arising from actions of the Council.

Resolution 3 (XIX). Special study of racial discrimination in the political, economic, social and cultural spheres

Paragraph 9 of this resolution requests the Secretary-General to invite the Special Rapporteur to attend the seminar on racial discrimination to be held in 1968 under the programme of advisory services in the field of human rights and to arrange for his progress report to be made available to the seminar.

The representative of the Secretary-General advised the Sub-Commission, at its 501st meeting, that adoption of this paragraph would entail travel and subsistence costs, the exact amount of which would be reported to it in due course. Travel of the Special Rapporteur from his residence to the site of the seminar and subsistence during his attendance is estimated at \$3,500.

If the report containing this resolution is approved by the Commission on Human Rights and the Economic and Social Council, the Secretary-General will include

/...

provision for this item in the Revised Budget Estimates for 1968 arising from actions of the Council.

Time and place of meeting - paragraph 318

The Sub-Commission unanimously agreed to recommend that the Economic and Social Council decide that its twentieth session should be held in Geneva during the period 2 to 13 October 1967. The change in the place of meeting from New York to Geneva will result in a decrease in costs for travel and subsistence of members from \$26,725 to \$18,450.

However, it will be necessary to provide for the travel and subsistence of five staff members from the Division of Human Rights to service the Sub-Commission meeting. It is anticipated that travel of one staff member may be charged to home leave. Subsistence for this staff member and travel and subsistence for the remaining four is estimated at \$3,650.

The Secretary-General will undertake to absorb this cost under the totality of funds available in Section 5 of the Budget.

/...

ANNEX II

LIST OF DOCUMENTS BEFORE THE SUB-COMMISSION AT ITS NINETEENTH SESSION

1. Documents issued in the general series:

- |                  |   |
|------------------|---|
| E/CN.4/Sub.2/264 | Provisional agenda<br>(note by the Secretary-General)   |
| E/CN.4/Sub.2/265 | Study of discrimination against persons born out of wedlock (report submitted by the Special Rapporteur, Mr. Vieno Voitto Saario)   |
| E/CN.4/Sub.2/266 | Study of equality in the administration of justice (progress report submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat)   |
| E/CN.4/Sub.2/267 | Special study of racial discrimination in the political, economic, social and cultural spheres (report submitted by the Special Rapporteur, Mr. Hernán Santa-Cruz)  |
| E/CN.4/Sub.2/268 | Periodic reports on human rights and reports on freedom of information (note by the Secretary-General)  |
| E/CN.4/Sub.2/269 | 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 other dependent countries and territories (note by the Secretary-General)           |
| E/CN.4/Sub.2/270 | Review of further developments in fields with which the Sub-Commission has been concerned   |
| E/CN.4/Sub.2/271 | Review of further developments in fields with which the Sub-Commission has been concerned; recent activities of UNESCO in the field of combating discrimination in education and in race relations (memorandum submitted by the United Nations Educational, Scientific and Cultural Organization) |
| E/CN.4/Sub.2/272 | Review of further developments in fields with which the Sub-Commission has been concerned; discrimination in respect of employment and occupation (memorandum submitted by the International Labour Office)   |

/...

- E/CN.4/Sub.2/273 Periodic reports on human rights and reports on freedom of information; subject and country index to reports on civil and political rights covering the period from 1 January 1963 to 30 June 1965 (note by the Secretary-General)
- E/CN.4/Sub.2/273/Add.1 Periodic reports on human rights and reports on freedom of information; subject and country index to reports on economic, social and cultural rights (note by the Secretary-General)
- E/CN.4/892 Periodic reports on human rights; comments received from the Governments of Cuba, Denmark, El Salvador, Laos, the Maldives Islands and San Marino (note by the Secretary-General)
- E/CN.4/892/Add.1 Periodic reports on human rights; comments received from the Government of the United Kingdom of Great Britain and Northern Ireland (note by the Secretary-General)
- E/CN.4/892/Add.2 Periodic reports on human rights; comments received from the Government of Argentina (note by the Secretary-General)
- E/CN.4/892/Add.3 Periodic reports on human rights; comments received from the Government of Norway (note by the Secretary-General)
- E/CN.4/892/Add.4 Periodic reports on human rights; comments received from the Governments of China, France, Jamaica and Zambia (note by the Secretary-General)
- E/CN.4/892/Add.5 Periodic reports on human rights; comments received from the Government of the Central African Republic (note by the Secretary-General)
- E/CN.4/892/Add.6 Periodic reports on human rights; comments received from the Governments of Finland and Italy (note by the Secretary-General)
- E/CN.4/892/Add.7 Periodic reports on human rights; comments received from the Governments of Canada and Pakistan (note by the Secretary-General)
- E/CN.4/892/Add.8 Periodic reports on human rights; comments received from the Government of the Federal Republic of Germany (note by the Secretary-General)
- E/CN.4/892/Add.9 Periodic reports on human rights; comments received from the Governments of Liberia and Poland (note by the Secretary-General)

