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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities

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

New York, 2-20 August 1971

Rapporteur: Miss Mary Gichuru

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I. ORGANIZATION OF THE SESSION

Opening and duration of the session

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities held its twenty-fourth session at United Nations Headquarters from 2 to 20 August 1971.
2. The session was opened (612th meeting) by Mr. John P. Humphrey (Canada), Chairman of the Sub-Commission at its twenty-third session, who made a statement.
3. Mr. Marc Schreiber, Director of the Division of Human Rights, made a statement on behalf of the Secretary-General.

Attendance

4. The session was attended by members of the Sub-Commission, by observers from States Members of the United Nations, by representatives of specialized agencies, an intergovernmental organization, a regional intergovernmental organization and non-governmental organizations, and by a Special Rapporteur not a member of the Sub-Commission. A full list of those attending is given in annex I.
5. Some members informed the Secretary-General that they were unable to attend the whole or parts of the session and, in accordance with rule 70 of the rules of procedure of the functional commissions of the Economic and Social Council, and with the consent of their Governments, appointed alternates (see annex I). The Secretary-General was in agreement with those nominations, and the alternates therefore enjoyed during the session the same status as members of the Sub-Commission, including the right to vote. Mr. W.E. Waldron-Ramsey (Barbados) was unable to attend the session.

Election of officers

6. At its 612th meeting, the Sub-Commission unanimously elected the following officers:

<u>Chairman:</u>	Mr. Héctor Gros Espiell (Uruguay)
<u>Vice-Chairmen:</u>	Mr. Aurel Cristescu (Romania)
	Mr. Erik Nettel (Austria)
<u>Rapporteur:</u>	Miss Mary N. Gichuru (Kenya)

Agenda

7. At its 612th meeting, the Sub-Commission unanimously adopted the following agenda:
1. Election of officers
 2. Adoption of the agenda
 3. Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and Territories:
 - (a) Procedures for dealing with communications relating to violations of human rights and fundamental freedoms under Economic and Social Council resolution 1503 (XLVIII)
 - (b) Report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)
 4. International Year for Action to Combat Racism and Racial Discrimination
 5. Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism
 6. Communications concerning human rights
 7. Review of further developments in the fields with which the Sub-Commission has been concerned
 8. Protection of minorities
 9. Genocide
 10. Complete and comprehensive study of the problem of discrimination against indigenous populations
 11. Consideration of the future work of the Sub-Commission
 12. Report of the Twenty-fourth session of the Sub-Commission to the Commission on Human Rights

Organization of work

8. The Sub-Commission dealt with the items on its agenda in the following order: 1, 2, 3, 4, 5, 4 (resuméd), 11, 6, 7, 4 (concluded), 8, 9, 10, 11 (concluded), 3 (concluded) and 12.

Meetings, resolutions and documentation

9. The Sub-Commission held 24 meetings. The views expressed at those meetings are summarized in the records of the 612th to the 635th meetings (E/CN.4/Sub.2/SR.612-635).
10. The observers of Israel and India addressed the Sub-Commission at its 632nd meeting.
11. The Sub-Commission heard statements by the representatives of UNESCO and ILO at its 623rd and 624th meetings respectively.
12. The representatives of the International Commission of Jurists and the Anti-Slavery Society addressed the Sub-Commission at its 629th and 631st meetings respectively.
13. The Sub-Commission adopted resolutions 1 (XXIV)-9 (XXIV). The texts of those resolutions appear in chapter XII.
14. Statements of the financial implications of resolutions 2 (XXIV), 3 (XXIV), 4 (XXIV), 6 (XXIV), 7 (XXIV) and 8 (XXIV), prepared by the Secretary-General, are reproduced in annex II.
15. Annex III contains a list of the documents submitted for the Sub-Commission's consideration.

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

16. The Sub-Commission considered item 3 of its agenda, at its 613th to 629th and 633rd meetings.

A. Procedure for dealing with communications relating to violations of human rights and fundamental freedoms under Economic and Social Council resolution 1503 (XLVIII)

17. In paragraph 1 of resolution 1503 (XLVIII) of 27 May 1970, the Economic and Social Council authorized the Sub-Commission to appoint a working group consisting of not more than five of its members, with due regard to geographical distribution, to meet once a year in private meetings for a period not exceeding 10 days immediately before the sessions of the Sub-Commission to consider all communications and replies of Governments thereon, received by the Secretary-General under Council resolution 728 F (XXVIII) of 30 July 1959 with a view to bringing to the attention of the Sub-Commission those communications together with replies of Governments, if any, which appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms within the terms of reference of the Sub-Commission. In paragraph 2 of the resolution the Council decided that the Sub-Commission should, as the first stage in the implementation of the resolution, devise at its twenty-third session appropriate procedures for dealing with the question of admissibility of communications received by the Secretary-General under Council resolution 728 F (XXVIII) and in accordance with Council resolution 1235 (XLII) of 6 June 1967. At its twenty-third session the Sub-Commission, considering the difficulties that had arisen during its consideration of item 6 of its agenda and in view of the impossibility of reaching a decision on this matter, decided, in resolution 6 (XXIII), to transmit to the Commission on Human Rights, for its consideration, certain draft resolutions and amendments thereto which had been submitted by several of its members, together with the summary records of its debate on the item. It further decided to place the item, as a priority matter, on the agenda of its twenty-fourth session.

