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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION  
AND PROTECTION OF MINORITIES

Third session

ACTIVITIES OF ORGANS OF THE UNITED NATIONS IN THE FIELD OF  
PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

PART I<sup>1/</sup>

GENERAL ASSEMBLY AND SUBSIDIARY ORGANS

A. Introduction

1. At its second session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities requested the Secretary-General, inter alia:<sup>2/</sup>

"....to furnish the members of the Sub-Commission with relevant data on the activities of all organs of the United Nations and its specialized agencies in the field of the prevention of discrimination and the protection of minorities, as and when it becomes available."

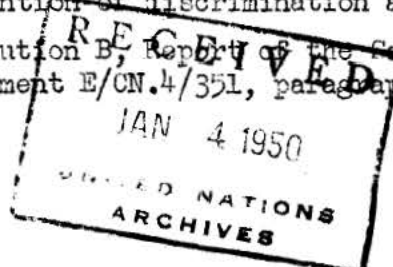
This memorandum contains such relevant information concerning the activities of the General Assembly and its subsidiary organs.

B. Declarations and Conventions

2. Reference has been made in an earlier study (document E/CN.4/Sub.2/5) to Resolution 103 (I) of the General Assembly, on Persecution and Discrimination, the text of which is as follows:

1/ This study is one of a series dealing with the activities of various organs of the United Nations and its Specialized Agencies in the field of prevention of discrimination and protection of minorities.

2/ Resolution B, Report of the Second Session of the Sub-Commission (document E/CN.4/351, paragraph 15).



/The General

"The General Assembly declares that it is in the higher interests of humanity to put an immediate end to religious and so-called racial persecution and discrimination, and calls on the Governments and responsible authorities to conform both to the letter and to the spirit of the Charter of the United Nations, and to take the most prompt and energetic steps to that end."

3. Resolution 217 (III) of the General Assembly, on an International Bill of Human Rights, also has been drawn to the attention of the Sub-Commission (document E/CN.4/Sub.2/41). This resolution includes (a) the Universal Declaration of Human Rights, and (b) a resolution on the fate of minorities.

4. On 9 December 1948 the General Assembly adopted Resolution 260 (III), including the text of a Convention on the Prevention and Punishment of the Crime of Genocide. A special study of the relationship of this Convention to the prevention of discrimination and the protection of minorities has been prepared (document E/CN.4/Sub.2/80).

C. The Headquarters Agreement

5. At its second session the General Assembly, by its Resolution 169 (II) approved the Agreement between the United Nations and the United States, signed on 26 June 1947 by the Secretary-General of the United Nations and the Secretary of State of the United States of America, regarding the Headquarters of the United Nations. Section 19 of Article VII of this agreement reads:

"It is agreed that no form of racial or religious discrimination shall be permitted within the headquarters district."

D. Allegations of Discrimination

6. At its third session the General Assembly had on its agenda an item, "Violation by the Union of Soviet Socialist Republics of fundamental human rights, traditional diplomatic practices and other principles of the Charter". Having examined this item, it adopted Resolution 285 (III), the text of which reads:

"The General Assembly,

"Considering the item proposed by Chile on 'violation by the Union of Soviet Socialist Republics of fundamental human rights, traditional diplomatic practices and other principles of the Charter', which violation has consisted in preventing the Soviet wives of citizens

/of other

of other nationalities from leaving their country with their husbands or in order to join them abroad, even when they are married to persons belonging to foreign diplomatic missions, or to members of their families or retinue,

"Considering that in the preamble to the Charter of the United Nations all the signatory countries resolved 'to re-affirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women....',

"Considering that Article I (3) of the Charter binds all Members to encourage 'respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion', and that in Article 55 c of the Charter the members undertook to promote 'universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion',

"Considering, lastly, that the Economic and Social Council, in pursuance of the powers conferred upon it by Article 62 (2) of the Charter, in its resolution 154 (VII) D dated 23 August 1948, deplored the 'legislative or administrative provisions which deny to a woman the right to leave her country of origin and reside with her husband in any other' and that the Universal Declaration of Human Rights formulated by the United Nations General Assembly, in its articles 13 and 16, provides that everyone has the right to leave any country including his own and that men and women of full age have the right to marry without any limitation due to race, nationality or religion,

"Declares that the measures which prevent or coerce the wives of citizens of other nationalities from leaving their country or origin with their husbands or in order to join them abroad, are not in conformity with the Charter; and that when those measures refer to the wives of persons belonging to foreign diplomatic missions, or of members of their families or retinue, they are contrary to courtesy, to diplomatic practices and to the principle of reciprocity, and are likely to impair friendly relations among nations;

"Recommends the Government of the Union of Soviet Socialist Republics to withdraw the measures of such a nature which have been adopted."

