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

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

New York, 5 to 23 January 1959

Rapporteur: Mr. Voitto SAARIO

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I. ORGANIZATION OF THE SESSION

A. Opening and duration of the session

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities held its eleventh session at the Headquarters of the United Nations, New York, from 5 to 23 January 1959.
2. Mr. Mohamed Awad, Chairman of the Sub-Commission at its tenth session, opened the eleventh session on 5 January 1959 (25⁴th meeting).

B. Representation at the session

3. The following members of the Sub-Commission, or alternates, attended:

| | |
|------------------------------------|--|
| Mr. Mohamed Awad | (United Arab Republic) |
| Mr. Issam Beyhum (Alternate) | (Lebanon) |
| Mr. Claude Chayet (Alternate) | (France) |
| Mr. A.A. Fomin | (Union of Soviet Socialist Republics) |
| Mr. Philip Halpern | (United States of America) |
| Mr. Theodore Spaulding (Alternate) | (United States of America) |
| Mr. C. Richard Hiscocks | (United Kingdom of Great Britain and Northern Ireland) |
| Mr. José D. Ingles | (Philippines) |
| Mr. Arcot Krishnaswami | (India) |
| Mr. Jacek Machowski (Alternate) | (Poland) |
| Mr. Hérard Roy | (Haiti) |
| Mr. Hernan Santa Cruz | (Chile) |
| Mr. Voitto Saario | (Finland) |
4. Before the session opened, three members of the Sub-Commission, Mr. Charles Ammoun (Lebanon), Mr. Pierre Chatenet (France) and Mr. Joseph Winiewicz (Poland), informed the Secretary-General that they were unable to attend the session and that, in accordance with rule 70 of the Rules of Procedure of Functional Commissions of the Economic and Social Council, and with the consent of their Governments, they appointed as alternates for the whole of the session Mr. Issam Beyhum, Mr. Claude Chayet and Mr. Jacek Machowski respectively. One

member of the Sub-Commission, Mr. Philip Halpern (United States) appointed Mr. Theodore Spaulding alternate for the first two weeks of the session. The Secretary-General was in full agreement with these nominations and the alternates, therefore, during the session enjoyed the same status as members of the Sub-Commission, including the right to vote.

5. The following representatives of specialized agencies were present at various meetings of the session.

International Labour Organisation

Mr. R.A. Métall, Director of the ILO Liaison Office
with the United Nations, Representative

Mr. Ph. Blamont)
Mr. R. Payro) Advisers

United Nations Educational, Scientific and Cultural Organization

Mr. A. Gagliotti, Representative

Mr. A. Salsamendi, Representative

6. The following authorized representatives from non-governmental organizations in consultative relationship with the Economic and Social Council were present as observers:

Category A

International Confederation of Free Trade Unions (Miss Janet Seigel);

International Federation of Christian Trade Unions (Mr. Gerard Thormann);

World Federation of Trade Unions (Miss Elinor Kahn); World Federation of

United Nations Associations (Mr. H.G. Barrett-Brown); World Veterans Federation
(Mrs. C. Rogger, Miss Emily Nichols).

Category B

Agudas Israel World Organization (Mr. Isaac Lewin); Catholic International Union
for Social Service (Mrs. A.D. Vergara); Commission of the Churches on International

Affairs (Mr. A.D. Micheli); Consultative Council of Jewish Organizations

(Mr. Moses Moskowitz); Coordinating Board of Jewish Organizations

(Mr. Saul E. Joftes); Friends World Committee (Mr. Elton Atwater); International Alliance of Women (Miss Freida S. Miller); International Catholic Child Bureau (Miss Margaret M. Bedard, Rev. Father Jules Gagnon); International Catholic Press Union (Mr. Gary MacEoin); International Conference of Catholic Charities (Mr. Louis Longarzo); International Council of Women (Mrs. Eunice H. Carter); International Federation of Business and Professional Women (Mrs. Esther W. Hymer, Miss Vera Campbell); International Federation of University Women (Miss L. Winifred Bryce, Miss E.R. Lucke, Miss Shanti Mitra); International Federation of Women Lawyers (Miss A. Viola Smith, Miss Grace R. Lewis, Mrs. Rose Hirschman, Miss Janice Josselson); International League for the Rights of Man (Mrs. Frances Grant, Mrs. Dora D. Roitburd, Mr. A.M. Rogoff, Mr. George DeSilver); International Union for Child Welfare, Liaison Committee (Miss Freida S. Miller); International Union of Family Organizations (Mrs. P.L. Collins); Pax Romana (Mr. Edward J. Kirchner, Mr. M. Burtzniak); Women's International League for Peace and Freedom (Mrs. Adelaide N. Baker, Mrs. Caroline B. Malin); World Assembly of Youth (Mr. Robert Perlzweig, Mr. Irwin S. Kern); World Jewish Congress (Mr. Maurice L. Perlzweig, Mr. Gerhard Jacoby); World Union for Progressive Judaism (Mrs. Victor Polstein); World Union of Catholic Women's Organizations (Miss Catherine Schaeffer); World Young Women's Christian Association (Mrs. R.P. Beattie, Mrs. George Britt).

Register

International Association for Liberal Christianity and Religious Freedom (Miss Grace Spofford); World Federation for Mental Health (Miss Helen S. Ascher).

7. Mr. John P. Humphrey, Director of the Division of Human Rights, and Mr. Egon Schwelb, Deputy Director, represented the Secretary-General. Mr. Edward Lawson acted as Secretary of the Sub-Commission.

C. Election of officers

8. The Sub-Commission at its 254th meeting unanimously re-elected Mr. Mohamed Awad (United Arab Republic) Chairman; and elected Mr. Jose D. Ingles (Philippines) Vice-Chairman; and Mr. Voitto Saario (Finland) Rapporteur.

D. Meetings, resolutions and documentation

9. The Sub-Commission held twenty-five plenary meetings. The views expressed by the members of the Sub-Commission during these meetings are summarized in documents E/CN.4/Sub.2/SR.254-278.

10. 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 at various meetings (E/CN.4/Sub.2/SR.255, 256, 258, 259, 260, 261, 262, 263, 266, 268, 271, 273, 275 and 278), to representatives of the following non-governmental organizations:

Category A

International Confederation of Free Trade Unions (Miss Janet Seigel);
International Federation of Christian Trade Unions (Mr. Gerard Thormann); World Federation of Trade Unions (Miss Elinor Kahn).

Category B

Agudas Israel World Organization (Mr. Isaac Lewin); Consultative Council of Jewish Organizations (Mr. Moses Moskowitz); Friends World Committee (Mr. Elton Atwater); International Catholic Child Bureau (Rev. Father Jules Gagnon); International Catholic Press Union (Mr. Gary MacEoin); International Federation of University Women (Miss E.R. Lucke); International Federation of Women Lawyers (Miss A. Viola Smith); International League for the Rights of Man (Mrs. Frances Grant); Pax Romana (Mr. Edward J. Kirchner); Women's International League for Peace and Freedom (Mrs. Adelaide N. Baker); World Jewish Congress (Mr. Maurice L. Perlzweig, Mr. Gerhard Jacoby).

11. Resolutions adopted by the Sub-Commission appear under the subject matter to which they relate.

12. Documents before the Sub-Commission at its eleventh session are listed in Annex I.

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II. AGENDA

Item 2 of the agenda

13. At the 25th meeting the Sub-Commission considered the provisional agenda (E/CN.4/Sub.2/193 and Add.1), prepared by the Secretary-General in consultation with the Chairman, and unanimously adopted the following agenda for the eleventh session:

1. Election of officers
2. Adoption of the agenda
3. Invitation to the Commission on the Status of Women
4. Communications relating to the prevention of discrimination and the protection of minorities
5. Study of discrimination in the field of employment and occupation
6. Study of discrimination in the matter of religious rights and practices: Report by the Special Rapporteur
7. Study of discrimination in the matter of political rights: Report by the Special Rapporteur
8. Study of discrimination in the matter of the right of everyone to leave any country, including his own, and to return to his country, as provided in article 13, paragraph 2, of the Universal Declaration of Human Rights: Preliminary study by Mr. José Ingles
9. Future work of the Sub-Commission, including further studies in the field of discrimination
10. 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
11. Protection of minorities
12. Control and limitation of documentation
13. Adoption of the report of the Sub-Commission to the Commission on Human Rights

III. INVITATION TO THE COMMISSION ON THE STATUS OF WOMEN

Item 3 of the agenda

14. At the 25⁴th meeting, the Sub-Commission decided unanimously to invite the Commission on the Status of Women to send a representative to participate in its deliberations when items relating to discrimination based on sex were to be discussed, in accordance with Part A (5) of resolution 48 (IV) of the Economic and Social Council. Subsequently, the Commission on the Status of Women was represented by Miss Ulderica Mañas (Cuba), who participated in the work of the Sub-Commission (E/CN.4/Sub.2/SR.255, 257, 261, 265 and 270).

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

Item 4 of the agenda

15. The Sub-Commission received at a private meeting the confidential list of communications concerning prevention of discrimination and protection of minorities received by the United Nations from 1 November 1957 to 31 October 1958 (document Sub.2/Communications List No. 8). The list referred, in two instances, to replies which Governments had submitted to certain communications forwarded to them in accordance with the provisions of paragraph (e) of resolution 75 (V) of the Economic and Social Council, as amended (H.R. Communications No. 122 and 131).
16. The Sub-Commission decided to take note of the distribution of the list of communications, and of the replies received from Governments.

V. STUDY OF DISCRIMINATION IN THE FIELD
OF EMPLOYMENT AND OCCUPATION

Item 5 of the agenda

Introduction

17. At the 255th to 257th meetings, the Sub-Commission considered item 5 of its agenda, "Study of discrimination in the field of employment and occupation".
18. The Sub-Commission had before it the text of the Convention Concerning Discrimination in Respect of Employment and Occupation (Convention 111), and the text of the Recommendation Concerning Discrimination in Respect of Employment and Occupation (Recommendation 111), both of which had been adopted by the forty-second session of the International Labour Conference, Geneva, on 23 June 1958. These texts had been communicated to the Sub-Commission, for information, by the International Labour Office. They are reproduced in Annex II.
19. The Sub-Commission also had before it, for reference, Provisional Record No. 21 of the International Labour Conference, containing the report of the Conference's Committee on Discrimination and the draft convention and recommendation which that Committee had prepared; and Provisional Records Nos. 29 and 30 of the Conference, containing an account of the debates leading to the adoption of the Convention and the Recommendation.
20. Members of the Sub-Commission expressed their views on the Convention and the Recommendation, and on the work of the International Labour Organisation which had led to their adoption; and heard statements by representatives of the ILO, the Commission on the Status of Women, the International Confederation of Free Trade Unions, the International Federation of Christian Trade Unions, the World Federation of Trade Unions and the International Federation of Women Lawyers.
21. After the general debate had concluded, the Sub-Commission examined a draft resolution submitted by Mr. Santa Cruz and jointly sponsored by Mr. Roy. After the co-sponsors had revised the draft resolution to meet the views of other members, the revised text was adopted unanimously by the Sub-Commission.

A. General debate

22. All members of the Sub-Commission who spoke in the general debate expressed their satisfaction with the work of the International Labour Organisation in studying the problem of discrimination in respect of employment and occupation and in preparing a Convention and a Recommendation on this subject. It was observed that the ILO's specialized experience and competence had enabled it to perform a challenging task in a skilful manner and without any waste of time. The simultaneous adoption of the Convention and Recommendation, it was pointed out, represented a happy compromise between the points of view of those who favoured a convention and those who preferred only a recommendation, and would enable some action to be taken by the largest possible number of States.

23. At the same time it was agreed by all who spoke, including the representative of the International Labour Organisation, that the adoption of the Convention and the Recommendation represented only a first step in the process of eradicating discrimination in respect of employment and occupation, and that other measures would have to follow.