Proposals

18. The following proposals were submitted by the members of the Sub-Commission:

- (a) Draft resolution submitted by Mr. Ferguson, Mr. Humphrey and Mr. Juvigny (E/CN.4/Sub.2/L.539)

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

Considering that the Economic and Social Council in paragraph 1 of resolution 1503 (XLVIII), adopted on 27 May 1970, authorized the Sub-Commission to appoint a working group consisting of not more than five of its members, with due regard to geographical distribution, to meet once a year in private meetings for a period not exceeding 10 days immediately before the sessions of the Sub-Commission to consider all communications, including replies of Governments thereon, received by the Secretary-General under resolution 728 F (XXVIII) of 30 July 1959 with a view to bringing to the attention of the Sub-Commission those communications, together with replies of Governments, if any, which appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms within the terms of reference of the Sub-Commission,

Further considering that the Sub-Commission at its twenty-third session had insufficient time to complete consideration of the relevant draft resolutions submitted to it, as set forth in its report, E/CN.4/1040-E/CN.4/Sub.2/316 at paragraphs 182-197,

1. Decides that the working groups referred to in paragraph 1 of the Economic and Social Council resolution 1503 (XLVIII) shall be constituted in the manner set out below:

(a) Not less than two months before the opening date of the next session of the Sub-Commission, the names of five members of the Sub-Commission shall be drawn by lot by the Secretary-General;

(b) If more than one name from any one of the following geographical groups namely (i) African, (ii) Asian, (iii) Eastern European, (iv) Western and (v) Latin American, is drawn, the second such name shall be excluded and, in its place, another name shall be drawn until each of the aforementioned groups is represented in the working group.

- (b) Revised draft resolution submitted by Mr. Ferguson, Mr. Humphrey and Mr. Juvigny (E/CN.4/Sub.2/L.539/Rev.1)

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

Considering that the Economic and Social Council in paragraph 1 of resolution 1503 (XLVIII), adopted on 27 May 1970, authorized the Sub-Commission to appoint a working group consisting of not more than five of its members, with due regard to geographical distribution, to meet once a year in private meetings for a period not exceeding 10 days immediately before the sessions of the Sub-Commission to consider all communications, including replies of Governments thereon, received by the Secretary-General under Council resolution 728 F (XXVIII) of 30 July 1959 with a view to bringing to the attention of the Sub-Commission those communications, together with replies of Governments, if any, which appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms within the terms of reference of the Sub-Commission,

Furthering considering that the Sub-Commission at its twenty-third session had insufficient time to complete consideration of the relevant draft resolutions submitted to it, as set forth in its report, E/CN.4/1040-E/CN.4/Sub.2/316 at paragraphs 182-197,

1. Decides that the working groups referred to in paragraph 1 of Economic and Social Council resolution 1503 (XLVIII) shall be constituted in the manner set out below:

(a) Before the end of each session of the Sub-Commission, the names of five members of the Sub-Commission shall be selected by the Chairman to constitute the working group for the next session, one from each of the following geographical areas, namely (i) African, (ii) Asian, (iii) Eastern European, (iv) Western and (v) Latin American;

(b) If necessary at any time in order to make an initial selection or fill a vacancy, the Chairman may draw by lot the name of a member from among the names of all Sub-Commission members of a particular geographical area.

- (c) Draft resolution submitted by Mr. Ferguson, Mr. Humphrey and Mr. Juvigny (E/CN.4/Sub.2/L.540)

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

Considering that the Economic and Social Council, in paragraph 2 of resolution 1503 (XLVIII), decided that the Sub-Commission should, as the first stage in the implementation of that resolution, devise at its twenty-third session appropriate procedures for dealing with the question of admissibility of communications received by the Secretary-General under Council resolution

728 F (XXVIII) of 30 July 1959 and in accordance with Council resolution 1235 (XLII) of 6 June 1967,

Further considering that the Sub-Commission at its twenty-third session had insufficient time to complete consideration of the relevant draft resolutions submitted to it, as set forth in its report, E/CN.4/1040-E/CN.4/Sub.2/316 at paragraphs 182-197,

1. Expresses appreciation to the Secretary-General for the helpful information contained in document E/CN.4/Sub.2/313;

2. Adopts the following provisional procedures for dealing with the question of admissibility of communications received by the Secretary-General under Council resolution 728 F (XXVIII) of 30 July 1959 and in accordance with Council resolution 1235 (XLII) of 6 June 1967:

(1) Standards and criteria

A communication shall be admissible only if, either alone or together with other evidence, it appears to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms within the terms of reference of the Sub-Commission,

(2) Source of communications

Admissible communications may originate from one or more individuals or from non-governmental organizations. The names of the authors shall not be revealed except to the extent provided for by Economic and Social Council resolution 728 F (XXVIII). Anonymous communications shall be inadmissible. Communications shall not be inadmissible solely because the knowledge of the author is second hand.

(3) Nature of allegations

No particular format shall be required for admissibility, except that unreasonably long communications may be treated as inadmissible until summarized by the Secretariat at the request of the working group referred to in Economic and Social Council resolution 1503 (XLVIII) or of the Sub-Commission. Mere choice of words shall not alone preclude admissibility.