/...

- E/CN.4/892/Add.10 Periodic reports on human rights; comments received from the Government of Upper Volta (note by the Secretary-General)
- E/CN.4/892/Add.11 Periodic reports on human rights; comments received from the Government of the United States of America (note by the Secretary-General)
- E/CN.4/892/Add.12 Periodic reports on human rights; comments received from the Government of the United Arab Republic (note by the Secretary-General)
- E/CN.4/892/Add.13 Periodic reports on human rights; comments received from the Government of Costa Rica (note by the Secretary-General)
- E/CN.4/892/Add.14 Periodic reports on human rights; comments received from the Government of Nigeria (note by the Secretary-General)
- E/CN.4/892/Add.15 Periodic reports on human rights; comments received from the Government of the United Kingdom of Great Britain and Northern Ireland (note by the Secretary-General)
- E/CN.4/892/Add.16 Periodic reports on human rights; comments received from the Governments of Lebanon, Netherlands, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom and Yugoslavia (note by the Secretary-General)
- E/CN.4/892/Add.17 Periodic reports on human rights; comments received from the Governments of Austria and the Byelorussian Soviet Socialist Republic (note by the Secretary-General)
- E/CN.4/892/Add.18 Periodic reports on human rights; comments received from the Government of India (note by the Secretary-General)
- E/CN.4/892/Add.19 Periodic reports on human rights; comments received from the Government of Kuwait (note by the Secretary-General)
- E/CN.4/892/Add.20 Periodic reports on human rights; comments received from the Government of Argentina (note by the Secretary-General)
- E/CN.4/892/Add.21 Periodic reports on human rights; comments received from the Governments of Congo (Brazzaville), Israel and Togo (note by the Secretary-General)
- E/CN.4/892/Add.22 Periodic reports on human rights; comments received from the Government of Turkey (note by the Secretary-General)

/...

- E/CN.4/892/Add.23 Periodic reports on human rights; comments received from the Government of Ireland (note by the Secretary-General)
- E/CN.4/892/Add.24 Periodic reports on human rights; comments received from the Governments of Ghana, Liechtenstein and Nepal (note by the Secretary-General)
- E/CN.4/892/Add.25 Periodic reports on human rights; comments received from the Government of New Zealand (note by the Secretary-General)
- E/CN.4/893 Periodic reports on human rights (report submitted by the International Labour Organisation)
- E/CN.4/917 Periodic reports on human rights; comments received from the Governments of the Byelorussian Soviet Socialist Republic, India and the Malagasy Republic (note by the Secretary-General)
- E/CN.4/917/Add.1 Periodic reports on human rights; comments received from the Government of the Federal Republic of Germany (note by the Secretary-General)
- E/CN.4/917/Add.2 Periodic reports on human rights; comments received from the Government of Kuwait (note by the Secretary-General)
- E/CN.4/917/Add.3 Periodic reports on human rights; comments received from the Governments of Denmark and Italy (note by the Secretary-General)
- E/CN.4/917/Add.4 Periodic reports on human rights; comments received from the Government of Austria (note by the Secretary-General)
- E/CN.4/917/Add.5 Periodic reports on human rights; comments received from the Governments of Congo (Brazzaville), Finland and Israel (note by the Secretary-General)
- E/CN.4/917/Add.6 Periodic reports on human rights; comments received from the Governments of Ghana and Nepal (note by the Secretary-General)
- E/CN.4/917/Add.7 Periodic reports on human rights; comments received from the Governments of Cambodia, the Central African Republic and Romania (note by the Secretary-General)
- E/CN.4/917/Add.8 Periodic reports on human rights; comments received from the Government of Kuwait (note by the Secretary-General)