/7. At its

7. At its fourth session the General Assembly had on its agenda an item, "Discriminations practised by certain States against immigrating labour and, in particular, against labour recruited from the ranks of refugees", which had been postponed from its third session. Having examined this item, it adopted a resolution (document A/1111) the text of which reads:

"The General Assembly,

"Having considered the item on the agenda of its fourth regular session entitled 'Discriminations practised by certain States against immigrating labour and, in particular, against labour recruited from the ranks of refugees',

"Noting that the question of the treatment of migrant labour has been dealt with by the International Labour Conference which, at its 32nd session, adopted a Convention and a recommendation dealing comprehensively with migration for employment,

"Decides to transmit the records of the discussions on this subject at its fourth regular session to the International Labour Organisation, with the request that the International Labour Organisation should do all in its power, in view of the importance of the principle of non-discrimination embodied in the Universal Declaration of Human Rights, to expedite the ratification and application of the Convention by its members, and to promote its observance as regards the social relations of the workers and their families with the inhabitants of the region, so that no offensive distinctions may be established in regard to the former and that they may enjoy all facilities for accommodation, food, education, recreation and medical assistance, both public and private, which are provided for the community."

E. Treatment of People of Indian Origin in the Union of South Africa

8. Reference already has been made (in document E/CN.4/Sub.2/5) to the adoption by the General Assembly of Resolution 44 (I), on the treatment of people of Indian origin in the Union of South Africa. At the second part of its third session the General Assembly adopted a second resolution (265 (III)) on this subject, which reads:

"The General Assembly,

"Taking note of the application made by the Government of India regarding the treatment of people of Indian origin in the Union of

—/South Africa

South Africa as well as of considerations put forward by the Government of the Union, and having examined the matter,

"Invites the Governments of India, Pakistan and the Union of South Africa to enter into discussion at a round-table conference, taking into consideration the purposes and principles of the Charter of the United Nations and the Declaration of Human Rights."

F. Prevention of Discrimination and Protection of Minorities in Trust Territories

9. Part II of this study (document E/CN.4/Sub.2/81) is devoted to activities of the Trusteeship Council relating to prevention of discrimination and protection of minorities in Trust Territories. The General Assembly also has considered this subject on several occasions. As explained in detail in Part II, the Trusteeship Agreements prepared by the Trusteeship Council and approved by the General Assembly (Resolutions 63 (I) and 149 (II)) contain references to the prevention of discrimination and the protection of minorities.
10. At its third session the General Assembly adopted Resolution 225 (III), on Educational Advancement in the Trust Territories, which reads in part:

"The General Assembly,

"Having seen the Report of the Trusteeship Council (A/603), which points out the need for education in certain Trust Territories; ....

"Considering that the democratization of education is an essential condition for the progressive development of these Territories,

"Considering that the objective formulated in the Charter of promoting the development of the inhabitants of these Territories towards self-government requires the creation of a system of universal education for the inhabitants without exception or discrimination, ....

"Recommends the Trusteeship Council:

(a) To request the Administering Authorities to intensify, within their possibilities, their efforts to increase educational facilities, even if this should involve an increase in the budgetary provisions for this purpose;

(b) In order to ensure that this increase of educational facilities be carried out in a democratic manner, to propose to the Administering Authorities that primary education should be free and that access to higher education should not be dependent on means;

/(c) To suggest



(c) To suggest to the Administering Authorities the improvement and expansion of existing facilities for the training of indigenous teachers;

(d) Having regard to the existing facilities for higher education in Africa already provided by certain Administering Authorities and bearing in mind the plans already made for their development, to study, in consultation with these Administering Authorities, and, if the Council considers it desirable, with the United Nations Educational, Scientific and Cultural Organization, the financial and technical implications of a further expansion of these facilities, including the possibility of establishing in 1952, and maintaining, a university to meet the higher educational needs of the inhabitants of Trust Territories in Africa;

(e) In accordance with the objectives of Article 76 b of the Charter and so that the United Nations may be in a position to form an opinion of the progress achieved in the field of education to request the Administering Authorities to furnish it each year with the most complete and detailed information obtainable on this subject."