24. In the course of the general debate (summarized in documents E/CN.4/Sub.2/-SR.255-256) the Sub-Commission considered (a) the extent to which the suggestions put forward by the Sub-Commission at its tenth session had been taken into account by the International Labour Conference; and (b) the texts of the instruments as adopted.

(a) The extent to which the suggestions put forward by the Sub-Commission had been taken into account by the International Labour Conference

25. Although it was fully understood that it was impossible to indicate who deserved credit for any particular section of the instruments adopted, several members of the Sub-Commission noted with interest that the suggestions which the Sub-Commission had formulated at its tenth session, when it had examined the drafts of the Convention and Recommendation, had been fully considered by the International Labour Conference. Not all of the suggestions had won complete acceptance, but in several instances the texts adopted by the Conference

represented a notable improvement over drafts which the Sub-Commission had criticized. Although the final result was not perfect and some deficiencies might still be pointed out in the Convention and the Recommendation, they were satisfactory on the whole.

26. In particular it was noted by the representative of the Commission on the Status of Women that the Conference had decided to delete article 6 of the draft convention, which had excluded from the scope of the proposed instrument the question of equal remuneration for men and women for work of equal value. That decision, in her view, illustrated the value of co-operation between the various organs of the United Nations, as the participation of the Commission in the work of the Sub-Commission had produced a highly satisfactory result.

(b) The texts of the instruments as adopted

27. Several members of the Sub-Commission suggested ways in which the texts of the Convention and the Recommendation might be improved upon, or strengthened, at a later stage.

28. Mr. Fomin expressed the view that one of the serious deficiencies of the Convention was that it laid down no clear and binding obligation on Governments to prohibit discrimination by law, and to eradicate it in practice, and that it did not prohibit propaganda in favour of racial discrimination.

29. Mr. Krishnaswami considered the absence of any reference in the Convention to the need for Governments to adopt policies promoting full employment and economic growth to be a major omission which should be corrected as soon as possible. In his view, the creation of conditions of full employment and economic growth were essential factors in the elimination of discrimination in employment and occupation, and should not have been overlooked in the ILO Convention. Economic growth is as basic to under-developed countries as full employment is to the advanced industrial countries; the proper climate for combating discrimination would be one in which policies of economic growth and full employment are promoted.

30. Mr. Krishnaswami also raised a question as to the meaning of the term "national extraction" used in Article 1 of the Convention, recalling that the Universal Declaration of Human Rights employed the term "nationality" in enumerating the grounds on which discrimination is forbidden. He referred to the

interpretation of the term "national extraction" furnished by the drafting committee of the International Labour Conference's Committee on Discrimination, which was as follows:

"The Committee agreed that distinctions, exclusions, and preferences made on the basis of national extraction meant distinctions between nationals of the ratifying countries made on the ground of foreign ancestry or foreign birth."

31. Mr. Krishnaswami felt that this interpretation prohibited discrimination between nationals of a ratifying country, but did not prohibit discrimination against foreigners or stateless persons. If this were the case, the omission was a serious one. In recent times, as a consequence of the emergence of new States, there had occurred several instances of certain categories of persons, formerly considered to be nationals of these countries, not acquiring the nationality of the new State. They had thus been made stateless even though their ancestors had lived in the country for several generations, sharing the burdens in common. He felt that the fate of these persons, who in fact have no other home except the country in which they live, could not be considered of less importance than say that of migrant workers for whose benefit the ILO had adopted a convention in 1949. He suggested that, pending the adoption by the ILO of suitable instruments to ensure non-discrimination in respect of employment and occupation for these stateless persons, it would be proper to implement in their favour the United Nations Convention on the Status of Stateless Persons. While he was keenly conscious that these provisions were not as far-reaching as those contained in the Convention Concerning Discrimination in Respect of Employment and Occupation, he felt that the principles underlying these articles, if widely ratified by States, would constitute an irreducible minimum of fair treatment for the category of stateless persons which he had in mind. In deference to the wishes of his colleagues, he did not press for recommending to the notice of Governments the Conventions on Statelessness. But he hoped that the point of view set forth by him would command the support of his colleagues.

32. Several members of the Sub-Commission, including Messrs. Chayet, Ingles, Roy, Santa Cruz and Spaulding, supported the views expressed by Mr. Krishnaswami. Mr. Hiscocks agreed with Mr. Krishnaswami's concern for stateless persons but,

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together with other members of the Sub-Commission, was not sure whether the words "national extraction" did not cover their case. Some members pointed out that in any event the problems of stateless persons were being dealt with by other organs of the United Nations.

33. The representative of the International Labour Organisation explained to the Sub-Commission that the adoption of the Convention and Recommendation by the International Labour Conference set in motion a procedure which would be a continuous one. Under the Constitution of the ILO (Article 19, para. 5(b)), each member must bring the Convention before the authorities competent to ratify it within one year after the closing of the Conference. Under Article 8 of the Convention, it will come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General. States which ratified the Convention would thereby assume the obligation to apply its provisions and to submit reports thereon to the Director-General in reply to a questionnaire drawn up by the Governing Body. These reports are considered by a committee of experts, which makes annual studies of the application of each convention by the States Parties to it. The reports of the expert committee are submitted to a committee of the International Labour Conference composed of the representatives of Governments, workers and employers, which considers the extent to which national legislation conforms to the provisions of the convention. This Committee's report is then considered by the Conference, also a tripartite body. Moreover, the Governing Body can, from time to time, present to the General Conference a report on the working of the convention and request the States which have not ratified it to submit reports.

34. The Recommendation, on the other hand, did not require ratification. In each State the Recommendation had to be submitted to the national legislative authority within a one-year period, and States were required to furnish the Director-General periodically with reports on the effect which had been given to it.

35. While recognizing that the process of giving effect to the Convention and the Recommendation followed well-established precedents and that the International Labour Organisation bore the primary responsibility in this field, some members of the Sub-Commission considered it advisable to retain the item

"Discrimination in the field of employment and occupation" on the Sub-Commission's agenda. They suggested inter alia that at an early session the Sub-Commission and the ILO should consider what further steps needed to be taken, jointly or separately, to eradicate discrimination in this field; and that as soon as possible the Sub-Commission should examine a report by the Secretary-General on any action taken to eradicate discrimination in employment and occupation and in particular on the implementation of the Convention. Other members, however, felt that it was premature to include the item on the agenda of the Sub-Commission's twelfth session. They believed that, since several years would inevitably elapse before the provisions of the Convention became operative, the Sub-Commission would have little further work to do in this field for some time. They agreed that the matter could be taken up further on the basis of a report to be prepared by the Secretary-General.

36. Mr. Spaulding expressed the view that both the United Nations and the ILO could take steps to educate world opinion on the harmful effects of discrimination in employment and occupation. Such a programme, he felt, could achieve important results and assist in making a reality of the terms of the Convention and Recommendation.

B. Consideration of draft resolution

37. At the 256th meeting Mr. Santa Cruz introduced a draft resolution (E/CN.4/Sub.2/L.148) containing the following operative paragraphs:

1. Notes with satisfaction that the said Conference adopted a Convention concerning discrimination in respect of employment and occupation and some recommendations supplementary to the said Convention, and states that this action marks a very important step towards the abolition of discrimination in this matter;

2. Requests the Commission on Human Rights to ask the Economic and Social Council to invite Governments to ratify the said Convention in order that it may be applied as fully and widely as possible, and to adjust their policies to the supplementary recommendations;

3. Requests the Secretary-General to transmit to the International Labour Organisation the observations made by members of the Sub-Commission, on the instruments referred to in the preceding paragraph, during the debate on this agenda item."

38. Mr. Roy, whose views coincided largely with those of Mr. Santa Cruz, agreed to co-sponsor the draft resolution.
39. An amendment to the draft resolution, submitted by Mr. Krishnaswami (E/CN.4/Sub.2/L.149) proposed the addition of the following operative paragraph:

"Requests the Commission also to ask the Economic and Social Council to draw the attention of Governments to the Convention relating to the Status of Stateless Persons, adopted and opened for signature by the United Nations Conference on the Status of Refugees on 28 September 1954, and in particular to the provisions in Chapter III thereof; and to invite them to become parties to the convention or otherwise to implement the provisions therein dealing with employment."

40. In view of the objections of some members of the Sub-Commission to this amendment, notably on the ground that the Convention on the Status of Stateless Persons had not been examined in detail by the Sub-Commission, Mr. Spaulding suggested the following text as a possible compromise:

"Notes that these instruments call, inter alia, for the elimination of discrimination on the ground of national extraction, and believes that the right of stateless persons to obtain employment should be given recognition under this aspect."

41. However, after some further consideration, both Mr. Krishnaswami and Mr. Spaulding withdrew their amendments.
42. Mr. Fomin proposed that the following additional operative paragraph be added to the draft resolution:

"Decides to consider at its twelfth session the question of the additional steps which the Sub-Commission could take in order to contribute to the early elimination of discrimination in the field of employment and occupation."

43. The amendment, when put to the vote, was rejected by 4 votes in favour and 7 against, with 1 abstention.
44. In order to meet the views of members of the Sub-Commission, as expressed in the general debate, Messrs. Roy and Santa Cruz prepared a revised draft resolution (E/CN.4/Sub.2/L.148/Rev.1) and submitted it to the Sub-Commission at its 257th meeting.

45. The revised draft resolution was adopted unanimously. Mr. Hiscocks said that he had voted for the resolution as a whole but that he would have preferred operative paragraph 2, which he considered unnecessary and inappropriate, to be omitted. The resolution was adopted as follows:

RESOLUTION A

STUDY OF DISCRIMINATION IN THE FIELD OF EMPLOYMENT AND OCCUPATION

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

Having examined the documentation placed at its disposal by the Secretary-General on the action taken by the International Labour Conference concerning discrimination in the field of employment and occupation,

1. Notes with satisfaction that the said Conference adopted a Convention concerning Discrimination in respect of Employment and Occupation and some recommendations supplementary to the said Convention, and states that this action marks a very important step towards the abolition of discrimination in this field;

2. Requests the Commission on Human Rights to ask the Economic and Social Council to invite Governments to ratify the said Convention in order that it may be applied as fully and widely as possible, and to adjust their policies in the light of the supplementary recommendations;

3. Requests the Secretary-General to transmit to the International Labour Organisation the observations made by members of the Sub-Commission on the instruments referred to in the preceding paragraph during the debate on this agenda item.

VI. STUDY OF DISCRIMINATION IN THE MATTER OF RELIGIOUS RIGHTS
AND PRACTICES

Item 6 of the agenda

Introduction

46. At the 257th to 267th meetings, the Sub-Commission considered item 6 of its agenda, entitled "Study of discrimination in the matter of religious rights and practices".

47. The Sub-Commission had before it a report (E/CN.4/Sub.2/L.123/Add.1) prepared by the Special Rapporteur, Mr. Arcot Krishnaswami, in pursuance of resolution B adopted by the Sub-Commission at its tenth session. The report supplemented the Special Rapporteur's draft report (E/CN.4/Sub.2/L.123), which the Sub-Commission had examined at its tenth session. It was divided into three parts.

48. In the Introduction, the Special Rapporteur reported on the further progress which he had made in carrying out the study. Twenty-one "country studies" had been completed and distributed as "Conference Room Papers". The remaining "country studies" were in various stages of preparation, and it was hoped that eventually eighty-four such studies, each dealing with a State Member of the United Nations or of the specialized agencies, would be available.

49. In a chapter entitled "The Underlying Issues" the Special Rapporteur attempted to put into perspective the problems raised today by discrimination in the matter of religious rights and practices. Under the heading "General Issues", he set out certain problems common to the entire field of freedom of thought, conscience and religion, or to large areas of this freedom. Under the heading "Specific Issues" he dealt with problems relevant only to certain aspects of this freedom.

50. In a chapter entitled "Proposals for Action" the Special Rapporteur submitted to the Sub-Commission a series of twelve tentative "basic rules", derived from his perusal and tentative analysis of information relating to the situation in various countries. Further, he put forward suggestions as to how these rules might be drawn to the attention of Governments with a view to their acceptance and implementation. Finally, he raised the question of the further work to be

undertaken, within the framework of the United Nations, in order to eradicate discrimination in the matter of religious rights and practices.