(4) Timeliness

A communication shall be inadmissible if the author appears to have deliberately delayed sending it to the United Nations for more than six months after the events complained of or after the final exhaustion of other remedies, whichever is later.

(5) Duplication

A communication shall be inadmissible if it deals with the same events as a communication already acted upon by the Sub-Commission pursuant to paragraph 5 of Economic and Social Council resolution 1503 (XLVIII), unless it contains relevant new information pertaining to these events.

(6) Exhaustion of other remedies

Communications shall be inadmissible if they indicate or imply that domestic or other international remedies have not been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged.

(d) Proposal submitted by Mr. Cristescu (E/CN.4/Sub.2/L.511)

A. Communications must in no way conflict with the provisions of the Charter, of resolutions adopted by United Nations organs, or with the provisions of the Universal Declaration of Human Rights or the international Covenants on human rights.

B. Communications must be submitted directly by the injured parties or by their duly authorized agents.

C. Communications must provide clear proof that all national recourse procedures have been exhausted.

D. Communications relating to cases which have been settled by the State concerned will not be considered further or circulated.

E. No further consideration will be given to communications once they have been considered by the Sub-Committee or by some other United Nations organ.

F. Communications must be submitted within six months from the time when settlement of the case through national recourse procedures becomes impossible.

G. The cases dealt with in the communications must not constitute offences against or other violations of the law of the State concerned under the principles of international law.

H. Communications must contain a description of the facts and must indicate the purpose of the petition and the rights which have been violated; they must be accompanied by clear evidence.

I. Communications of a slanderous or propaganda nature will not be considered.

(e) Amendment to the draft resolution contained in document E/CN.4/Sub.2/L.540, submitted by Mr. Cassese (E/CN.4/Sub.2/L.542)

1. Replace the first sentence of paragraph 2 (2) by the following sentence:

"Admissible communications may originate from any person or any group of individuals claiming to be a victim of the violations referred to in subparagraph 1 of this paragraph, or from any international non-governmental organization in consultative status with the Economic and Social Council."

2. Insert the following subparagraph after paragraph 2 (2):

"A communication shall be inadmissible if it is manifestly abusive and, for example, contains defamatory or insulting references to the State complained against."

3. Paragraph 2 (4) should be worded as follows:

"A communication shall be inadmissible if it is not submitted within six months from the date of the final domestic decision or of the decision of such international organ as may be seized of the question; if, however, it is evident that the available domestic or international remedies would be ineffectual or that the procedure would be unduly protracted, the time-limit shall be reckoned from the time of the events dealt with in the communication.

"Should the author of the communication be prevented by serious causes beyond his control from transmitting the communication within the aforesaid time-limit, the six month time-limit shall be reckoned from the time at which such causes cease to exist."

(f) Draft resolution submitted by Mr. Rybakov (E/CN.4/Sub.2/L.543)

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

Recalling Economic and Social Council resolution 728 F (XXVIII) of 30 July 1959, which was endorsed by the United Nations General Assembly,

Referring to Article 2, paragraph 7, of the Charter of the United Nations,

1. Decides that communications received by the Secretary-General under resolution 728 F (XXVIII) may be accepted for consideration by the Sub-Commission in accordance with the provisions of the said resolution only if they do not fall in any of the following categories:

(a) Complaints which fail to satisfy the requirement laid down by the Universal Declaration of Human Rights that rights and freedoms may not be exercised contrary to the purposes and principles of the United Nations Charter or in such a manner as to interfere with the rights and freedoms of other members of society;

(b) Complaints containing slanderous attacks on the political order and the Government of the State receiving the complaint;

(c) Complaints based on reports disseminated by mass media conducting hostile propaganda against the State receiving the complaint;

(d) Complaints concerning which reports are leaked to the press in violation of the confidential nature of the procedure for processing such complaints in the United Nations;

(e) Anonymous complaints;

(f) Complaints from persons who are not nationals of the State receiving the complaint or from non-governmental organizations which do not have members or branches in the State receiving the complaint;

(g) Complaints from persons who have not taken advantage of all opportunities available within the State in order to exercise their rights;

(h) Complaints from persons who have committed a crime or who pursue a parasitic way of life in violation of the order established by the State of which they are nationals;

2. Decides that priority shall be given to complaints relating to systematic, gross, large-scale violations of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories.

(g) Proposal submitted by Mr. Cristescu (E/CN.4/Sub.2/L.545)

Order of consideration of communications by the Sub-Commission
on Prevention of Discrimination and Protection of Minorities

1. Communications concerning violations of the right of peoples to self-determination and of their right to profit from and make full use of their natural wealth and resources.

2. Communications concerning cases of racial discrimination.

3. Communications concerning cases of genocide.

4. Communications concerning violations of the right of everyone to life, and communications concerning torture and cruel treatment or punishment.

5. Communications concerning cases of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism.

6. Communications concerning violations of the right of everyone to liberty, security and respect for his dignity.

7. Communications concerning illegal arrest, detention or exile.

8. Communications concerning violations of the right to equality before the law, the right of everyone to a fair and public hearing, and the right of everyone to be presumed innocent, to remedy by a tribunal and to a lawful judicial or administrative sentence.

9. Communications concerning violations of the right of everyone to work, to an adequate standard of living and adequate housing and to a continuous improvement of his living conditions.