11. At the 240th plenary meeting of its fourth session the General Assembly adopted a resolution (document A/1096) on Social Advancement in Trust Territories, reading in part:

"The General Assembly,

"Having taken note of the conclusions and recommendations of the Trusteeship Council on the social advancement of the following Trust Territories: the Cameroons and Togoland under British administration, the Cameroons and Togoland under French administration, Western Samoa, New Guinea and Nauru, and of the conclusions and observations of its Visiting Mission to East Africa, incorporated in the report of the Trusteeship Council,

"Recalling that one of the basic objectives of the International Trusteeship System is to encourage respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

/"Resolves ...

"Resolves ...

4. To recommend the abolition of discriminatory laws and practices contrary to the principles of the Charter and the Trusteeship Agreement, in all Trust Territories in which such laws and practices still exist;
  5. To recommend that the Trusteeship Council should examine all laws, statutes and ordinances, as well as their application, in the Trust Territories and make positive recommendations to the Administering Authorities concerned with a view to the abolition of all discriminatory provisions or practices;
  6. To ask the Trusteeship Council to include in its annual reports to the General Assembly a special section dealing with the implementation by the Administering Authorities of its recommendations concerning the improvement of social conditions in Trust Territories, the abolition of corporal punishment and, in particular, the action taken in pursuance of the recommendation contained in paragraph 5 above."
12. At the same plenary meeting the General Assembly adopted a resolution (document A/1097) on Educational Advancement in Trust Territories, reading in part:

"The General Assembly,

"Having examined the conclusions and recommendations of the Trusteeship Council with respect to educational advancement in the Trust Territories of the Cameroons and Togoland under British administration, the Cameroons and Togoland under French administration, Western Samoa, New Guinea and Nauru,

"Resolves ...

6. To declare formally that discrimination on racial grounds as regards educational facilities available to the different communities in the Trust Territories is not in accordance with the principles of the Charter, the Trusteeship Agreements and the Universal Declaration of Human Rights;
7. To recommend the Trusteeship Council to include in its annual reports to the General Assembly a special section on the manner in

/which

which the Administering Authorities have implemented resolution 36 (III) of Trust Territories, resolution 83 (IV) on educational advancement in Trust Territories, free primary education and the training of indigenous teachers, and resolution 110 (V) on higher education in the Trust Territories in Africa, and, generally, on the implementation of the Council's recommendations in the field of education."

G. Information Relating to Prevention of Discrimination and Protection of Minorities in Non-Self-Governing Territories

13. Chapter XI of the Charter of the United Nations is entitled "Declaration Regarding Non-Self-Governing Territories". Article 73 of the Charter, which falls within Chapter XI, states that "Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories..." To this end, such Members have undertaken to observe a number of principles concerning political, economic and social advancement, and have agreed, in Article 73 (c) of the Charter:

"To transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply."<sup>2/</sup>

In 1947, 1948 and 1949, the United Nations published summaries of the information on non-self-governing territories transmitted to the Secretary-General during 1946, 1947 and 1948 respectively by the Members responsible for the administration of these territories.<sup>2/</sup> A Standard Form annexed to the summaries related to the Trust Territories.

Publications, Sales Nos. 1947. VI. B.1, 1948. VI. B.1, and 1949. VI. B.1.

/s/



resolution 142 (II) adopted by the General Assembly on 3 November 1947 provides the basis on which this information was prepared after the adoption of that resolution. The Standard Form includes the following item:

"II. Social Conditions

A. Social problems of race and cultural relations, including laws safeguarding the indigenous population from discrimination."

15. Before the third and fourth sessions of the General Assembly a special committee, appointed at the previous session, examined the information transmitted under Article 73 (e) of the Charter, and submitted a report thereon, together with such procedural recommendations as it deemed fit and such substantive recommendations relating to functional fields generally, but not with respect to individual territories, as it deemed desirable (A/593, A/923, and A/923/Corr.1 and Corr.2).