51. The Sub-Commission began its examination of the supplementary report with a general debate. The observations made by various members of the Sub-Commission, as well as those made by the representative of the Commission on the Status of Women and the representatives of the Agudas Israel World Organization, the Commission of the Churches on International Affairs, the Consultative Council of Jewish Organizations, the Friends World Committee, the International Catholic Child Bureau, the International Catholic Press Union, Pax Romana, the Women's International League for Peace and Freedom and the World Jewish Congress, are summarized in documents E/CN.4/Sub.2/SR.257+267. The Sub-Commission then examined the report in detail, giving special attention to the basic rules which the Special Rapporteur had drafted. On the basis of a draft resolution submitted jointly by Messrs. Chayet, Hiscocks, Ingles and Santa Cruz (E/CN.4/Sub.2/L.150), the Sub-Commission adopted, at its 267th meeting, a resolution on the study of discrimination in the matter of religious rights and practices.

A. General debate

52. All members of the Sub-Commission congratulated the Special Rapporteur on the preparation of the supplementary report, and in particular on the clear statement of the issues which it contained. They felt that he had continued, as in the past, to carry out his work with great skill and scrupulous impartiality, and that he had focused attention upon a number of important problems which required further examination. Further, they were pleased to note that he had been able to formulate, at least tentatively, a series of general rules designed to lead to the eventual eradication of discrimination in the matter of religious rights and practices, and to prepare suggestions for action to be taken by Governments and by the United Nations in order to reach this goal.

53. The only difference of opinion which arose in the course of the general debate related to the question whether or not particular countries should be referred to by name in the report. Mr. Krishnaswami had, for the most part, avoided such references both in the draft report submitted to the Sub-Commission's

tenth session and in the supplementary report, and some members of the Sub-Commission expressed the view that he should adopt the same policy when preparing his final report. They pointed out that the International Labour Organisation had not included references to any particular country in its study of discrimination in the field of employment and occupation, and that this system had shortened the debate in various ILO bodies and had prevented polemics. On the other hand, it was admitted that the system was not infallible, as it had led in some cases to errors regarding the identity of the persons, or groups of persons, referred to.

54. Some members of the Sub-Commission were of the view that the final report would only be understandable if illustrative materials, drawn from the "country studies", were included in it as in an annex available for distribution on the same basis as the final report. They expressed the hope that the Special Rapporteur would make liberal use of such materials, especially those which provided good examples of techniques which Governments might find useful in combating discriminatory practices.

55. It was eventually agreed that only the Special Rapporteur could take a final decision on this question, as the report was to be prepared in his name and under his responsibility.

B. The question of the relationship between the State and religion or belief

56. The first of the "general issues" dealt with by the Special Rapporteur was the question of the relationship between the State and religion or belief. In one section of the supplementary report (paras. 224-231), he pointed out that "one cannot spell out discriminatory treatment...merely because the State establishes a religion or belief, or recognizes a number of religions or beliefs". For this reason he did not attempt to formulate a general rule on this subject, except on the particular aspect of financial measures for the support of a religion or belief. (See Section N below.)

57. Some members of the Sub-Commission supported the Special Rapporteur's view. They considered that although current tendency was towards separation of State and religion or belief, it was not for the Special Rapporteur to advocate one system over another. Further, they pointed out that in some countries which had a long

tradition of tolerance under an established church there was often in fact less discrimination than in other countries where the State was separated from religion or belief.

58. Other members of the Sub-Commission, however, urged the Special Rapporteur to take the stand that there was normally a greater possibility for discrimination under a system whereby the State recognized an established religion or belief, or several religions or beliefs, than under a system of separation. Any established religion or belief, they felt, enjoyed certain privileges, and this fact alone placed other religions or beliefs in an inferior position.

C. The duties of public authorities to eliminate discrimination in the matter of religious rights and practices

59. A second "general issue" dealt with by the Special Rapporteur was the question of the extent to which public authorities are under an obligation to eliminate discrimination in the matter of religious rights and practices.

60. In one section of the supplementary report (paras. 232-234), the Special Rapporteur expressed the view that "public authorities are under a duty to strive towards the eradication of discrimination. In achieving this objective they should use every means at their disposal, particularly educational measures which may be expected to transform the social climate. Public authorities should not follow blindly the view prevailing in the society, but must assume leadership in order to achieve the goal of non-discrimination. There is no escape from this duty".

61. Further, the first of the tentative rules which he submitted for the consideration of the Sub-Commission read as follows:

RULE 1

DUTIES OF PUBLIC AUTHORITIES

"1. Public authorities should refrain from making any adverse distinctions against individuals or groups of individuals in the matter of religious rights and practices on the ground of their religion or belief, and prevent any individual or group of individuals from making such adverse distinctions. This duty should be discharged by the adoption of constitutional, legislative

and administrative measures, including, when necessary, the provision of penal sanctions, and by the taking of administrative action. Every effort should be exerted by public authorities to educate public opinion and to create proper leadership for this purpose.

"2. In the case of a conflict between the requirements of two or more religions or beliefs, the public authorities should strive to find a solution which assures the greatest totality of freedom for society as a whole."

62. There was some difference of opinion in the Sub-Commission as to the view expressed by the Special Rapporteur, and also as to the substance of the proposed rule. Some members supported all that the Special Rapporteur had said and even suggested that he had not gone far enough. Mr. Ingles in particular thought that the public authorities were duty-bound to eliminate discrimination even within religious groups where no dogma or article of faith is involved, for example in the appointment of religious leaders. He also proposed that provision be made in Rule 1 to assure parties aggrieved by discriminatory treatment an effective remedy. Messrs. Chayet and Hiscocks felt that the final sentence of paragraph 1 of the rule could be improved by rewording it so that it would read: "Public authorities must educate public opinion regarding the wrongfulness of discrimination." Mr. Hiscocks considered that leadership in the education of public opinion was also desirable, and even essential, on a voluntary basis from unofficial organizations and from individuals. Mr. Machowski pointed out that it was often necessary for the State to play the role of impartial arbiter between believers and non-believers, in order to prevent disputes between these groups from degenerating into political struggles; and suggested that the Special Rapporteur give further attention to the problem of discrimination on the part of public authorities against individuals or groups professing such beliefs as atheism and rationalism.

D. The nature of the freedom to maintain and to change religion or belief

63. A third "general issue" dealt with by the Special Rapporteur was the nature of the freedom to maintain and to change religion or belief.

64. In the supplementary report (paras. 235-246), the Special Rapporteur expressed his view that "Freedom of everyone to maintain his religion or belief is absolute,

and does not admit of any limitations whatsoever". He further pointed out that "the right to maintain religion or belief implies the right to be protected against any coercion designed to force an individual or group to change religion or belief," and that "the right of everyone to change his religion or belief should be respected provided that such change is not the result of coercion, indirect pressures or undue influence".

65. The second of the tentative rules, which the Special Rapporteur submitted for the consideration of the Sub-Commission, read as follows:

RULE 2

NATURE OF THE FREEDOM TO MAINTAIN AND TO CHANGE RELIGION OR BELIEF

"1. The right of everyone to maintain his religion or belief does not admit of any limitation.

"2. The right of everyone to change his religion or belief should be respected.

"3. No one should be subjected to coercion, indirect pressures or undue influence calculated to bring about a change of his religion or belief or to force him to maintain his religion or belief.

"4. Parents have a prior right to decide upon the religion or belief in which children should be brought up."

66. Several members of the Sub-Commission, including Messrs. Fomin, Ingles, Machowski, Saario, Santa Cruz and Spaulding, characterized as artificial the distinction which the Special Rapporteur had attempted to draw between freedom of religion or belief on the one hand, and the right of everyone to change his religion or belief on the other. They could not concede that the Special Rapporteur's arguments in favour of such a distinction, as set forth in paragraphs 235 and 236 of the report, were valid. It was pointed out that the Universal Declaration of Human Rights does not make such a distinction and does not provide the unlimited freedom to maintain religion or belief proclaimed by the Special Rapporteur in paragraphs 235 and 236, nor does it separate this freedom from freedom to change religion or belief as the Special Rapporteur had done.

67. Other members, on the other hand, found paragraphs 1 and 2 of Rule 2 completely acceptable.

68. Several members felt that it was sufficient to use the term "coercion" in paragraph 3 of the Rule, and unnecessary to add the somewhat vague terms "indirect pressures or undue influence". The Special Rapporteur, however, did not share this view, as he considered these terms to have a generally accepted legal definition.

69. Some members of the Sub-Commission called for amplification and strengthening of paragraph 4 of this Rule, and pointed out that it did not deal adequately with the problem of orphans and particularly with the problem of children torn from their family surroundings. Mr. Krishnaswami, while agreeing with their point of view, pointed out that it was extremely difficult to formulate a universally acceptable text which would take into account not only the wishes or presumed wishes of the child's parents but also the objectively ascertained interests of the child itself.

E. Scope of the permissible limitations on the freedom to manifest religion or belief

70. The fourth "general issue" dealt with by the Special Rapporteur was the scope of the permissible limitations on the freedom to manifest religion or belief.

71. In the supplementary report (paras. 247-250), the Special Rapporteur expressed his view that "in contrast to freedom to maintain and to change religion or belief, freedom to manifest religion or belief in teaching, practice, worship and observance admits of certain limitations". He then went on to describe some of the limitations which in his opinion could be considered as legitimate and therefore not discriminatory.

72. The third of the tentative rules which the Special Rapporteur submitted for the consideration of the Sub-Commission read as follows:

RULE 3

SCOPE OF PERMISSIBLE LIMITATIONS ON THE FREEDOM TO MANIFEST RELIGION OR BELIEF

"1. Freedom to manifest religion or belief, either alone or in community with others, and in public or in private, should be assured as widely as possible.

"2. Any limitation upon this freedom should be exceptional. The only permissible limitations should be such as are prescribed by law and are necessary to prevent disorder and crime and to protect public safety, health, or morals, or the fundamental rights and freedoms of others.

"3. Whenever a conflict arises between freedom to maintain and to change religion or belief, and any practice or observance tending to impede this freedom, preference should be given to freedom to maintain and to change religion or belief."

73. Mr. Hiscocks suggested that as far as possible all the references to the permissible limitations on freedom to manifest religion or belief should be concentrated in this rule and deleted from subsequent rules. Repeated mention of permissible limitations on the freedom was inappropriate in a set of rules intended for the guidance of Governments on the question of discrimination. Moreover, the suggested concentration would make for greater clarity and conciseness. This suggestion received the support of other members of the Sub-Commission.

74. Mr. Saario expressed the view that the first paragraph of the rule was weak, and suggested that it might be strengthened by omitting the phrase "should be assured as widely as possible" and combining paragraphs 1 and 2 to read "Freedom to manifest religion or belief, either alone or in community with others, and in public or in private, should be subject only to such limitations as are prescribed by law and are necessary to prevent disorder and crime...".

75. Other members believed that it would be more appropriate to refer to the protection of "public order" than "disorder and crime", since the latter term did not appear either in article 29 of the Universal Declaration of Human Rights or article 18 of the draft covenant on civil and political rights.

76. Mr. Awad suggested that paragraph 3 of the proposed rule might well become a separate rule.

F. Freedom of Worship

77. The views of the Special Rapporteur on this subject, set forth in paragraphs 262-265 of the report, were summarized in the fourth rule which he submitted to the Sub-Commission, which read as follows:

RULE 4

FREEDOM OF WORSHIP

"1. Equal freedom of worship should be ensured and protected for all religions or beliefs.

"2. When this freedom is exercised by individuals acting in community with others, and in public, any limitations should be confined within the narrowest possible bounds."