10. Communications concerning attacks against the recognition of every human being before the law, arbitrary or illegal interference with his privacy, family, home or correspondence, or illegal attacks upon his honour and reputation.

11. Communications concerning violations of the right of everyone to freedom of movement and residence within the borders of the State.

12. Communications concerning violations of freedom of thought and of the right of everyone to peaceful assembly, to freedom of association and to take part in government.

13. Communications concerning violations of the right to education and the right of everyone to participate in cultural life, to benefit from scientific progress and its applications and to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

14. Communications concerning violations of the right of everyone to leave any country, including his own, and to return to his country.

(h) Amendment to the draft resolution contained in E/CN.4/Sub.2/L.543, submitted by Mr. Nettel (E/CN.4/Sub.2/L.546)

1. In the first preambular paragraph, after the word "Assembly", add the words "and Economic and Social Council resolution 1503 (XLVIII)".

2. In the opening wording of operative paragraph 1, replace the words "of the said resolution" by the words "of Economic and Social Council resolution 1503 (XLVIII)".

3. In operative paragraph 1, subparagraph (c), after the word "based", insert the word "solely".

- (i) Amendment to the draft resolution contained in document E/CN.4/Sub.2/L.540, submitted by Mr. Moussa (E/CN.4/Sub.2/L.547)

Add a new paragraph which reads as follows:

"The author of a communication, be it individual or organization, must provide its authentic identity.

"The working group shall first ascertain the existence and true identification of the author before proceeding to the consideration of the criteria for admissibility."

- (j) Amendment to the text proposed by the Drafting Group contained in document E/CN.4/Sub.2/L.544, submitted by Mr. Ingles (E/CN.4/Sub.2/L.548) 1/

Rephrase paragraph B as follows:

"A communication shall be admissible only if, after consideration thereof together with the reply, if any, of the Government concerned, it may be reasonably inferred that there appears to be a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms."

- (k) Amendment to the text proposed by the Drafting Group contained in document E/CN.4/Sub.2/L.544, submitted by Mr. Rybakov (E/CN.4/Sub.2/L.550)

1. Include in section C the following sentence:

"Communications from non-governmental organizations not having members or branches in the State against which the complaint was made shall be inadmissible."

2. Include as a section following section D the following sentence:

"Special attention shall be given to communications referring to systematic gross and widespread violations of human rights and fundamental freedoms, including the policy of racial discrimination and segregation and the policy of apartheid in all countries, especially in colonial and other dependent countries and territories."

- (l) Amendments to the draft resolution contained in document E/CN.4/Sub.2/L.539/Rev.1, submitted by Mr. Cristescu (E/CN.4/Sub.2/L.551)

1. In operative paragraph 1 (a) delete the part of the sentence after the words "Before the end of each session of the Sub-Commission", and replace it by:

1/ Concerning the report of the Drafting Group, see para. 20 below.

"... the latter shall elect the members of the working group at the proposal of the other members of the Sub-Commission belonging to the same geographical group, on the basis of equitable geographical representation of the groups of members of the Sub-Commission from the African, Asian and Eastern European countries and the Western and Latin American groups.

"A member of the working group may be replaced by another member from the same geographical group with the consent of the other members of the group.

"Both the working group and the Sub-Commission shall hold closed meetings when discussing the conclusions submitted by the working group, and the results of the working group's work shall be communicated to the Sub-Commission confidentially."

2. Delete paragraph 1 (b).

19. At its 616th meeting, on the proposal of its Chairman, the Sub-Commission decided that a drafting group might meet informally and endeavour, on the basis of the draft resolutions which had been submitted to the Sub-Commission and the suggestions and amendments put forward, to prepare a draft resolution that would unify and harmonize the various opinions which had been expressed on agenda item 3 (a). In that connexion, some members stated that it should be borne in mind that the Sub-Commission, in drawing up the new rules of admissibility of communications, was acting under a mandate received under resolution 1503 (XLVIII) and was not attempting to change the procedures already followed under Council resolution 728 F (XXVIII). The drafting group held four meetings, in the course of which members discussed the provisions contained in documents E/CN.4/Sub.2/L.540, 541, 542, 543 and 547.

20. In introducing the report of the Drafting Group (E/CN.4/Sub.2/L.544 and Add.1), the Chairman-Rapporteur said that it contained all of the proposals made during the meetings of the Group. A consensus could, however, not be reached and the Group had agreed not to take any votes. The Group had been unable therefore to submit a consolidated draft resolution.

21. In the light of the comments made in the course of the debate on the report of the Drafting Group, a new proposal (E/CN.4/Sub.2/L.549) was submitted to the Sub-Commission by Mr. Abu Rannat, Mr. Jankovic, Mr. Kettani, Mr. Khan, Mr. Khalifa and Mr. Lagos, which also took into account the proposals previously made. At the

624th and 625th meetings a number of amendments to that proposal were submitted orally. As revised by the co-sponsors the draft resolution (E/CN.4/Sub.2/L.549/Rev.1) read as follows:

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

Considering that the Economic and Social Council, by its resolution 1503 (XLVIII), decided that the Sub-Commission should devise appropriate procedures for dealing with the question of admissibility of communications received by the Secretary-General under Council resolution 728 F (XXVIII) of 30 July and in accordance with Council resolution 1235 (XLII) of 6 June 1967,

Adopts the following procedures for dealing with the question of admissibility of communications referred to above:

(1) Standards and criteria

(a) The object of the communication must not be inconsistent with the relevant principles of the Charter, of the Universal Declaration of Human Rights and of the other applicable instruments in the field of human rights.