16. The report submitted to the fourth session of the General Assembly by the Special Committee on Information Transmitted under Article 73 (e) of the Charter (A/923) included in its Annex II the text of certain draft resolutions submitted for the consideration of the General Assembly. The second of these is entitled "Draft resolution on equal treatment in matters relating to education", and reads as follows:

"The General Assembly

"Invites the Administering Members to take steps, where necessary to establish equal treatment in matters related to education between inhabitants of the Non-Self-Governing Territories under their administration, whether they be indigenous or not."

17. At the 263rd plenary meeting of its fourth session the General Assembly, having considered the Report of the Special Committee on Information Transmitted under Article 73 (e), adopted a resolution reading in part (document A/1182):

"The General Assembly

1. Invites the Administering Members to take steps, where necessary, to establish equal treatment in matters related to education between inhabitants of the Non-Self-Governing Territories under their administration, whether they be indigenous or not;

/2. Invites

2. Invites the Administering Members, in cases where for exceptional reasons educational facilities of a separate character are provided for different communities, to include in the information transmitted under Article 73 (e) of the Charter full data on the costs and methods of financing the separate groups of educational institutions.

H. The Government of Palestine

18. On several occasions the General Assembly, in considering questions relating to the government of Palestine, has adopted resolutions containing references to the prevention of discrimination and the protection of minorities. In Resolution 181 (II) the General Assembly recommended the adoption and implementation of a "Plan of Partition with Economic Union" to the United Kingdom, as the (then) mandatory power for Palestine and to all other members of the United Nations. Included in this plan was the provision that a Declaration be made to the United Nations by the provisional government of each proposed state before independence, which should contain specified provisions relating inter alia to (a) holy places, religious buildings and sites; (b) religious and minority rights, and (c) clauses placing these provisions under the guarantee of the United Nations. Also included was a proposed statute for the City of Jerusalem containing provisions relating to the prevention of discrimination and the protection of minorities.

19. At its second special session the General Assembly adopted on 14 May 1948 Resolution 186 (S-2) providing for the appointment of a United Nations Mediator on Palestine. Paragraph II (2) of this resolution instructs the Mediator to render progress reports to the Security Council and to the Secretary-General for transmission to the Members of the United Nations. In one such progress report dated 18 September 1948 the Mediator states his conclusions "which may be derived from the experience to date", including the following (document A/648, Part III):

"...(f) the refugees, on return to their homes, are entitled to adequate safeguards for their personal security, normal facilities for employment, and adequate opportunities to develop within the community without racial, religious or social discrimination."

20. In its Resolution 194 (III) adopted at the first part of its third session the General Assembly:

"...Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date..."

21. By the same resolution the General Assembly established the United Nations Conciliation Commission for Palestine and instructed the Commission inter alia

"...to present to the fourth regular session of the General Assembly detailed proposals for a permanent international regime for the Jerusalem area which will provide for the maximum local autonomy for distinctive groups consistent with the special international status of the Jerusalem area."

22. On 1 September 1949 the Conciliation Commission communicated to the Secretary-General a Draft Instrument (document A/973) establishing a Permanent International Regime for the Jerusalem Area. This Draft Instrument refers to the prevention of discrimination and the protection of minorities in many of its provisions, among them the following:

Article 8

"On behalf of the United Nations the Commissioner [to be appointed for five years by the General Assembly] shall: ... (b) ensure the protection of human rights and of the rights of distinctive groups, in accordance with the terms of Article 23 of the present instrument..."

23. Article 23 reads:

"The responsible authorities of the two zones of Jerusalem shall ensure, in their respective zones, the observance of human rights and fundamental freedoms, in particular freedom of worship and freedom of education, as set forth in the Universal Declaration of Human Rights approved by the General Assembly on 10 December 1948 'as a common standard of achievement for all peoples and all nations'. Should the United Nations Commissioner consider that the responsible authorities of either of the two zones are failing to comply with these obligations, he shall refer the matter to the International Tribunal for decision or, if necessary, bring the matter before an appropriate organ of the United Nations."

24. Article 12 of the Draft Instrument provides for the establishment of the International Tribunal for Jerusalem, to which reference is made in Article 23, and goes on to provide, inter alia, the following:

"The International Tribunal shall have jurisdiction:

- (a) To hear and determine cases submitted to it by the Commissioner under articles 9 and 23 of the present Instrument;  
....."