78. After several members of the Sub-Commission had criticized the formulation of the rule on the ground that it did not indicate the circumstances under which it was to be applied, the Special Rapporteur agreed that paragraph 1 might be amended to read: "Equal freedom of worship should be ensured and protected for all religions or beliefs whether it is exercised by individuals acting alone or in community with others, or in public or in private." He felt that this new formulation emphasized the rights of non-believers as well as those who held religious beliefs. He explained that he intended the word "equal" to apply to "freedom" and not to "worship". Mr. Hiscocks felt that the expression, "freedom of worship without discrimination" would be better than "equal freedom of worship" because for reasons unconnected with discrimination equal worship was sometimes impossible to ensure.

G. Form of celebration of marriage and its dissolution

79. The views of the Special Rapporteur on this subject, set forth in paragraphs 266-272 of the report, were summarized in the fifth rule which he submitted to the Sub-Commission, which read as follows:

RULE 5

FORM OF CELEBRATION OF MARRIAGE AND ITS DISSOLUTION

"1. Everyone should have the right to enter into a valid marriage celebrated in a form which is not contrary to his religion or belief.

"2. In exercising its power to regulate the form of celebration of marriage, the State should not prevent anyone from having marriage rites performed in accordance with his religion or belief, nor compel anyone to undergo a religious ceremony not in conformity with his convictions.

"3. In a State which admits the dissolution of marriage by divorce, the right to seek and obtain divorce should not be denied to anyone whose convictions admit the institution of divorce, solely on the ground that he professes a particular religion or belief."

80. Several members of the Sub-Commission, including Messrs. Awad, Chayet, Hiscocks, Ingles and Saario, felt that the rule should not have dealt with the right to enter into a marriage but should be confined to the right to marry in accordance with the rites and practices one's religion or belief. The representative of the Commission on the Status of Women pointed out that the rule did not refer to several matters which were of special interest to the Commission, such as the age of marriage, the prior consent of the intending spouses, and the registration of marriages. The Special Rapporteur, while recalling that he had purposely confined the rule to formal aspects of marriage, agreed that the insertion of the words "of full age" after the word "everyone" in the first paragraph would bring the rule into conformity with article 16, paragraph 1 of the Universal Declaration of Human Rights.

81. Several members of the Sub-Commission suggested that the first paragraph of the rule might be deleted because they felt that the idea was sufficiently covered by the second paragraph. Mr. Awad also suggested deletion of the phrase "solely on the ground that he professes a particular religion or belief" from the third paragraph.

H. Arrangements for disposal of the dead

82. The views of the Special Rapporteur on this subject, set forth in paragraphs 277-286 of the report, were summarized in the sixth rule which he submitted to the Sub-Commission, which read as follows:

RULE 6

ARRANGEMENTS FOR DISPOSAL OF THE DEAD

"1. In regulating the disposal of the dead, account should be taken, as far as practicable, of the demands of the religion or belief of the deceased, in such matters as the taking out of funeral processions, the assignment of places for burial, cremation, or other methods of disposal, the performances of rites, and the display of religious or other symbols."

83. Messrs. Hiscocks and Ingles felt that the rule had been stated in weak terms, and suggested that the words "as far as practicable" should be deleted. They pointed out that this rule, like all others, was subject to the general limitations set forth in rule 3.

84. Mr. Machowski suggested that the rule be expanded to cover the situation arising where burial grounds or cemeteries are operated by religious groups which do not admit the burial of dead persons other than those of their own faith.

I. Dietary practices

85. The views of the Special Rapporteur on this subject, set forth in paragraphs 289-291 of the report, were summarized in the seventh rule which he submitted to the Sub-Commission, which read as follows:

RULE 7

DIETARY PRACTICES

"No one should be prevented from observing the dietary practices prescribed by his religion or belief."

86. The Special Rapporteur pointed out that he had deliberately adopted this formula since in his view the authorities had only a negative and not a positive duty in this matter.

J. Pilgrimages

87. The views of the Special Rapporteur on this subject, set forth in paragraphs 296-302 of the report, were summarized in the eighth rule which he submitted to the Sub-Commission, which read as follows:

RULE 8

PILGRIMAGES

"1. The possibility for pilgrims to journey to sacred places, inside or outside their own country, as acts of religious devotion, should be assured.

"2. Such limitations as may be imposed should not be of a permanent character and should be confined within the narrowest possible bounds."

88. The Special Rapporteur agreed to the suggestion made by several members of the Sub-Commission, to delete from paragraph 2 of the rule the words "and should be confined within the narrowest possible bounds".

89. The suggestion was made by Mr. Hiscocks that in the interest of clarity the words "by war, epidemic, or shortage of foreign currency" might be inserted after the words "Such limitations as may be imposed;" but this was opposed by Mr. Fomin on the ground that it would then be necessary to include an exhaustive list of cases in which restrictions might be imposed, that the preparation of such a list would be very difficult, and that in any case it was not the task of the Sub-Commission.

K. Training of religious leaders

90. The views of the Special Rapporteur on this subject, set forth in paragraphs 303-305 of the report, were summarized in the ninth rule which the Special Rapporteur submitted to the Sub-Commission, which read as follows:

RULE 9

TRAINING OF RELIGIOUS LEADERS

"1. No religious group should be prevented from training its religious leaders, such as ministers of religion, priests, rabbis or mullahs.

"2. When such training is only available outside the country, no permanent limitations should be placed upon travel abroad for the purpose of undergoing such training. Such limitations as may be imposed should not be of a permanent nature, and should be confined within the narrowest possible bounds."

91. The Special Rapporteur agreed to the suggestion, made by several members of the Sub-Commission, to delete the final sentence from the rule.

92. Mr. Fomin pointed out that this rule referred only to religious leaders and did not appear to cover leaders whose activities belonged to the realm of belief, and expressed the hope that the rule would be revised by the Special Rapporteur along broader lines.

L. Dissemination of religion or belief

93. The views of the Special Rapporteur on this subject, set forth in paragraphs 306-315 of the report, were summarized in the tenth rule which he submitted to the Sub-Commission, which read as follows:

RULE 10

DISSEMINATION OF RELIGION OR BELIEF

"1. Freedom to disseminate a religion or a belief should be recognized in so far as it does not impair the absolute right of everyone to maintain his religion or belief.

"2. Such limitations as may be imposed upon this freedom with a view to protecting public safety within or outside the State, or such limitations as may be imposed upon particular methods of dissemination in the interest of morals as conceived by society as a whole, should be confined within the narrowest possible bounds."

94. The wording of the first paragraph was supported by some members but criticized by others who felt that the right to disseminate a religion or belief was not an absolute right, and could be recognized only in so far as it did not prejudice any of the other rights set forth in the basic rules and in the Universal Declaration of Human Rights.

95. Several members of the Sub-Commission expressed the view that paragraph 2 of the rule was unnecessary, since the scope of permissible limitations had already been set forth in rule 3.

M. Objections on conscientious grounds

96. The views of the Special Rapporteur on this subject, set forth in paragraphs 316-328 of the report, were summarized in the eleventh rule which he submitted to the Sub-Commission, which read as follows:

RULE 11

OBJECTIONS ON CONSCIENTIOUS GROUNDS

"1. Military Service: States which recognize the claims of conscientious objectors to exemption from military duties should make no adverse distinctions between claimants on the ground of the religion or belief which they profess.

"2. Taking of Oaths: No one should be compelled to take an oath contrary to his religion or belief. When the taking of an oath is required of an individual whose religion or belief does not allow him to take the oath, he should be permitted to make instead a binding declaration or solemn affirmation.

"3. Attendance at Official Ceremonies: States which recognize the claims of individuals to exemption from attendance at certain or all official ceremonies, on the ground that such attendance is contrary to their religion or belief, should make no adverse distinction between claimants on the ground of the religion or belief which they profess."

97. Mr. Beyhum expressed the view that the rule, as drafted, did not go far enough; he felt that the Sub-Commission should recommend that States which did not recognize objections on conscientious grounds should revise their position and recognize the right of their citizens to be conscientious objectors.

98. Representatives of the Friends World Committee for Consultation and the Women's International League for Peace and Freedom suggested that reference should be made in the rule to the possibility of alternative service for those who sincerely objected to bearing arms but were nevertheless willing to expose themselves to danger in hospitals and medical units. Mr. Hiscocks expressed sympathy with the suggestion but considered that the proposed reference would be more appropriate in the body of the report than in the rule. The Special Rapporteur indicated that he did not feel justified in inserting such a provision in the rule, the only purpose of which was to establish the fundamental principle that a group should not be penalized for its convictions.

N. Financial measures for the support of a religion or belief

99. The views of the Special Rapporteur on this subject were summarized in the twelfth rule which he submitted to the Sub-Commission, which read as follows:

RULE 12

FINANCIAL MEASURES FOR THE SUPPORT OF A RELIGION OR BELIEF

"1. No one should be compelled to contribute to the support of a religion, a religious institution, or a belief, which is not in conformity with his convictions.

"2. Public authorities should refrain from differentiating between religions or beliefs in matters of taxation or subsidy.

"3. Nothing in this rule should preclude the State from levying general taxes or from carrying out obligations assumed by the State as a result of taking over property belonging to a religion or belief, nor from contributing funds towards the preservation of monuments of historic or artistic value."

100. Several members of the Sub-Commission, including Messrs. Fomin, Ingles, Santa Cruz and Spaulding, expressed the view that the first paragraph of the rule should be worded more clearly; in particular, it was suggested that the phrase "which is not in conformity with his convictions" should be deleted. In their view the main idea of the rule should be that financial obligations based on religion should not be imposed from outside, although it was certainly legitimate for a member of a group to assume commitments deriving from his free adherence to the group.

O. Suggestions for an additional rule

101. Mr. Awad suggested that the rules submitted by the Special Rapporteur should be supplemented by one providing for the protection of places of worship against mob attacks and other forms of desecration, particularly in cases where the normal users of the place of worship had been compelled to foresake it temporarily.

102. Mr. Ingles suggested that the rule might provide not only for the protection of holy places, including places of worship, against vandalism, but also for their preservation against the ravages of time and the elements, particularly when they had been recognized as historical monuments. He also suggested that the rule might be broadened by providing for free access to holy places, since that was important from the point of view of prevention of discrimination.

103. The Special Rapporteur agreed to consider these suggestions. He explained that he had not considered it necessary to formulate a rule on the question of observance of holidays or days of rest, dealt with in paragraphs 287-288 of his report; or on the question of the wearing of religious apparel, display of religious symbols, and use of bells and musical instruments, dealt with in paragraphs 292-295.

P. Suggestions for reorganization of the rules

104. There was wide support for the idea that the order of the rules should be revised, with the positive rights stated first and the duties of public authorities, including the scope of permissible limitations, at the end.

Q. Procedure for bringing the rules before Governments and future work on the eradication of discrimination in the matter of religious rights and practices

105. The proposals of the Special Rapporteur for further action to eradicate discrimination in the matter of religious rights and practices were summarized in Parts B and C of his report. In Part B he suggested that the basic rules eventually could form the subject of a resolution, recommending them to Governments, adopted by the Economic and Social Council or, preferably, by the General Assembly. Such a recommendation, he pointed out, would at the least have moral weight and exercise a persuasive force. In addition, he added, the question arises whether these basic rules should be included in some form in an international instrument.

106. Members of the Sub-Commission agreed that it was premature to consider what action should be taken to bring the rules before Governments when they were still in a tentative stage. They therefore confined their discussion to two particular suggestions made by the Special Rapporteur.

107. The first suggestion was that the rules might be useful, even in draft form, to the Third Committee of the General Assembly which will shortly prepare article 18 of the draft covenant on civil and political rights, dealing with freedom of thought, conscience and religion. Several members suggested that the Sub-Commission should at least express the hope that in any work that may be done in 1959 on article 18, the higher bodies of the United Nations would take into account the draft rules formulated by the Special Rapporteur, and the discussion of them in the Sub-Commission. However, some other members objected to this suggestion, pointing out that the basic rules had not yet been drafted in their final form; in their view it would be premature to forward such a document to the higher bodies.