(b) Communications shall be admissible only if, after consideration thereof, together with the replies, if any, of the Governments concerned, there are reasonable grounds to believe that they may reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and peoples.

(2) Source of communications

(a) Admissible communications may originate from a person or group of persons who, it can be reasonably presumed, are victims of the violations referred to in subparagraph (1) (b) above or non-governmental organizations acting in good faith in accordance with recognized principles of human rights, not resorting to politically motivated stands contrary to the provisions of the Charter of the United Nations and having direct and reliable knowledge of such violations.

(b) Anonymous communications shall be inadmissible, subject to the requirements of resolution 728 F (XXVIII) of the Economic and Social Council. The author of a communication, whether an individual, a group of individuals or an organization, must be clearly identified.

(3) Nature of allegation

(a) Communications shall be inadmissible if their language is abusive and in particular if they contain defamatory or insulting references to the State against which the complaint is directed.

(b) A communication shall be inadmissible if it has manifestly political motivations or if the subject of the complaint is contrary to the provisions of the Charter of the United Nations.

(c) A communication shall be inadmissible if it appears that it is based exclusively on reports disseminated by mass media hostile to the State concerned.

(4) Exhaustion of other remedies

(a) Communications shall be inadmissible if domestic, regional or other international remedies have not been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged. Any failure to exhaust remedies should be satisfactorily established.

(b) Communications relating to cases which have been settled by the State concerned in accordance with the principles of human rights will not be considered.

(5) Timeliness

A communication shall be inadmissible if it is not submitted to the United Nations within a reasonable time after the final exhaustion of the domestic, regional or international remedies as provided above.

General debate

22. At the beginning of the consideration of the item, one speaker raised a legal question as to whether the Sub-Commission was empowered to consider Economic and Social Council resolution 1503 (XLVIII) since the General Assembly, because of lack of time, had not been able to discuss at its twenty-fifth session the section of the report of the Economic and Social Council relating to the procedures of dealing with communications relating to violations of human rights and fundamental freedoms.^{2/} He therefore requested the Chairman to ask the United Nations Office of Legal Affairs for an opinion. Other speakers were of the view that the Council

^{2/} General Assembly Official Records: Twenty-fifth Session, Supplement No. (A/8003), chap. IX, section G, paras. 323-328.

resolution was valid. At the 613th meeting, at the request of the Chariman, the representative of the Office of Legal Affairs made a statement in which he advised the Sub-Commission that, without prejudice to the powers of the General Assembly under the Charter, Economic and Social Council resolution 1503 (XLVIII) was legally valid in the form in which it had been adopted and effective as regards the Sub-Commission, a subsidiary organ of a functional Commission of the Council.

23. In the course of the general debate, several members observed that the individual had become a subject of international concern whose rights were recognized in a number of international instruments, including the Charter of the United Nations. After noting that the rights of individuals were being violated in many parts of the world in the most brutal manner, they expressed the opinion that the need for the implementation of individual rights on an international level clearly existed. It was felt that the individual should not be left defenceless before an omnipotent State and that the Sub-Commission should, in accordance with resolution 1503 (XLVIII) of the Economic and Social Council, establish at last an effective mechanism for the examination of communications which might indicate gross and systematic violations of human rights.

24. It was also stated that the failure of the Sub-Commission to reach a decision on the question of communications at its twenty-third session was a cause of disappointment to other United Nations bodies and to the important segment of public opinion in the world which was concerned with human rights. In view of the clear mandate given to the Sub-Commission by the Economic and Social Council, the Sub-Commission had the obligation to take concrete action at the twenty-fourth session.

25. Some members contended that the primary task of the Sub-Commission, as regards the question of violations of human rights and fundamental freedoms, should be to concentrate on the condemnation of the illegal and shameful policies of racial discrimination, segregation and apartheid in southern Africa, in accordance with resolutions adopted by the General Assembly and the Economic and Social Council, in particular, General Assembly resolution 2144 (XXI) and resolutions 728 F (XXVIII), 1102 (XL), 1164 (XLI) and 1235 (XLII) of the Economic and Social Council. Resolution 1503 (XLVIII), it was stated, could not be justified politically or judicially unless it were applied in conformity with the provisions of the

resolutions mentioned above. The view was held that the procedures contemplated under this resolution were inconsistent with the spirit and the terms of the relevant international instruments and violated the principles of sovereignty of Member States and of non-interference in their domestic affairs as set forth in Article 2, paragraph 7, of the United Nations Charter. It was further stated that by allowing insinuations to be made against Member States, the application of the resolution was likely to poison international relations, reduce the stature of the United Nations and prevent it from fulfilling its functions of ensuring international peace and security.