Further relevant provisions include the following:

"Article 17

"No form of taxation shall be levied in respect of any Holy Place, religious building or site which was exempt from such taxation on 14 May 1948. No change in the incidence of any form of taxation shall be made which would either discriminate between the owners and occupiers of Holy Places, religious buildings and sites or would place such owners and occupiers in a position less favourable in relation to the general incidence of that form of taxation than existed on 14 May 1948.

"Article 18

"The Commissioner shall undertake to secure for Ministers of religion, pilgrims and visitors free circulation throughout the area of Jerusalem without distinction as to nationality or faith. He shall have power to negotiate and conclude with the States concerned arrangements whereby the unhindered travel of ministers of religion, pilgrims and visitors to and from the area of Jerusalem shall be guaranteed."

25. By paragraph 7 of resolution 194 (III), the General Assembly also resolved "that the Holy Places - including Nazareth - religious buildings and sites in Palestine should be protected and free access to them assured, in accordance with existing rights and historical practice." The Assembly further resolved that arrangements to this end should be under effective

United Nations supervision and that the United Nations Conciliation Commission for Palestine, with respect to the Holy Places outside the Jerusalem area, should call upon the political authorities of the areas concerned to give formal guarantees as to the protection of the Holy Places and access to them, which undertakings should be presented to the General Assembly for approval. The Conciliation Commission accordingly addressed to the Heads of the

/Delegations

Delegations of Egypt, the Hashemite Jordan Kingdom, Lebanon, and Syria and to the Head of the Delegation of Israel, a letter dated 2 September 1949, communicating the text of a proposed Declaration to be made with respect to the Holy Places, religious buildings and sites in Palestine outside the area of Jerusalem. On 8 November 1949, Mr. A. Lourie, representative of Israel, addressed a letter of reply on behalf of his Government to the Chairman of the Conciliation Commission. On 15 November 1949, the Heads of the Delegations of Egypt, the Hashemite Jordan Kingdom, Syria and Lebanon transmitted on behalf of their respective Governments to the Conciliation Commission a Declaration made in New York on that date regarding the Holy Places, religious buildings and sites in Palestine outside the area of Jerusalem. In a letter to the Secretary-General dated 16 November 1949, the Conciliation Commission submitted copies of the three above-mentioned documents for transmission to the General Assembly (document A/1113). The Declaration proposed by the Conciliation Commission includes the following passages:

"DRAFT DECLARATION CONCERNING THE HOLY PLACES,  
RELIGIOUS BUILDINGS AND SITES IN PALESTINE  
OUTSIDE THE AREA OF JERUSALEM

"The Government of ....

"CONSCIOUS of its responsibilities concerning the preservation of the special character of Palestine, whose soil has been consecrated by the prayers and pilgrimages of the adherents of the three great religions;

"DESIROUS of implementing the provisions of paragraph 7 of the resolution of the General Assembly of the United Nations of 11 December 1948 concerning the protection of and free access to the Holy Places, religious buildings and sites in Palestine outside the area of Jerusalem as this area is defined in paragraph 8 of the resolution of 11 December 1948;

"SOLEMNLY UNDERTAKES by the provisions of the present Declaration to guarantee the protection of and free access to the Holy Places, religious buildings and sites of Palestine situated in the territory placed under its authority by the final settlement of the Palestine problem or, pending that settlement, in the territory at present occupied by it under armistice agreements;

/"Article 1



"Article 1

"The free exercise of all forms of worship shall be guaranteed by the Constitution and effectively ensured by administrative practice in accordance with the Declaration of Human Rights of 10 December 1948.

.....

"Article 4

"The Government of \_\_\_\_\_ undertakes to guarantee freedom of access to the Holy Places, religious buildings and sites situated in the territory placed under its authority by the final settlement of the Palestine problem, or, pending that settlement, in the territory at present occupied by it under armistice agreements; and, pursuant to this undertaking, will guarantee rights of entry and of transit to ministers of religion, pilgrims and visitors without distinction as to nationality or faith, subject only to considerations of national security.

.....

"Article 5

"No form of taxation shall be levied in respect of any Holy Place, religious building or site which was exempt from such taxation on 14 May 1948.