108. The second suggestion was that measures should be taken within the framework of the United Nations to keep alive the issue of discrimination in the matter of religious rights and practices, particularly since there is no specialized agency

directly concerned with this subject. The Special Rapporteur drew attention to the triennial reporting procedure which the Commission on Human Rights had inaugurated as a possible continuing source of information. Several members of the Sub-Commission expressed the view that this procedure would in the future provide a suitable framework within which Governments could report progress in combating discrimination in the matter of religious rights and practices. However, other members considered that the procedure had not even been established, and that it was therefore too early to stress one particular right in the possible future reports.

R. Consideration of draft resolution

109. A draft resolution on the study of discrimination in the matter of religious rights and practices (E/CN.4/Sub.2/L.150) was submitted to the Sub-Commission by Messrs. Chayet, Hiscocks, Ingles and Santa Cruz.

110. At the 267th meeting, the Sub-Commission considered the draft resolution. While members were unanimous in accepting paragraphs 1 and 2, expressing appreciation to the Special Rapporteur and requesting him to present his final report to the Sub-Commission for consideration at its twelfth session, there was some disagreement on paragraphs 3 and 4, to which several members objected.

111. When put to the vote, the preamble and operative paragraphs 1 and 2 were adopted unanimously. Paragraph 3, slightly modified by the sponsors in the light of the discussion, was adopted by 9 votes in favour and 2 against. The phrase "including discrimination in the matter of religious rights and practices" in paragraph 4, when voted upon separately at the request of Mr. Fomin, was adopted by 9 votes in favour and 1 against, with 1 abstention. The draft resolution as a whole, as amended, was adopted by 9 votes in favour and 1 against, with 1 abstention, as follows:

RESOLUTION B

STUDY OF DISCRIMINATION IN THE MATTER OF RELIGIOUS RIGHTS AND PRACTICES

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

Recalling resolution B, adopted by the Sub-Commission at its tenth session,

Having considered the supplement to his draft report on discrimination in the matter of religious rights and practices, presented by the Special Rapporteur, Mr. Arcot Krishnaswami (E/CN.4/Sub.2/L.123/Add.1),

Noting in particular the reasons for his inability to present a final report at this session,

Bearing in mind that the terms of office of members of the Sub-Commission come to an end on 31 December 1959,

1. Expresses its appreciation to the Special Rapporteur and all those who co-operated with him for the supplement to his draft report;
2. Requests the Special Rapporteur to take into account the views expressed in the Sub-Commission during its eleventh session and to complete his final report so that it may be presented by him to the Sub-Commission for consideration at its twelfth session;
3. Expresses the hope that in any work that may be done in 1959 on article 18 of the draft Covenant on Civil and Political Rights, the higher bodies of the United Nations will take into account the ideas contained in the draft basic rules included by the Special Rapporteur in Chapter XI of his supplementary report and the discussion of them in the Sub-Commission;
4. Expresses the opinion that the triennial reporting procedure of the Commission on Human Rights may in future provide a suitable framework within which Governments could report progress in combating discrimination, including discrimination in the matter of religious rights and practices.

VII. STUDY OF DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS

Item 7 of the agenda

Introduction

112. At its 267th to 270th and 277th meetings, the Sub-Commission considered item 7 of its agenda, entitled "Study of discrimination in the matter of political rights". The Sub-Commission had before it a progress report (E/CN.4/Sub.2/L.147) submitted by its Special Rapporteur, Mr. Hernan Santa Cruz, in pursuance of resolution C, adopted by the Sub-Commission at its tenth (1958) session. (E/CN.4/764, para. 160). The progress report was divided into two Parts. The first part summarized the action already taken by the Special Rapporteur, and explained the plan which he envisaged for the study. The second part contained his preliminary views on the meaning of the term "discrimination" as applied in the matter of political rights.

113. The Sub-Commission held a general debate on the progress report, and subsequently examined each Part. After considering a draft resolution submitted jointly by Messrs. Chayet, Hiscocks, Ingles, Krishnaswami, Saario and Spaulding, the Sub-Commission adopted, at its 277th meeting, a resolution on the study of discrimination in the matter of political rights.

A. General views of the Sub-Commission on the progress report

114. Members of the Sub-Commission who spoke in the general debate were unanimous in their appreciation of the work of the Special Rapporteur. They stressed the great importance of the study of discrimination in the matter of political rights. Several members further emphasized the urgent need to formulate general and objective recommendations which would promote the realization of these rights by peoples all over the world.

115. The observations made by various members of the Sub-Commission, as well as those by the representative of the Commission on the Status of Women and representatives of the International Federation of Christian Trade Unions and the International League for the Rights of Man, are summarized in documents E/CN.4/Sub.2/SR.267-270, and 277. The Special Rapporteur, at the close of the

debate, stated that he would bear these observations in mind when preparing his study. The main issues raised in the course of the debate are summarized below.

B. Main issues raised in examination of the progress report

1. Collection of material

116. In the progress report the Special Rapporteur indicated that since his interim report had been circulated, on 2 December 1957, additional material had been received from twenty-eight Governments. However, he still had not received any information whatsoever from the Governments of more than thirty States Members of the United Nations, nor had he received substantive information from any of the specialized agencies. He had received certain new data, mostly of a general nature, from six non-governmental organizations.

117. Several members of the Sub-Commission, while agreeing with the Special Rapporteur's view that further information had to be obtained from Governments and from non-governmental sources before the study could be completed, nevertheless felt that the response to his request for information had been an encouraging one. They suggested that another appeal for information might be made.

118. Some disappointment was expressed that non-governmental organizations had not been more active in submitting material to the Special Rapporteur, as such organizations were sometimes in a position to evaluate the effectiveness of measures designed to combat discrimination. However, it was pointed out that only a few non-governmental organizations in consultative status with the Economic and Social Council are directly concerned with the problem of discrimination in the matter of political rights.

119. Messrs. Fomin and Machowski felt that the Special Rapporteur should have devoted more attention to the collection of material relating to discrimination in the matter of political rights against inhabitants of Non-Self-Governing and Trust Territories. They suggested that a special section in the final report might be devoted to this problem. In view of this suggestion Mr. Hiscocks drew attention to the four categories of territories referred to in article 2 of the Universal Declaration of Human Rights - that is, independent territories, trust territories, non-self-governing territories, and territories "under any other limitation of sovereignty" - and expressed the opinion that they should receive balanced treatment in the final report.

2. Preparation of "Country Studies"

120. In his progress report the Special Rapporteur indicated that, in view of the difficulties which he had encountered in the collection of material and because of the priority which the Secretariat had necessarily given to the study of discrimination in the matter of religious rights and practices, he had not been able to submit any "country study" to the Government concerned for comment or supplementary data. However, some twenty of these "country studies" were in preparation.

3. Plan envisaged for the study

121. In his progress report the Special Rapporteur indicated (para. 22) that the study of discrimination in the matter of political rights, when completed, would include, in addition to the introduction dealing with his terms of reference and the description of the manner in which the study was prepared, the following four parts:

- I. An analysis of the concept of "political rights", and of the concept of "discrimination in the matter of political rights", which will include a summary of the historical development of these concepts;
- II. An analysis of material and information collected;
- III. A summary of action taken to prevent and to eliminate discrimination; and
- IV. Conclusions and proposals.

122. The Special Rapporteur further pointed out (para. 31) the considerations which had led him to adopt, as a general framework for the projected analytical portion of his study, the enumeration of various grounds of discrimination condemned by article 2 of the Universal Declaration of Human Rights. This framework would replace the outline (E/CN.4/Sub.2/L.124, Annex) which he had used in the process of collecting material.

123. While the members of the Sub-Commission generally agreed that the Special Rapporteur was entitled to adopt whatever plan he found most appropriate for use

in the preparation of his final report, some expressed regret that he did not intend to follow the outline which was being used for the collection of information. Others, however, gave specific support to the Special Rapporteur's proposed procedure. At Mr. Fomin's suggestion, Mr. Santa Cruz agreed to find a place in the new plan to deal with the special need for protection of the political rights of national minorities.

4. Meaning of the term "discrimination" in the matter of political rights

124. In Part Two of his progress report the Special Rapporteur summarized his views on the meaning of the term "discrimination" as applied in the matter of political rights. In particular, he pointed out (para. 64) that it was the duty of the State not only to refrain from any discrimination in this field but also to take effective action to prevent its organs and officials, and also individuals and groups of individuals, from engaging either in activities the purpose of which is to destroy political rights, or in discrimination or incitement to discrimination. In addition, he dealt with the several special problems which arise in connexion with the exercise of political rights, such as the question of limitations based on nationality, moral turpitude, or membership in the armed forces on active service. Finally, he considered the special position of inhabitants of dependent territories.

125. Several members of the Sub-Commission pointed out that the Special Rapporteur had not yet provided an objective criterion by which discrimination in the matter of political rights could be measured. At the same time, they recognized that there was normally a subjective element of intention which had to be taken into account when judging whether or not a distinction should be called discriminatory. The existence of this element made it almost impossible to come to any conclusion, except in particular cases where all the facts were known, as to the extent of the limitations which could legitimately be imposed upon the exercise of political rights under article 29, paragraph 2, of the Universal Declaration of Human Rights.

126. Some members felt it would be impossible to decide what limitations are legitimate, and what limitations are discriminatory, without a definition of the expression "democratic society", appearing in paragraph 2 of article 29. Others,

however, held that it would be useless, and even dangerous, to attempt to define the term "democratic society", although they agreed that all limitations on the political rights of individuals should be kept within the narrowest possible bounds.

127. Mr. Fomin considered it necessary to examine the question of limitations on political rights by means of various restrictions - such as those based on illiteracy or length of residence - which may also constitute discrimination.

128. Various members of the Sub-Commission criticized some specific aspects of Part Two of the report. For example, Mr. Fomin pointed out that bankruptcy could not be considered a sufficient ground for depriving a person of political rights. Mr. Ingles expressed doubt whether it was correct to assume that the expression, "universal suffrage", in paragraph 3 of article 21 of the Universal Declaration of Human Rights necessarily implied the right of illiterate persons to vote. He wondered whether certain countries, by invoking article 29, para. 1, of the Declaration, were not justified in excluding illiterates from voting if at the same time they instituted compulsory primary education. However, other members held that to debar illiterate persons from the enjoyment of political rights might have the most serious consequences, particularly in countries which had recently acquired independence and where the population was still largely illiterate.

129. Some members of the Sub-Commission pointed out that the withholding of political rights from a whole population, as in the case of a dictatorship, called for careful examination and should be treated as discrimination within the scope of the study. Mr. Santa Cruz agreed with this point of view.

C. Time-table for the preparation of the report

130. In reply to questions put to him concerning the assistance which the Secretary-General could provide to enable the Special Rapporteur to prepare his draft and final reports, the representative of the Secretary-General indicated that with the present establishment the Secretary-General could enable the Special Rapporteur to prepare a draft report for submission to the thirteenth (January 1961) session of the Sub-Commission and a final report to the fourteenth (January 1962) session.

131. Several members of the Sub-Commission were strongly of the opinion that both the draft and final reports should be completed at earlier dates. In their view

the Sub-Commission should receive the draft report at its twelfth (January 1960) session and the final report at its thirteenth (January 1961) session. Mr. Hiscocks felt that it was quite unreasonable to expect the Special Rapporteur to occupy himself with so exacting a task for a further three years.

D. Consideration of the draft resolution

132. At the 272nd meeting, a draft resolution on the study of discrimination in the matter of political rights (E/CN.4/Sub.2/L.152) was submitted jointly by Messrs. Chayet, Hiscocks, Ingles, Krishnaswami, Saario and Spaulding. In the draft resolution the sponsors proposed that the Sub-Commission should express the hope that the Secretary-General would provide the necessary assistance to enable the Special Rapporteur to submit a draft report to the Sub-Commission at its twelfth (January 1960) session, and a final report at its thirteenth (January 1961) session.