26. Other speakers maintained that the procedure contemplated in resolution 1503 (XLVIII) of the Council did not infringe on the principle of sovereignty of Member States since it did not entail any coercion. In this connexion it was pointed out that in paragraph 6 of the resolution the Council had stipulated that "an investigation shall be undertaken with the express consent of the State concerned and shall be conducted in constant co-operation with the State and under agreement with it". Nor would the machinery envisaged exacerbate relations between States. Gross and systematic violations of human rights were in themselves causes of international tension. The generally recognized interest of Member States lay in respect for their own commitments, in particular, the commitment to comply with the provisions of the Universal Declaration of Human Rights. It was also suggested that the Sub-Commission should consider the issue from the viewpoint of those whose rights had been violated and who turned to the United Nations for help.

27. It was suggested that procedures for dealing with communications relating to violations of human rights should be based on certain fundamental considerations. While it was essential for patterns of gross violations of human rights to be reported and condemned as widely as possible, it was also necessary to prevent rash accusations against States by private individuals or groups seeking to discredit them. Steps should also be taken to prevent international organizations from being flooded with groundless complaints. In this connexion it was noted that the Secretary-General was currently receiving about 14,000 communications each year, and attention was drawn to the brevity of the envisaged annual meetings of the Working Group. While some members favoured restrictive criteria which would enable the Sub-Commission to act in full knowledge of the facts, others observed that in devising criteria on the question of admissibility of communications the Sub-Commission should adopt a flexible approach, since most communications, as

experience had shown, originated from individuals who were not familiar with complicated legal procedures and were often not in a position to familiarize themselves with such procedures. Excessive technicality in the format of communications should not be required. Precedents established by other international bodies of a quasi-judiciary character should not be necessarily followed. It was further emphasized that the task of the Working Group would not be of a judicial nature. The Working Group, it was stressed, was only requested to bring to the attention of the Sub-Commission those communications which appeared to reveal a consistent pattern of gross violations of human rights. Still other speakers insisted that any criteria devised should be in accordance with the basic documents of the United Nations and should be acceptable to all Member States.

Discussion of proposals

28. The discussions on the proposals submitted to the Sub-Commission focused on the following points: standards and criteria, the source of communications, the contents of communications and nature of allegations, the existence of other remedies, the timeliness of communications and the procedure for appointing the Working Group to be established in accordance with Council resolution 1503 (XLVIII).

Standards and criteria

29. On the one hand, the opinion was expressed that admissible communications must in no way conflict with the provisions of the Charter of the Universal Declaration of Human Rights, of resolutions adopted by United Nations organs, and of other United Nations international instruments applicable in the field of human rights, in particular the Convention on the Prevention and Punishment of the Crime of Genocide, the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the International Convention on the Elimination of All Forms of Racial Discrimination. The Working Group had therefore the obligation to consider as inadmissible any communications which were contrary to the provisions contained in these instruments. It was stressed by some members that among the criteria to be devised as regards the question of admissibility of communications, this rule was the most important one. It was further observed that the provisions of the Charter, which was the basic document of the United Nations system, applied to States as well as to individuals.

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30. It was said that the proposed reference to the various provisions of the Charter and to the provisions of other international instruments, in order to consider whether a communication was admissible, was without much meaning and without much justification. It was said that Article 2, paragraph 7, of the Charter, which deals with the question of non-interference in the domestic affairs of States, could not be invoked in the case of gross and systematic violations of human rights. Articles 55 and 56, which deal directly with questions of human rights, enunciate principles which were legally binding on the Organization and Member States.

31. Other members observed that the proposal, if formulated in too broad terms, might create a conflict between the procedures formulated for the Working Group and those adopted by other United Nations organs.

32. There was general agreement that the Working Group should consider only communications which might reveal a consistent pattern of gross and reliably attested violations of human rights. The view that the term "pattern" had an imprecise meaning and should be deleted was not shared by several members.

33. A proposal to make the admissibility of a communication dependent on the existence of "pertinent proof" of a violation encountered objections on the part of many members.

Source of communications

34. There was general agreement on the admissibility of communications from individuals or groups of individuals who had direct and reliable knowledge of the facts alleged, and on the inadmissibility of anonymous communications. Divergent views were, however, expressed on the following points:

(a) The question as to whether the individual had merely to "claim" that he was a victim. It was said that, to be admissible, a communication should contain elements permitting a reasonable presumption that the authors were victims of violations;

(b) The question as to who could act on behalf of a victim of a violation who was unable to submit a communication himself. The proposal to accord this right to a duly authorized agent was not agreed to by some members on the ground that it was too restrictive;

(c) The question of the verification of the identity of the author of a communication;

(d) The question as to whether a communication from an individual should be considered inadmissible solely on the ground that his knowledge of the facts was second-hand.

35. The question of admissibility of communications from non-governmental organizations gave rise to some discussion. Some members questioned the objectivity of many such organizations and declared that, in the past, a number of non-governmental organizations had abused the privileges arising from their consultative status with the Economic and Social Council and the specialized agencies. Referring to resolution 1296 (XLIV) of the Economic and Social Council, they stressed that non-governmental organizations should not be allowed to take advantage of the procedures to be devised for slanderous attacks against certain Member States and to deluge the Working Group with provocative and politically-motivated communications. They therefore advocated the inclusion in the procedures of proposals designed to restrict the admissibility of communications originating from non-governmental organizations, in order to ensure that these organizations had first-hand knowledge of the facts alleged. Other members, on the other hand, pointed out that non-governmental organizations had rendered outstanding service to the cause of human rights, and emphasized that the intervention of these organizations would be most useful in certain situations, particularly in cases where an individual victim of a violation was unable to submit a communication himself. They therefore contended that it would be inadvisable, on both legal and political grounds, automatically to reject communications originating from non-governmental organizations or even to limit their activities in the matter.