- E/CN.4/918 Periodic reports on human rights (report submitted by the World Health Organization)
- E/CN.4/918/Add.1 Periodic reports on human rights (report submitted by the International Labour Organisation)
- E/CN.4/918/Add.2 Periodic reports on human rights (report submitted by the United Nations Educational, Scientific and Cultural Organization)
- E/CN.4/Sub.2/CR.11 Non-confidential list of communications concerning discrimination and minorities

2. Documents issued in the limited series:

- E/CN.4/Sub.2/L.429 Periodic reports on human rights and reports on freedom of information  
Draft resolution submitted by Mr. Clyde Ferguson
- E/CN.4/Sub.2/L.430 Periodic reports on human rights and reports on freedom of information  
Resolution adopted by the Sub-Commission at its 484th meeting
- E/CN.4/Sub.2/L.431 Study of equality in the administration of justice  
Draft resolution submitted by Mr. Eduard Schiller
- E/CN.4/Sub.2/L.432 Study of discrimination against persons born out of wedlock  
New text of paragraph 4 of the proposed preamble of the general principles of equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. V.V. Saario
- E/CN.4/Sub.2/L.433 Study of discrimination against persons born out of wedlock  
Amendment to the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Messrs. P. Calvocoressi and Z. Zeltner
- E/CN.4/Sub.2/L.434 Study of discrimination against persons born out of wedlock  
Proposed amendment to the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. F. Capotorti

/...

- E/CN.4/Sub.2/L.435      Study of discrimination against persons born out of wedlock  
Amendments to the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. P. Calvocoressi
- E/CN.4/Sub.2/L.436      Study of discrimination against persons born out of wedlock  
Amendments to the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. S.P. Jagota
- E/CN.4/Sub.2/L.437      Study of discrimination against persons born out of wedlock  
Amendment to the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. J.P. Humphrey
- E/CN.4/Sub.2/L.438      Study of discrimination against persons born out of wedlock  
Proposed amendment to the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. F. Capotorti
- E/CN.4/Sub.2/L.439      Study of discrimination against persons born out of wedlock  
Amendments to the general principle on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. J. Carey
- E/CN.4/Sub.2/L.440      Study of discrimination against persons born out of wedlock  
Amendment to the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. S.P. Jagota
- E/CN.4/Sub.2/L.441      Study of discrimination against persons born out of wedlock  
Revised text of the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. V.V. Saario
- E/CN.4/Sub.2/L.442      Study of discrimination against persons born out of wedlock  
Revised text of the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. V.V. Saario

/...

- E/CN.4/Sub.2/L.443  
Study of discrimination against persons born out of wedlock  
Amendments to the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. P. Calvocoressi
- E/CN.4/Sub.2/L.444  
Study of discrimination against persons born out of wedlock  
Amendment to the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. F. Capotorti
- E/CN.4/Sub.2/L.445  
Study of discrimination against persons born out of wedlock  
Amendments to the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. S.P. Jagota
- E/CN.4/Sub.2/L.446  
Study of discrimination against persons born out of wedlock  
Revised text of the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mr. V.V. Saario
- E/CN.4/Sub.2/L.447 and Rev.1  
Study of discrimination against persons born out of wedlock  
Draft resolution submitted by Mr. P. Calvocoressi
- E/CN.4/Sub.2/L.448 and Add.1-6  
Draft report of the nineteenth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights  
(Rapporteur: Mr. Zeev W. Zeltner)
- E/CN.4/Sub.2/L.449  
Study of discrimination against persons born out of wedlock  
Revised text of the general principles on equality and non-discrimination in respect of persons born out of wedlock
- E/CN.4/Sub.2/L.450  
Study of discrimination against persons born out of wedlock  
Amendments to the general principles on equality and non-discrimination in respect of persons born out of wedlock submitted by Mrs. P. Asiyo and Mr. M. Awad

/...