133. The representative of the Secretary-General advised the Sub-Commission that it would be possible to produce a skeleton draft report in time for the twelfth session (January 1960), based, however, on fewer "country studies" than has been the practice in the past. However, the final report could be produced in time for the following session (January 1961) only if new funds for staff beyond the existing level were provided. A precise statement of financial implications of the draft resolution was circulated in document E/CN.4/Sub.2/L.152/Add.1.

134. At the 277th meeting, the sponsors of the draft resolution revised the text in order to strengthen the resolution by making the third operative paragraph a request rather than an expression of hope. The revised draft resolution was adopted unanimously, as follows:

RESOLUTION C^{1/}

STUDY OF DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS

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

Recalling resolution C adopted by the Sub-Commission at its tenth session,
Having examined the progress report on the study of discrimination in

1/ The financial implications of this resolution are set forth in Annex III.

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the matter of political rights (document E/CN.4/Sub.2/L.147), submitted by the Special Rapporteur, Mr. Hernan Santa Cruz,

1. Expresses its appreciation to the Special Rapporteur, particularly for his valuable provisional analysis of the concept of discrimination in the matter of political rights;

2. Thanks the Government and non-governmental organizations which co-operated in submitting material to the Special Rapporteur and hopes that those Governments, specialized agencies and non-governmental organizations which have not yet done so will submit further comments and material as soon as possible;

3. Requests the Secretary-General to provide the necessary assistance to enable the Special Rapporteur to submit a draft report to the Sub-Commission at its twelfth session, and a final report at its thirteenth session.

VIII. STUDY OF DISCRIMINATION IN THE MATTER OF THE RIGHT OF EVERYONE TO LEAVE ANY COUNTRY, INCLUDING HIS OWN, AND TO RETURN TO HIS COUNTRY, AS PROVIDED IN ARTICLE 13, PARAGRAPH 2, OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

Item 8 of the agenda

Introduction

135. At the 271st to 273rd, and 275th meetings, the Sub-Commission considered item 8 of its agenda, entitled "Study of discrimination in the matter of the right of everyone to leave any country, including his own, and to return to his country, as provided in article 13, paragraph 2, of the Universal Declaration of Human Rights".

136. The Sub-Commission had before it a preliminary report (E/CN.4/Sub.2/L.146) submitted by Mr. José D. Ingles pursuant to resolution E, adopted by the Sub-Commission at its tenth session (E/CN.4/764, para. 182). The report supplemented the earlier "Preliminary Study of Discrimination in the Matter of Emigration, Immigration, and Travel", which Mr. Ingles had submitted to the Sub-Commission at its request in 1955, and which the Sub-Commission had examined at its seventh session. It was divided into two Parts. In Part I, Mr. Ingles presented his preliminary views on the scope of the study, the nature and concepts involved, and the methods and procedure by which the study could be carried out. In Part II he submitted an analysis of the history and meaning of the relevant articles of the Universal Declaration of Human Rights, including a summary of the legislative history of paragraph 2 of article 13.

137. All members of the Sub-Commission who spoke in the general debate congratulated Mr. Ingles on the preliminary report, which in their view provided an excellent basis for further work. The observations made by various members of the Sub-Commission, as well as those by the representatives of the International League for Peace and Freedom and the International League for the Rights of Man, are summarized in documents E/CN.4/Sub.2/SR.271-273.

A. Scope of the study

138. In Part I of the preliminary study (paras. 5-6) Mr. Ingles pointed out that the scope of the proposed study already had been determined by the Economic and Social Council, which had stated in resolution 545 D (XVIII) that it should deal with "the right of everyone to leave any country, including his own, and to return to his country, as provided in article 13, paragraph 2, of the Universal Declaration of Human Rights".

139. Several members of the Sub-Commission, including Messrs Fomin, Machowski and Roy, were of the view that the Council's resolution, which had been taken principally for the purpose of excluding "immigration" from the scope of the study, did not in any way prevent the Sub-Commission from studying the right set forth in paragraph 1, as well as paragraph 2, of article 13. In their view any separation of the two paragraphs of the article was an artificial one. Moreover, as shown by the legislative history of the article contained in Mr. Ingles' report, the substance of the two paragraphs had always been examined simultaneously in other organs of the United Nations. It was suggested that, if necessary, the Economic and Social Council might be requested, through the proper channels, to extend the scope of the study.

140. Some other members of the Sub-Commission, however, felt that the Council, in making its decision regarding the study, had acted with full knowledge of all the facts and had had valid reasons for limiting the study to paragraph 2 of article 13. They pointed out that, while the rights covered by paragraph 1 were bracketed in a single article with the rights covered by paragraph 2, the rights were of a different kind and raised wholly different problems. They felt that any proposal for a study of the right set forth in paragraph 1 should be dealt with under item 9 of the Sub-Commission's agenda, when its future work programme would be considered.

B. Nature of the concepts involved in the study

141. In the preliminary report (para. 8) Mr. Ingles pointed out that the right proclaimed in paragraph 2 of article 13 might be said normally to have three aspects:

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- (a) the right of a national to leave his country;
- (b) the right of a foreigner to leave the country of his sojourn; and
- (c) the right of a national to return to his country.

142. Mr. Awad drew attention to certain difficulties which had arisen in connexion with the right of a national to leave his own country, such as the necessity for some States to protect themselves against mass emigrations of skilled workers, and the unwillingness of some States to allow undesirable individuals to leave the country. He also pointed out the difficulties which arose in connexion with the right of a national to return to his country, which would widen the scope of the study and would involve the whole problem of the repatriation of refugees. Mr. Fomin shared this view and pointed out that in any case, in studying this right the Sub-Commission could not overlook the question of the necessity to facilitate by all means the voluntary repatriation of those persons who for different reasons find themselves outside their motherland.

143. Mr. Halpern, on the other hand, felt that the difficulties were not insuperable. The additional issues suggested might be taken up by the Special Rapporteur if he found them to be within the competence of the Sub-Commission and if no other United Nations bodies were dealing with them; but in any event they ought not to be allowed to obscure the core of the study. Paragraph 2 of article 13 was based on the proposition that all individuals were endowed with human dignity and that they should not be treated as chattels or physical assets of the State. This should not be lost sight of, in studying discrimination in the right of emigration on the ground of race or religion or any other ground condemned by the Universal Declaration of Human Rights. The limitations on the right were only those set forth in article 29 of the Declaration, and they should be strictly construed so as not to destroy the substance of the right.

C. Procedure for carrying out the study

144. In the preliminary report (para. 13), Mr. Ingles pointed out that the Sub-Commission had developed, and the Commission on Human Rights had approved, a method and procedure for carrying out its studies, in connexion with the study of discrimination in education (resolutions B and G of the sixth session of

the Sub-Commission and paragraphs 376-418 of the report of the tenth session of the Commission on Human Rights (E/2573)). As this method had proved generally acceptable and successful, he added that there would appear to be no reason to adopt another method and procedure for the proposed study. There was general agreement in the Sub-Commission on this point.

D. Consideration of the draft resolution

145. At the 275th meeting the Sub-Commission considered a draft resolution on the study, submitted by Mr. Chayet (E/CN.4/Sub.2/L.153). The draft resolution expressed the gratitude of the Sub-Commission to Mr. Ingles, requested him, in view of the limitations of the Secretariat staff and its prior commitments, to continue the preliminary work on the study; and proposed that the item be retained on the agenda of the Sub-Commission's twelfth session.

146. In the discussion some members of the Sub-Commission, in particular Messrs. Fomin and Machowski, expressed regret that the draft resolution did not make reference to paragraph 1 of article 13 of the Declaration, which in their view should be studied simultaneously with paragraph 2 of that article. Other members, however, pointed out that while both paragraphs were equal in their substantive importance, paragraph 2 had been given at least a formal priority by decision of the Economic and Social Council.

147. Mr. Roy proposed that a fourth operative paragraph be added to the draft resolution, drawing the attention of the Commission on Human Rights to the views expressed in the Sub-Commission regarding the link existing between paragraphs 1 and 2 of article 13.

148. The amendment proposed by Mr. Roy was adopted by 5 votes in favour and 4 against, with 1 abstention. The draft resolution as a whole, as amended, was adopted by 8 votes in favour and none against, with 2 abstentions. Mr. Awad declared that he had voted for the resolution on the understanding that it included the whole question of the repatriation of refugees. The resolution, as adopted, read as follows:

RESOLUTION D

STUDY OF DISCRIMINATION IN THE MATTER OF THE RIGHT OF EVERYONE TO LEAVE ANY COUNTRY, INCLUDING HIS OWN, AND TO RETURN TO HIS COUNTRY, AS PROVIDED IN ARTICLE 13, PARAGRAPH 2, OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

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

Recalling that at its tenth session the Sub-Commission took note of the fact that the subject of discrimination in the matter of "The right of everyone to leave any country, including his own, and to return to his country as provided in article 13, paragraph 2, of the Universal Declaration of Human Rights" was the sole topic remaining on the approved work programme of the Sub-Commission, upon which a full study had not yet been initiated,

Recalling that the Sub-Commission requested Mr. Ingles to prepare in consultation with the Secretary-General a preliminary study of this subject (E/CN.4/Sub.2/L.145),

Having received and discussed the preliminary study prepared by Mr. Ingles in accordance with this request,

Recognizing that, in view of the limitations of the Secretariat staff and its prior commitments, a full study of this subject cannot be undertaken before 1960,

1. Expresses its gratitude to Mr. Ingles for the excellent preliminary study and for facilitating the Sub-Commission's discussion of the subject;

2. Requests Mr. Ingles to continue such preparatory work on the subject as he may find useful and feasible for consideration by the Sub-Commission at its twelfth session, in the light of the discussion at the eleventh session, including the preparation of a proposed questionnaire or list of topics which may serve as an outline or framework for the study;

3. Decides to retain on the agenda of its twelfth session the item "Study of discrimination in the matter of the right of everyone to leave any country, including his own, and to return to his country, as provided in article 13, paragraph 2, of the Universal Declaration of Human Rights";

4. Draws the attention of the Commission on Human Rights to the views expressed in the Sub-Commission regarding the link existing between paragraphs 1 and 2 of article 13.

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IX. FUTURE WORK OF THE SUB-COMMISSION

Item 9 of the agenda

Introduction

149. At the 273rd and 274th, and 277th meetings, the Sub-Commission considered item 9 of its agenda, entitled "Future Work of the Sub-Commission".

150. The Sub-Commission had before it a note by the Secretary-General on this subject (E/CN.4/Sub.2/195), submitted in accordance with resolution F adopted by the Sub-Commission at its tenth session. In the note the Secretary-General reminded the Sub-Commission (para. 21) that:

"(a) the study of discrimination in the matter of religious rights and practices probably will be completed only in 1960;

"(b) the study of discrimination in the matter of political rights probably will not be completed for several years;

"(c) the proposed study of discrimination in the matter of the right of everyone to leave any country, including his own, and to return to his country, approved by the Council, has not yet been started by the Sub-Commission;

"(d) No study has yet been made of discrimination against persons born out of wedlock, which the Sub-Commission itself suggested in 1951. The Commission on Human Rights endorsed the recommendations of the Sub-Commission on this matter at its ninth session (E/2447, paras. 231 and 232 and draft resolution D). The Economic and Social Council subsequently adopted resolution 502 D (XVI), drawing this problem to the attention of 'the Social Commission, other inter-governmental organs and interested non-governmental organizations'. The Council stressed 'the desirability of preparing recommendations with a view to eliminating such discrimination'. Subsequently, the Commission on Human Rights (E/2731, resolution I (XI)) and the Economic and Social Council (resolution 683 D (XXVI)) decided that a supplementary volume to the Yearbook on Human Rights should contain statements on the right set forth in article 25 (2) of the Universal Declaration of Human Rights which sets forth, inter alia, the right of all children, whether born in or out of wedlock, to enjoy the same social protection. The Commission has not yet decided to undertake a study of the right set forth in article 25 (2).