36. In the course of the debate, divergent views were expressed on the following points:

(a) The question whether communications from non-governmental organizations should be inadmissible if the knowledge of the organization was second-hand;

(b) The proposal that non-governmental organizations should not resort to provocative, politically motivated stands contrary to the Charter of the United Nations. Some members objected to the use of the words "provocative" and "politically motivated" on the grounds that they were excessively subjective;

(c) The suggestion that a more satisfactory approach was not to exclude non-governmental organizations as such, but rather to exclude any communication, regardless of source, whose contents represented an abuse of the right of petition;

(d) The proposal to refer only to international non-governmental organization, thereby excluding national non-governmental organizations;

(e) The proposal to consider admissible only communications originating from such non-governmental organizations as were in consultative status with the Economic and Social Council and the specialized agencies.

Contents of the communication and nature of allegations

37. It was said that a communication should contain a description of the facts and indicate the purpose of the communication and the rights that have been violated. It was also said that communications couched in "abusive" language should be considered inadmissible; however such communications could be considered if they met the other criteria for admissibility after deletion of the abusive language. It was noted that the term "abusive" was vague, and should be qualified in order to provide the Working Group with a more specific guideline. On the same grounds, some members express doubts about the advisability of using terms such as "defamatory" and "manifestly political motivations", contained in some proposals concerning the nature of allegations made in a communication.

38. The proposal was made that a communication should be inadmissible if its contents were leaked to the press in spite of the confidentiality of the communication. Some members, however, thought it was over-restrictive and could possibly be justified only if it was determined that the leaks to the press had originated from the author of a communication.

Existence of other remedies

39. It was said that, in order to prevent the Sub-Commission from being inundated with trivial communications, recourse to the United Nations should be considered a step to be taken after exhaustion of all national remedies. There were, however, differences of opinion on the scope of such a rule and on the position that should be adopted by the Sub-Commission in cases where other United Nations organs or specialized agencies were empowered to hear complaints from individuals. Attention was focused on the following points:

(a) The suggestion that the responsibility to demonstrate that all national remedies had been exhausted should not fall on the individual;

(b) The difficulty of ascertaining when a final decision has been reached. In this connexion reference was made to the right to pardon, which was usually exercised in a discretionary manner by the supreme authority of a State. It was nevertheless agreed that an appeal for pardon should not constitute an obstacle to the admissibility of a communication;

(c) The need to avoid upsetting the system of the allocation of competence between existing international and regional organizations. In this connexion it was recalled that complaints concerning violations of trade union rights in States members of the ILO were automatically referred to the International Labour Organisation;

(d) The suggestion that a case should be considered closed only if the matter had been settled in a manner which ensured full observance of human rights;

(e) The proposal that the communications should not constitute offences against or other violations of the law of the State concerned "under the principles of international law". Some members maintained that the national legislation itself should be in conformity with the principles of international law. It was also observed that such a rule would oblige the Working Group to assess the legitimacy under international law of all national laws referred to in communications.

Timeliness of communications

40. In view of the difficulty of ascertaining when a final decision had been reached, several members stated that it would be inadvisable to set a definite time-limit within which the individual should submit a communication. It was felt that it should be left to the Working Group to decide what would be a reasonable limit in each case.

Procedure for appointing the Working Group

41. It was generally agreed that the members of the Working Group should be selected with due regard to representation of the various regions. As regards the method of selection, one proposal was that the Sub-Commission, on the proposal of the members coming from each geographical area, should select the members of the Working Group on a yearly basis; another was that members of the Working Group

should be selected by the Chairman. It was finally decided that the Chairman should take action in consultation with the members of the Sub-Commission.

42. The proposal to allow any elected members of the Sub-Commission to participate, if they so wished and at their own expense, without the right to vote, at meetings of the Working Group was supported by some members, while others expressed doubts about its advisability. It was said that the participation of such other members would create an imbalance and, in particular, would be in contradiction with the principle of geographical distribution and would not be in conformity with the provisions of resolution 1503 (XLVIII) of the Economic and Social Council. It was also stated that it would not be conducive to a compliance with the requirements of the confidentiality of the meetings of the Working Group. Recalling that the members of the Sub-Commission were independent experts, some of the members observed that the proposal would discriminate against those who were financially unable to undertake the expense that their participation would involve.

43. On the other hand, it was said that the Working Group was a technical subsidiary body of the Sub-Commission, the conclusions of which would not have mandatory character. Exclusion of other members from the group's meetings did not have any legal basis since the Sub-Commission itself would have to consider the report of the Working Group. It was stressed that the participation of other members, being neither a right nor a duty, would not have financial implications for the United Nations. A number of experts were opposed to denying other members the right to participate in the activities of the Working Group because they considered that, in such circumstances, the consideration of important questions could not be undertaken in accordance with the rules of democracy. In order to ensure the independence of the Working Group, a new criterion was proposed to the effect that a member should never participate in any way whatsoever in the consideration of a communication containing a complaint against his own Government.