"No change in the incidence of any form of taxation shall be made which would either discriminate between the owners and occupiers of Holy Places, religious buildings and sites, or would place such owners and occupiers in a position less favourable in relation to the general incidence of that form of taxation then existed on 14 May 1948.

.....

"Article 8

"Disputes regarding the interpretation and the implementation of the present Declaration may be submitted either by the Government of \_\_\_\_\_ or by the United Nations Commissioner in Jerusalem to the International Tribunal provided under the Instrument establishing a permanent international regime for the Jerusalem area. The decisions of the International Tribunal shall be binding on the parties.

"Pending the establishment of the International Tribunal in Jerusalem, such disputes may be reported either by the Government of \_\_\_\_\_ or

/by the

by the United Nations Representative in Jerusalem to the Secretary-General of the United Nations for reference to the appropriate organ of the United Nations."

26. At its fourth session the General Assembly, having studied the reports of the United Nations Conciliation Commission for Palestine, adopted a resolution (document A/1245), entitled: "Palestine: Question of an International Regime for the Jerusalem area and the Protection of the Holy Places", which, inter alia, re-stated the intention of the General Assembly that Jerusalem should be placed under a permanent international regime, and requested the Trusteeship Council at its next session to complete the preparation of the Statute of Jerusalem; the resolution, however, made no specific reference to questions of discrimination.

I. The United Nations Special Committee on the Balkans

27. By resolution 109 (II), entitled "Threats to the political independence and territorial integrity of Greece", the General Assembly established a Special Committee on the Balkans to observe the compliance by the Governments of Albania, Bulgaria, Yugoslavia and Greece with the recommendations made to them in the resolution, and to be available to assist the four Governments concerned in the implementation of those recommendations.

28. The report of the United Nations Special Committee on the Balkans, Supplement No. 8 (A/574) to the Official Records of the Third Session of the General Assembly, contains in its paragraphs 98-99 the following:

"4. PROBLEM OF MINORITIES

"98. Similarly, the Special Committee was hampered in its study of the practicability of concluding agreements for the voluntary transfer of minorities.<sup>119)</sup> On 27 December 1947, the Special Committee requested the Greek liaison representative to furnish information about minorities.<sup>120)</sup> On 15 April 1948 the Greek liaison representative replied that the Greek Government considered the problem of the Chams, the Albanian-speaking Moslem minority in Greece, largely settled by the emigration of the Moslem Chams to Albania. A solution of the question of the Greek

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"119) General Assembly resolution, paragraph 5 (4)."

"120) A/AC.16/S.G.3/2."

Slavophones, and of Greek minorities in the neighbouring countries, he declared, required the co-operation of those countries. The Greek Government, therefore, could not, in the present circumstances, put forward a solution of this problem and reserved its right to do so as circumstances permitted.<sup>121)</sup>

"99. The Special Committee fully appreciates the complex character of the problem of minorities and is continuing its studies, but is not now in a position to state its views.<sup>122)</sup>"

29. The Supplementary Report of the same Special Committee (Supplement No. 3 (A/644) to the Official Records of the Third Session of the General Assembly) contains the following relevant material in its paragraph 25:

"(4) PROBLEM OF MINORITIES

(Report, paragraphs 98-99)

"25. On 1 September 1948, the Special Committee, in its study of the problem of minorities, decided that, under present conditions, it was impossible to ascertain with any accuracy the real desires of the Greek Slavophones and the countries which might be willing to accept them, and recommended that, when conditions permitted, an investigation should be carried out.<sup>22)</sup>"

30. Resolution 193 (III) of the General Assembly, adopted after that body had considered the reports submitted to it by the Special Committee on the Balkans (A/574, A/644 and A/692), contains no direct reference to the specific problems touched upon in the quotations just made from two of those reports.

J. The International Law Commission

31. At its second session the General Assembly resolved (Resolution 174 (II)) to establish an International Law Commission, whose members were to be elected at the third session of the General Assembly and in due course were so elected.

"121) A/AC.16/223. The Greek Liaison representative stated that the number of Slavophones living in Greek territory at the present time was approximately 75,000 to 80,000. He estimated that there were 18,000 Bulgarian-speaking Moslems living in Western Thrace and, at the outbreak of the Second World War, some 18,000 Moslem Chams in Southern Epirus. See also A/AC.16/SC.2/16 for the Special Committee's study of the problem of minorities. For the Greek Liaison Service comment on that study see A/AC.16/298."