"(e) The Sub-Commission has not yet made two of the studies mentioned by the Secretary-General in 1952 in a memorandum (E/2229, para. 75) submitted to the Economic and Social Council in compliance with resolution 414 (XIII). These were studies on:

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- (i) discrimination in residence and movement (article 13, paragraph 1 of the Declaration); and
- (ii) discrimination in the right to choose a spouse and in the enjoyment of family rights (article 16, paragraph 1, of the Declaration).

"(f) At the tenth session of the Sub-Commission, and also at the fourteenth session of the Commission on Human Rights, various members suggested that 'rights in the legal, social, economic, cultural, scientific and health fields' could usefully be studied from the point of view of prevention of discrimination. In examining possibilities of studies in the social, economic, cultural, scientific and health fields, the Sub-Commission may wish to take into account the list of studies to be submitted by specialized agencies in an addendum to the present note as indicated in paragraph 18 above.

"(g) At the tenth session of the Sub-Commission the view was expressed by various members that the Sub-Commission should consider what action should be taken to follow up, in the future, studies of discrimination already carried out."

151. The Sub-Commission first considered what future work it should undertake, if any, in connexion with the drafting by UNESCO of international instruments designed to eradicate discrimination in education. It then considered other suggestions as to its future work programme. It heard statements by the representatives of the ILO and of UNESCO, and by the representative of the International Federation of University Women. At the 277th meeting the Sub-Commission adopted two draft resolutions, dealing with various aspects of its programme of future work.

A. Collaboration with UNESCO concerning the draft recommendations and draft convention on discrimination in education

152. At the 273rd meeting the representative of UNESCO advised the Sub-Commission of the action taken by the General Conference of UNESCO, at its tenth session, regarding discrimination in the field of education.

153. The General Conference had adopted a resolution (E/CN.4/Sub.2/197), deciding that UNESCO should take responsibility for drafting recommendations to Member States and an international convention on the various aspects of discrimination in education, and authorizing the Director-General "to prepare a preliminary report, draft recommendations, and a draft convention to be

circulated to Member States for comment, and to convene in 1960 a committee of technical and legal experts appointed by Member States with a view to submitting revised drafts of such recommendations and of a convention to the eleventh session of the General Conference".

154. The representative of UNESCO further indicated that since the conclusion of the General Conference a tentative work plan has been developed, whereby the secretariat of UNESCO will take the necessary measures for submitting to the General Conference at its eleventh session draft recommendations to Member States and a draft convention on the various aspects of discrimination in education. It will prepare early in 1959, with the help of consultants, a preliminary report accompanied by the first draft of recommendations and of a convention, which will be addressed to Member States and to competent international organizations in June 1959, with a request that all comments and observations reach the secretariat before 31 December 1959. The final report, prepared by the secretariat in the light of the comments received, will be communicated to Member States before 1 April 1960, and submitted in June 1960 to a committee of technical and legal experts appointed by Member States. The committee will be convened for two weeks, to establish the final drafts of recommendations and of a convention to be submitted to Member States before they are examined by the General Conference.

155. Members of the Sub-Commission indicated their gratification that UNESCO had undertaken to prepare draft international instruments for the eradication of discrimination in education. At the same time they expressed the view that the Sub-Commission should be associated in the work of preparing these instruments in such a way that its views on the drafts could be formulated, and taken into account by UNESCO, at an early stage.

156. The representative of UNESCO assured the Sub-Commission that if provision were made on the agenda of one of its forthcoming sessions for examination of the drafts under preparation, UNESCO would make available to it the drafts as they stood at that time. UNESCO would welcome, and give full consideration to, the Sub-Commission's comments and suggestions.

157. Mr. Hiscocks expressed his regret and disappointment that UNESCO had so far failed to produce the brief popular summary of Mr. Ammoun's report requested by

the Sub-Commission two years ago. He considered that such a summary could play a vital part in making known the results of the Sub-Commission's work throughout the world. The representative of UNESCO said that the preparation of a popular booklet was under consideration, and promised to inform the Sub-Commission of any further development at its next session.

158. At the 277th meeting, Mr. Santa Cruz submitted a draft resolution (E/CN.4/Sub.2/L.155) proposing that the Sub-Commission take note with appreciation of the decision of UNESCO's General Conference, and request the Secretary-General to arrange with the Director-General of UNESCO that the preliminary report, recommendations, and draft convention which will be circulated to Member States for comment be made available also to the Sub-Commission at its twelfth session in 1960 in order to enable the Sub-Commission to express its views on these documents before they are submitted to the committee of technical and legal experts and to the eleventh session of the General Conference of UNESCO. The draft resolution further proposed that the Sub-Commission decide to examine the preliminary report, draft recommendations, and draft convention at its twelfth session.

159. The draft resolution was adopted unanimously, as follows:

RESOLUTION E

COLLABORATION WITH UNESCO CONCERNING THE DRAFT RECOMMENDATIONS AND DRAFT CONVENTION ON DISCRIMINATION IN EDUCATION

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

1. Takes note with appreciation of the decision of the General Conference of UNESCO to take responsibility for drafting recommendations to Member States and an international convention on the various aspects of discrimination in education and authorizing the Director-General to prepare a preliminary report, draft recommendations and a draft convention to be circulated to Member States for comments and to convene in 1960 a committee of technical and legal experts appointed by Member States with a view to submitting revised drafts of such recommendations and of a convention to the eleventh session of the General Conference of UNESCO (E/CN.4/Sub.2/197);

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2. Requests the Secretary-General, utilizing the direct means of contact between the Sub-Commission and UNESCO authorized by resolution 545 E (XVIII) of the Economic and Social Council, to arrange with the Director-General of UNESCO that the preliminary report, recommendations and draft convention which will be circulated to Member States for comment be made available also to the Sub-Commission at its twelfth session in 1960, in order to enable the Sub-Commission to express its views on these documents before they are submitted to the Committee of Technical and Legal Experts and to the eleventh session of the General Conference of UNESCO;

3. Decides to examine the preliminary report, draft recommendations and draft convention at its twelfth session.

B. Other future activities

160. The Sub-Commission reviewed the summary contained in paragraph 21 of the note submitted by the Secretary-General. It was pointed out that this summary mentioned three studies which might usefully be made by the Sub-Commission:

(a) discrimination against persons born out of wedlock; (b) discrimination in residence and movement; and (c) discrimination in the right to choose a spouse and in the enjoyment of family rights.

161. Some members of the Sub-Commission, in particular Messrs. Fomin and Machowski, expressed the view that the Sub-Commission had failed to give sufficient priority to studies of discrimination in the economic and social fields. Messrs. Fomin and Machowski considered that the Sub-Commission should include in its programme of future work studies on (1) discrimination in the matter of social rights, (2) discrimination in the matter of the economic rights enumerated in the Universal Declaration of Human Rights, and (3) discrimination arising from the situation which exists in Non-Self-Governing and Trust territories on the basis of the status of those territories.

162. Other members, however, pointed out that the first study initiated by the Sub-Commission had dealt with discrimination in respect of the right to education - a social problem - while the second had dealt with discrimination in

respect of the right to employment and occupation - an economic problem. Moreover, some members expressed the view that the nature of the economic and social rights was such that they rarely lent themselves to study solely, or even primarily, from the point of view of prevention of discrimination; in their opinion it was necessary to study at once all aspects of economic and social rights, including discrimination if found to exist, but also including such other questions as the economic development of the countries concerned and their capacity to assure any real content to the rights.

163. Members were in general agreement that the question of undertaking new studies, as well as the priority to be given any such studies, should be left to the next session of the Sub-Commission, when it would convene with a new membership. A draft resolution to this effect was submitted by Mr. Saario (E/CN.4/Sub.2/L.154).

164. At the 277th meeting the draft resolution was adopted unanimously, as follows:

RESOLUTION F

FUTURE WORK OF THE SUB-COMMISSION

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

Having discussed the question of future work of the Sub-Commission, including further studies in the field of discrimination,

Recognizing that, due to the prior commitments of the Secretariat staff, a new study cannot be undertaken before 1960,

Bearing in mind that the terms of office of members of the Sub-Commission come to an end on 31 December 1959,

Considering that the Sub-Commission has not yet completed its existing programme of work as approved by the Economic and Social Council,

1. Notes with appreciation the memorandum of the Secretary-General concerning the future work of the Sub-Commission (E/CN.4/Sub.2/195) requested by the Sub-Commission in resolution F of its tenth session (E/CN.4/764, para. 188);

2. Decides to leave the question of undertaking new studies, as well as the question of their priority, to the next session of the Sub-Commission.

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X. 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

Item 10 of the agenda

Introduction

165. At the 275th to 277th meetings, the Sub-Commission considered item 10 of its agenda, entitled "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".

166. The Sub-Commission first held a general debate on the item, during which statements were made by Messrs. Awad, Fomin, Halpern, Hiscocks, and Ingles, and by the representative of the World Jewish Congress. The Sub-Commission then considered a draft resolution submitted by Mr. Awad (E/CN.4/Sub.2/L.156), and adopted it after amendment.

A. General Debate

167. Mr. Awad pointed out that the item had remained inactively on the agenda of the Sub-Commission for some time. He recalled that at the twelfth session of the Commission on Human Rights some members had commented favourably on work which the Sub-Commission had done in the field and had expressed the view that it might be continued having due regard at all times to the general principle of freedom of information. He also reminded the Sub-Commission that an article had been included in the draft covenant on civil and political rights (article 26) providing that:

"Any advocacy of national, racial or religious hostility that constitutes an incitement to hatred and violence shall be prohibited by the law of the State."

He suggested that a Special Rapporteur might find the subject an interesting, albeit difficult, one for study.

168. Mr. Fomin agreed with Mr. Awad that a study of the subject might be contemplated. Messrs. Halpern and Hiscocks, however, questioned the desirability

/...

of such a study, since the subject had for many years been a matter of contention between two different philosophies, neither of which had been able to convince the other. They pointed out the danger of undermining freedom of expression, which they regarded as a right of the greatest importance, if government authorities were to be allowed - or indeed mandated as they are by the proposed article 26 - to censor expression of any ideas or opinions which the governmental authorities declared to be an incitement to hatred. Mr. Hiscocks further considered that the subject was not specifically connected with the question of discrimination and pointed out that some members of the Commission on Human Rights had supported this view. Mr. Ingles, on the other hand, was of the view that overt acts of national, racial, or religious hostility, as well as their advocacy, were manifestations of discrimination. He suggested, therefore, that it might be possible for the Sub-Commission's Special Rapporteurs to consider and recommend measures for their cessation in case they came across this particular problem in their respective studies.

B. Consideration of draft resolution

169. At the 276th meeting the Sub-Commission considered a draft resolution submitted by Mr. Awad (E/CN.4/Sub.2/L.156), proposing that the Sub-Commission should note with satisfaction that the draft covenant on civil and political rights includes provision on the same subject, and that it should decide that the item should remain on the Sub-Commission's agenda so that it may take appropriate action with regard to it at a future session. Mr. Halpern objected to the implied approval of the wording of article 26 of the draft covenant which might be read into the words, "with satisfaction," and expressed the view that governmental authorities ought not to be allowed to interfere with freedom of expression until there is a clear and present danger of violence or other illegal action.

170. In separate votes taken on parts of the first operative paragraph, the words "with satisfaction" were deleted by 5 votes in favour and 4 against, with 2 abstentions; and the word "same" was deleted by the same vote. The clause "so that it may take appropriate action with regard to it at a future session," when voted separately, was retained by 5 votes in favour and 3 against, with 3 abstentions.

171. The draft resolution, as amended, was adopted by 6 votes in favour and 3 against, with 2 abstentions, as follows:

RESOLUTION G

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

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

Having engaged in a discussion of item 10 of its agenda relating to 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,

Noting that the draft covenant on civil and political rights includes a provision on the subject,

Decides that the item in question should remain on the agenda of the Sub-Commission, so that it may take appropriate action with regard to it at a future session.