- E/CN.4/Sub.2/L.451 and Rev.1  
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 other dependent countries  
Draft resolution submitted by Mr. E.K. Nasinovsky
- E/CN.4/Sub.2/L.452  
Study of discrimination against persons born out of wedlock  
Amendment to the draft resolution by Mr. Calvocoressi submitted by Mr. J.P. Humphrey
- E/CN.4/Sub.2/L.453  
Study of discrimination against persons born out of wedlock  
General principles on equality and non-discrimination in respect of persons born out of wedlock  
Text adopted by the Sub-Commission
- E/CN.4/Sub.2/L.454  
Special study of racial discrimination in the political, economic, social and cultural spheres  
Draft resolution submitted by Mr. E.K. Nasinovsky
- E/CN.4/Sub.2/L.455 and Rev.1  
Special study of racial discrimination in the political, economic, social and cultural spheres  
Draft resolution submitted by Mr. J.P. Humphrey
- E/CN.4/Sub.2/L.456 and Corr.1  
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 other dependent countries  
Draft resolution submitted by Mr. C. Ferguson
- E/CN.4/Sub.2/L.457  
Special study of racial discrimination in the political, economic, social and cultural spheres  
Amendment to annex I of the special study of racial discrimination in the political, economic, social and cultural spheres submitted by Mr. C. Ferguson
- E/CN.4/Sub.2/L.458  
Periodic reports on human rights and reports on freedom of information  
Study requested at the 484th meeting of the Sub-Commission  
(Special Rapporteur: Mr. Zeev W. Zeltner)

/...

- E/CN.4/Sub.2/L.459 Study of discrimination against persons born out of wedlock  
Statement of financial implications by the Secretary-General relating to the draft resolution in document E/CN.4/Sub.2/L.447/Rev.1
- E/CN.4/Sub.2/L.460 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 other dependent countries  
Amendments to draft resolution by Mr. E.K. Nasinovsky submitted by Messrs. P. Calvocoressi and F. Capotorti
- E/CN.4/Sub.2/L.462 Review of further developments in fields with which the Sub-Commission has been concerned  
Draft resolution submitted by Mr. W. Ketrzynski
- E/CN.4/Sub.2/L.463 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 other dependent countries  
Amendments to the draft resolution by Mr. E.K. Nasinovsky submitted by Messrs. P. Calvocoressi and F. Capotorti
- E/CN.4/Sub.2/L.464 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 other dependent countries  
Amendment to the draft resolution by Mr. E.K. Nasinovsky submitted by Mr. H. Santa-Cruz
- E/CN.4/Sub.2/L.465 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 other dependent countries  
Amendment to resolution by Mr. E.K. Nasinovsky submitted by Mr. C. Ferguson
- E/CN.4/Sub.2/L.466 and Rev.1 Protection of Minorities  
Draft resolution submitted by Mr. C. Ferguson

/...

- E/CN.4/Sub.2/L.467      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 other dependent countries  
Amendment to draft resolution by Mr. E.K. Nasinovsky submitted by Mr. J.P. Humphrey
- E/CN.4/Sub.2/L.468      Periodic reports on human rights and reports on freedom of information  
Draft resolution submitted by Mr. C. Ferguson
- E/CN.4/Sub.2/L.469      Review of further developments in fields with which the Sub-Commission has been concerned  
Amendment to draft resolution by Mr. W. Ketrzynski submitted by Mr. J. Carey
- E/CN.4/Sub.2/L.470      Review of further developments in fields with which the Sub-Commission has been concerned  
Amendment to the draft resolution by Mr. W. Ketrzynski submitted by Mr. E. Schiller
- E/CN.4/Sub.2/L.472      Communications relating to the prevention of discrimination and protection of minorities  
Draft resolution submitted by Mr. J. Carey
- E/CN.4/Sub.2/L.473      Periodic reports on human rights and reports on freedom of information  
Draft resolution submitted by Mr. P. Calvocoressi
- E/CN.4/Sub.2/L.474      Special study of racial discrimination in the political, economic, social and cultural spheres  
(statement of financial implications by the Secretary-General, relating to the draft resolution in document E/CN.4/Sub.2/L.455/Rev.1)
- E/CN.4/Sub.2/L.475      Consideration of the future work of the Sub-Commission  
(statement of financial implication by the Secretary-General relating to the decision taken by the Sub-Commission at its 506th meeting)

/...

3. Documents issued in the NGO series

E/CN.4/Sub.2/NGO/43

Review of further developments in fields with which the Sub-Commission has been concerned (discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country)

Statement submitted by the International Council of Jewish Women, a non-governmental organization in consultative status (category B)

E/CN.4/Sub.2/NGO/44

Special study of racial discrimination in the political, economic, social and cultural spheres  
Statement submitted by the International Humanist and Ethical Union, a non-governmental organization in consultative status (register)

-----