"122) See A/AC.16/SC.2/Min28; A/AC.16/284; A/AC.16/293 and A/AC.16/SR.89."

"22) See document A/AC.16/SC.2/16."

2. The General Assembly, at its 123rd meeting on 21 November 1947, adopted resolution 177 (II) which reads:

"The General Assembly

"Decides to entrust the formulation of the principles of international law recognized in the Charter of the Nurnberg Tribunal and in the judgment of the Tribunal to the International Law Commission, the members of which will, in accordance with resolution 174 (II), be elected at the next session of the General Assembly, and

"Directs the Commission to

"(a) Formulate the principles of international law recognized in the Charter of the Nurnberg Tribunal and in the judgment of the Tribunal, and

"(b) Prepare a draft code of offences against the peace and security of mankind, indicating clearly the place to be accorded to the principles mentioned in sub-paragraph (a) above."

33. As has already been stated in document E/CN.4/Sub.2/5 (paragraph 1 (d)), one of the principles of the Charter of the Nurnberg International Military Tribunal is the provision made therein for the punishment of crimes against humanity. The term "crimes against humanity" is defined in Article 6 (c) of that Charter, as amended, as follows: "namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial, or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of domestic law of the country where perpetrated." (Italics inserted).

34. During the course of its discussions arising as a result of resolution 177 (II) of the General Assembly<sup>1/</sup> the International Law Commission at its first session (12 April - 9 June 1949) appointed a sub-committee which submitted a working paper (A/CN.4/W.6) containing a formulation of the Nurnberg principles. The same sub-committee subsequently presented a further draft to the Commission (A/CN.4/W.12), of which the passages relevant to the present study read as follows:

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<sup>1/</sup> See the Report of the International Law Commission (A/925), paragraphs 25-31.

"1. Any person who commits or is an accomplice in the commission of an act which constitutes a crime under international law is responsible therefor and liable to punishment.

"2. Such person is responsible under international law whether or not his act is punishable under any domestic law.

"3. The official position of a person as Head of State or responsible official does not free him from responsibility (or mitigate punishment).

"4. The fact that a person acts pursuant to order of his Government or of a superior does not free him from responsibility. It may, however, be considered in mitigation of punishment, if justice so requires.

"5. The following acts constitute crimes under international law:

"(c) Crimes against humanity: namely, murder, extermination, enslavement, deportation and other inhumane acts done against a civilian population, or persecution on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace or any war crime.

....."

35. The Commission noted that, under resolution 177 (II) of the General Assembly, the task of formulating the Nurnberg principles appeared to be so closely connected with that of preparing a draft code of offences against the peace and security of mankind that it would be premature for the Commission to give a final formulation to these principles before the work of preparing the draft code was further advanced. It was, accordingly, decided to refer the further draft to a rapporteur who should submit his report thereon to the Commission at its second session.

36. The International Law Commission during its first session also adopted a Draft Declaration on Rights and Duties of States (see A/925, paragraphs 44-53), of which Article 6 reads as follows:

"Every State has the duty to treat all persons under its jurisdiction with respect for human rights and fundamental freedoms, without distinction as to race, sex, language, or religion."

37. At its fourth session the General Assembly (a) adopted a resolution (document A/1218) which approved Part I of the Report of the International Law



Commission Covering its First Session, referred to in paragraph 35 above; and  
 (b) adopted a resolution on the Draft Declaration of Rights and Duties of States which reads in part (document A/1220):

"The General Assembly,

"... 3. Resolves to transmit to Member States, for consideration, the draft Declaration together with all the documentation relating thereto produced during the present session of the General Assembly, and to request them to furnish their comments and suggestions at the latest by 1 July 1950;

"4. Requests Member States to furnish at the same time comments on the following questions:

I. Whether any further action should be taken by the General Assembly on the draft Declaration;

II. If so, the exact nature of the document to be aimed at and the future procedure to be adopted in relation to it."

K. The Question of the Disposition of the Former Italian Colonies

38. At its fourth session the General Assembly considered the question of the disposition of the former Italian colonies. As a result of this examination it adopted a resolution at its 250th plenary meeting (document A/1124), setting forth its recommendations, which the Powers concerned had agreed to accept in accordance with Annex XI, paragraph 3, of the Treaty of Peace with Italy, 1947. These recommendations contain numerous references to the prevention of discrimination and the protection of minorities, among them:

"A. With respect to Libya, /the General Assembly/

Recommends:

"...6. That the Council (established to aid and advise the United Nations Commissioner) shall consist of ten members, namely: .....