XI. PROTECTION OF MINORITIES

Item 11 of the agenda

172. At the 277th meeting the Sub-Commission considered item 11 of its agenda, entitled "Protection of Minorities".

173. The Sub-Commission had before it, for information, a note submitted by the Secretary-General (E/CN.4/Sub.2/194) summarizing the activities of the United Nations relating to the protection of minorities.

174. The Sub-Commission decided to postpone consideration of the item to its twelfth session.

XII. CONTROL AND LIMITATION OF DOCUMENTATION

Item 12 of the agenda

175. As requested by the Economic and Social Council at its 1046th meeting (E/SR.1046, para. 9), the Sub-Commission placed on the agenda of its session the item, "Control and Limitation of Documentation".

176. The Sub-Commission had before it resolution 1272 (XIII) of the General Assembly, on this subject.

177. The Sub-Commission took note of the resolution, and members agreed that they would do their best to comply.

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

Item 13 of the agenda

178. At the 278th meeting, the Sub-Commission considered the draft report of its eleventh session (E/CN.4/Sub.2/L.151 and Add. 1-3), and adopted this report unanimously.

ANNEX I

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

1. Documents issued in the general series:

- E/CN.4/Sub.2/193 - Provisional Agenda for the Eleventh session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (Note by the Secretary-General)
- E/CN.4/Sub.2/193/Add.1 - Addendum to the Provisional Agenda for the eleventh session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (Note by the Secretary-General)
- E/CN.4/Sub.2/194 - Activities of the United Nations Relating to the Protection of Minorities (Note by the Secretary-General)
- E/CN.4/Sub.2/195 - Future Work of the Sub-Commission (Note by the Secretary-General)
- E/CN.4/Sub.2/196 - Agenda for the eleventh session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (Adopted at the Sub-Commission's 254th meeting)
- E/CN.4/Sub.2/197 - Future Work of the Sub-Commission

2. Documents issued in the limited series:

- E/CN.4/Sub.2/L.146 - Preliminary Study of Discrimination in the Matter of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country, as Provided in Article 13, Paragraph 2, of the Universal Declaration of Human Rights (Submitted by Mr. José D. Ingles)
- E/CN.4/Sub.2/L.147 - Study of Discrimination in the Matter of Political Rights (Progress Report prepared by the Special Rapporteur, Mr. Hernan Santa Cruz)

2. Documents issued in the limited series: (continued)

- E/CN.4/Sub.2/L.148 - Study of Discrimination in the Field of Employment and Occupation
(Mr. Santa Cruz: draft resolution)
- E/CN.4/Sub.2/L.148/Rev.1 - Study of Discrimination in the Field of Employment and Occupation
(Messrs. Roy and Santa Cruz: revised draft resolution)
- E/CN.4/Sub.2/L.149 - Study of Discrimination in the Field of Employment and Occupation
(Mr. Krishnaswami: amendment to the draft resolution of Mr. Santa Cruz (E/CN.4/Sub.2/L.148))
- E/CN.4/Sub.2/L.150 - Study of Discrimination in the Matter of Religious Rights and Practices
(Messrs. Chayet, Hiscocks, Ingles and Santa Cruz: draft resolution)
- E/CN.4/Sub.2/L.151 and Adds.1-3 - Draft Report of the Eleventh Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights
- E/CN.4/Sub.2/L.152 - Study of Discrimination in the Matter of Political Rights
(Messrs. Chayet, Hiscocks, Ingles, Krishnaswami, Saario and Spaulding: draft resolution)
- E/CN.4/Sub.2/L.152/Add.1 - Study of Discrimination in the Matter of Political Rights
(Statement of Financial Implications Submitted by the Secretary-General)
- E/CN.4/Sub.2/L.153 - Mr. Chayet: draft resolution on the study of discrimination in the matter of "The right of everyone to leave any country, including his own, and to return to his country, as provided in article 13, paragraph 2, of the Universal Declaration of Human Rights."

2. Documents issued in the limited series: (continued)

- E/CN.4/Sub.2/L.154 - Mr. Saario: Draft Resolution on Future Work of the Sub-Commission
- E/CN.4/Sub.2/L.155 - Mr. Santa Cruz: draft resolution on collaboration with UNESCO concerning the draft recommendations and draft convention on discrimination in education
- E/CN.4/Sub.2/L.156 - Mr. Awad: draft resolution on 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

3. Other documentation:

- Documents issued by the International Labour Organisation
- Convention Concerning Discrimination in Respect of Employment and Occupation (Convention 111)
 - Recommendation Concerning Discrimination in Respect of Employment and Occupation (Recommendation 111)
 - Provisional Summary Records Nos. 21, 29 and 30 of the 42nd Session of the International Labour Conference

ANNEX II

Texts of the Convention and Recommendation Concerning Discrimination
in Respect of Employment and Occupation

CONVENTION CONCERNING DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION

(Convention 111)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its forty-second session on 4 June 1958, and

Having decided upon the adoption of certain proposals with regard to discrimination in the field of employment and occupation, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention, and

Considering that the Declaration of Philadelphia affirms that all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, and

Considering further that discrimination constitutes a violation of rights enunciated by the Universal Declaration of Human Rights,

adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-eight the following Convention, which may be cited as the Discrimination (Employment and Occupation) Convention, 1958:

Article 1

1. For the purpose of this Convention the term "discrimination" includes -

(a) any distinction exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;

(b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies.

2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.
3. For the purpose of this Convention the terms "employment" and "occupation" include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

Article 2

Each member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

Article 3

Each member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice -

- (a) to seek the co-operation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance and observance of this policy;
- (b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- (d) to pursue the policy in respect of employment under the direct control of a national authority;
- (e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
- (f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

Article 4

Any measures affecting an individual who is justifiably suspected of or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.

Article 5

1. Special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference shall not be deemed to be discrimination.
2. Any member may, after consultation with representative employers' and workers' organizations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status are generally recognized to require special protection or assistance, shall not be deemed to be discrimination.

Article 6

Each member which ratifies this Convention undertakes to apply it to non-metropolitan territories in accordance with the provisions of the Constitution of the International Labour Organisation.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any member twelve months after the date on which its ratification has been registered.

Article 9

1. A member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 10

1. The Director-General of the International Labour Office shall notify all members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the members of the organization.
2. When notifying the members of the organization of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the members of the organization to the date upon which the Convention will come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides -

(a) the ratification by a member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the members.

2. This Convention shall in any case remain in force in its actual form and content for those members which have ratified it but have not ratified the revising Convention.

Article 14

The English and French versions of the text of this Convention are equally authoritative.

RECOMMENDATION CONCERNING DISCRIMINATION IN RESPECT OF
EMPLOYMENT AND OCCUPATION

(Recommendation 111)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its forty-second session on 4 June 1958, and

Having decided upon the adoption of certain proposals with regard to discrimination in the field of employment and occupation, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Discrimination (Employment and Occupation) Convention, 1958,

adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-eight the following Recommendation, which may be cited as the Discrimination (Employment and Occupation) Recommendation, 1958;

The Conference recommends that each member should apply the following provisions:

I. DEFINITIONS

1. (1) For the purpose of this Recommendation the term "discrimination" includes -

(a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;

(b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies.

(2) Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof is not deemed to be discrimination.

(3) For the purpose of this Recommendation the terms "employment" and "occupation" include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

II. FORMULATIONS AND APPLICATION OF POLICY

2. Each member should formulate a national policy for the prevention of discrimination in employment and occupation. This policy should be applied by means of legislative measures, collective agreements between representative employers' and workers' organizations or in any other manner consistent with national conditions and practice, and should have regard to the following principles:

- (a) the promotion of equality of opportunity and treatment in employment and occupation is a matter of public concern;
- (b) all persons should, without discrimination, enjoy equality of opportunity and treatment in respect of -
 - (i) access to vocational guidance and placement services;
 - (ii) access to training and employment of their own choice on the basis of individual suitability for such training or employment;
 - (iii) advancement in accordance with their individual character, experience, ability and diligence;
 - (iv) security of tenure of employment;
 - (v) remuneration for work of equal value;
 - (vi) conditions of work including hours of work, rest periods, annual holidays with pay, occupational safety and occupational health measures, as well as social security measures and welfare facilities and benefits provided in connexion with employment;
- (c) government agencies should apply non-discriminatory employment policies in all their activities;
- (d) employers should not practise or countenance discrimination in engaging or training any person for employment, in advancing or retaining such person in employment, or in fixing terms and conditions of employment; nor should any person or organization obstruct or interfere, either directly or indirectly, with employers in pursuing this principle;
- (e) in collective negotiations and industrial relations the parties should respect the principle of equality of opportunity and treatment in employment and occupation, and should ensure that collective agreements contain no provisions of a discriminatory character in respect of access to, training for, advancement in or retention of employment or in respect of the terms and conditions of employment;

(f) employers' and workers' organizations should not practise or countenance discrimination in respect of admission, retention of membership or participation in their affairs.

3. Each member should -

(a) ensure application of the principles of non-discrimination -

- (i) in respect of employment under the direct control of a national authority;
- (ii) in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;

(b) promote their observance, where practicable and necessary, in respect of other employment and other vocational guidance, vocational training and placement services by such methods as -

- (i) encouraging State, provincial or local government departments or agencies and industries and undertakings operated under public ownership or control to ensure the application of the principles;
- (ii) making eligibility for contracts involving the expenditure of public funds dependent on observance of the principles;
- (iii) making eligibility for grants to training establishments and for a licence to operate a private employment agency or a private vocational guidance office dependent on observance of the principles.

4. Appropriate agencies, to be assisted where practicable by advisory committees composed of representatives of employers' and workers' organizations, where such exist, and of other interested bodies, should be established for the purpose of promoting application of the policy in all fields of public and private employment, and in particular -

(a) to take all practicable measures to foster public understanding and acceptance of the principles of non-discrimination;

(b) to receive, examine and investigate complaints that the policy is not being observed and, if necessary by conciliation, to secure the correction of any practices regarded as in conflict with the policy; and

(c) to consider further any complaints which cannot be effectively settled by conciliation and to render opinions or issue decisions concerning the manner in which discriminatory practices revealed should be corrected.

5. Each member should repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy.
6. Application of the policy should not adversely affect special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status are generally recognized to require special protection or assistance.
7. Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State should not be deemed to be discrimination, provided that the individual concerned has the right to appeal to a competent body established in accordance with national practice.
8. With respect to immigrant workers of foreign nationality and the members of their families, regard should be had to the provisions of the Migration for Employment Convention (Revised), 1949, relating to equality of treatment and the provisions of the Migration for Employment Recommendation (Revised), 1949, relating to the lifting of restrictions on access to employment.
9. There should be continuing co-operation between the competent authorities, representatives of employers and workers and appropriate bodies to consider what further positive measures may be necessary in the light of national conditions to put the principles of non-discrimination into effect.

III. CO-ORDINATION OF MEASURES FOR THE PREVENTION OF DISCRIMINATION IN ALL FIELDS

10. The authorities responsible for action against discrimination in employment and occupation should co-operate closely and continuously with the authorities responsible for action against discrimination in other fields in order that measures taken in all fields may be co-ordinated.

ANNEX III

STATEMENT OF FINANCIAL IMPLICATIONS OF RESOLUTION C

1. With the present establishment the Secretary-General can provide the necessary assistance to enable the Special Rapporteur to prepare a draft report for submission to the thirteenth session (January 1961), and a final report to the fourteenth session (January 1962).
2. If alternatively the proposed resolution were to be implemented, it would be possible to produce a skeleton draft report in time for the twelfth session (January 1960), based however on fewer "country monographs" than has been the practice in the past. The final report could be produced in time for the following session in January 1961 only if new funds for staff beyond the existing level were provided. The additional work involved in 1960 would require four professional and two general service staff in the Division of Human Rights for the entire year. The related additional cost would come to approximately \$50,000, covering estimated salaries and related recruitment and other common staff costs for one first officer (P-4), one second officer (P-3), two associate officers (P-2), and two general service staff (G-3).