(b) one representative of the people of each of the three regions of Libya and one representative of the minorities in Libya;...

"B. With respect to Italian Somaliland, recommends:

"...6. That the Trusteeship Agreement shall include annex containing a declaration of constitutional principles guaranteeing the rights of the inhabitants of Somaliland and providing for institutions designed to ensure the inauguration, development and subsequent establishment of full self-government;

/ "7. That

"7. That in the draft of this declaration the Trusteeship Council shall be guided by the annexed text proposed by the Indian delegation.."

(The annexed Indian text referred to above includes the provision that:

"The following constitution shall be annexed to and form part of the Trusteeship Agreement for any of the former Italian colonies that may be placed under the International Trusteeship System:

"...7. All the authorities of the Trust Territory shall, in the exercise of their respective functions, respect human rights and fundamental freedoms for all without distinction as to race, sex, language or religion...")

"C. With respect to Eritrea, recommends:

"1. That a Commission consisting of representatives of not more than five Member States, as follows, Burma, Guatemala, Norway, Pakistan and the Union of South Africa, shall be established to ascertain more fully the wishes and the best means of promoting the welfare of the inhabitants of Eritrea, to examine the question of the disposal of Eritrea and to prepare a report for the General Assembly, together with such proposal or proposals as it may deem appropriate for the solution of the problem of Eritrea;

"2. That in carrying out its responsibilities the Commission shall ascertain all the relevant facts, including written or oral information from the present administering Power, from representatives of the population of the territory, including minorities, from Governments and from such organizations and individuals as it may deem necessary. In particular, the Commission shall take into account:

"(a) The wishes and welfare of the inhabitants of Eritrea, including the views of the various racial, religious and political groups of the provinces of the territory and the capacity of the people for self-government;....

"(c) The rights and claims of Ethiopia based on geographical, historical, ethnic or economic reasons, including in particular Ethiopia's legitimate need for adequate access to the sea;...."

/L. Non-discrimination

L. Non-discrimination in the Distribution of Assistance

39. In several instances the General Assembly, in establishing organizations for the distribution of assistance, has provided specifically for the prevention of discrimination.

40. In the preamble to Resolution 43 (I), on Relief Needs After the Termination of UNRRA, the General Assembly reaffirmed the principle "that at no time should relief supplies be used as a political weapon, and that no discrimination should be made in the distribution of relief supplies because of race, creed, or political belief."

41. By Resolution 57 (I) the General Assembly created an International Children's Emergency Fund, which, according to paragraph 2 (b) of the resolution, is to provide for:

"...ii. equitable and efficient dispensation or distribution of all supplies or other assistance, on the basis of need, without discrimination because of race, creed, nationality status or political belief;..."

42. The principle of non-discrimination is further reflected in the various agreements between the Fund and individual governments, on the basis of which the work is carried on. Each of these agreements contains an article providing that:

"The government undertakes to see that these supplies are dispensed or distributed equitably and efficiently on the basis of need, without discrimination because of race, creed, nationality status or political belief."

43. The United Nations Appeal for Children, with which the General Assembly associated itself by Resolution 138 (II), was extended during 1949 by the General Assembly (Resolution 215 (III)) "as a world-wide appeal for voluntary non-governmental contributions to be used for the benefit of children, adolescents, and expectant and nursing mothers, without discrimination on account of race, religion, nationality or political belief." The Report of the Secretary-General on the United Nations Appeal for Children (E/861) presented to the seventh session of the Economic and Social Council, contains the following statement concerning such national campaign proceeds as might not be allocated to the United Nations International Children's Emergency Fund:

/ "As regards

"As regards the proceeds not allocated to the Fund, every effort was made to ensure equitable distribution and the Secretary-General saw to it that all agreements covering participation in the Appeal included a clause pledging distribution of proceeds without discrimination as to 'race, creed, nationality status, or political belief'. All countries accepted this principle and national committees have undertaken to implement it."

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