Voting on resolutions

44. It was agreed that the Sub-Commission would vote on the revised draft resolution contained in document E/CN.4/Sub.2/L.549/Rev.1 and the oral amendments proposed thereto, and on the revised draft resolution contained in document E/CN.4/Sub.2/L.539/Rev.1 and the amendments proposed thereto in document E/CN.4/Sub.2/L.551. At the suggestion of the Chairman, it was agreed that each paragraph of the draft resolutions would be voted on separately.

Voting on draft resolution contained in document E/CN.4/Sub.2/L.549/Rev.1

45. The voting on the draft resolution contained in document E/CN.4/Sub.2/L.549/Rev.1 was as follows:

Preambular paragraph

46. The preambular paragraph and the opening wording of the draft resolution were adopted unanimously.

Paragraph 1

47. Subparagraph 1 (a) was adopted unanimously.

48. The Sub-Commission decided, on the proposal of Mr. Carey, to replace the words "all countries" by the words "any country" in subparagraph 1 (b), and to put a comma after the word "apartheid".

49. Subparagraph 1 (b), as amended, was adopted unanimously.

Paragraph 2

50. Mr. Humphrey, partly on the basis of a suggestion made by Mr. Cristescu, proposed to insert in subparagraph 2 (a) the words "any person or group of persons who have a direct and reliable knowledge of those violations" after the word "above".

51. The amendment proposed by Mr. Humphrey was adopted by 12 votes in favour to 3 against, with 6 abstentions.

52. At the request of Mr. Cristescu, a separate vote was taken on the words "it can be reasonably presumed". The phrase was retained by 20 votes in favour to 2 against, with 2 abstentions.

53. A proposal by Mr. Ingles to insert the word "international" before the words "non-governmental organizations" was rejected by 1 vote in favour to 19 against, with 4 abstentions.

54. At the request of Mr. Ingles, a separate vote was taken on the phrase "in accordance with recognized principles of human rights, not resorting to politically motivated stands contrary to the provisions of the Charter of the United Nations". The phrase was retained by 20 votes in favour to 2 against, with 1 abstention.

55. Subparagraph 2 (a), as amended, was adopted by 20 votes in favour to none against, with 3 abstentions.
56. On the proposal of Mr. Kettani the Sub-Commission decided that reference in subparagraph 2 (b) to Economic and Social Council resolution 728 F (XXVIII) should be made more specific by the addition before the word "resolution" of the words "subparagraph 2 (b) of".
57. Subparagraph 2 (b) was adopted unanimously.
58. Mr. Ruhashyankiko proposed the addition of a new subparagraph as follows: "Communications shall not be inadmissible solely because the knowledge of the author is second-hand". On the proposal of Mr. Moussa, Mr. Ruhashyankiko agreed to insert the word "individual" before the word "author". On the proposal of Mr. Cristescu, Mr. Ruhashyankiko agreed to add at the end of his amendment the words "provided that they are accompanied by clear evidence".
59. Mr. Ruhashyankiko's proposal, as revised, was adopted by 11 votes in favour to none against, with 2 abstentions.

Paragraph 3

60. On the proposal of Mr. Cristescu, the Sub-Commission decided unanimously to change the heading of paragraph 3 to read: "Contents of communications and nature of allegations".
61. Mr. Cristescu proposed that the following subparagraph appear before subparagraph (a): "Communications must contain a description of the facts and must indicate the purpose of the petition and the rights which have been violated. They should be accompanied by evidence as clear as possible of the allegations referred to."
62. At the request of Mr. Nettel, a separate vote was taken on the second sentence of the subparagraph proposed by Mr. Cristescu. The second sentence was rejected by 7 votes in favour to 8 against, with 5 abstentions.
63. The first sentence of the subparagraph proposed by Mr. Cristescu was adopted by 19 votes in favour to none against, with 3 abstentions.
64. Mr. Ingles proposed the insertion, in either paragraph 2 or paragraph 3, of a new subparagraph which would read: "Communications shall be inadmissible unless they are made under oath". The proposal was rejected by 3 votes in favour to 6 against, with 4 abstentions.

65. Miss Solesby proposed to insert the word "essentially" before the word "abusive" in subparagraph 3 (a). The proposal was adopted by 12 votes in favour to 4 against, with 6 abstentions.
66. Mr. Carey proposed to add a new sentence at the end of subparagraph 3 (a) which would read: "Such communications may be considered if they meet the other criteria for admissibility after deletion of the abusive language". The proposal was adopted by 13 votes in favour to 4 against, with 5 abstentions.
67. The sponsors of the revised draft resolution agreed to delete the words "defamatory or" from subparagraph 3 (a).
68. The former subparagraph 3 (a), as amended, was adopted unanimously.
69. Mr. Cassese proposed to delete subparagraph 3 (b). The proposal was rejected by 8 votes in favour to 11 against, with 5 abstentions.
70. At the suggestion of Mr. Nettel, the sponsors agreed to replace the word "or" by the word "and".
71. The former subparagraph 3 (b), as amended, was adopted unanimously.
72. At the suggestion of Miss Solesby, the sponsors agreed to delete the words "hostile to the State concerned" in the former subparagraph 3 (c).
73. The former subparagraph 3 (c), as revised, was adopted by 13 votes in favour to 8 against, with 3 abstentions.
74. Mr. Cristescu proposed to add the following subparagraph at the end of paragraph 3: "The cases dealt with in communications must not constitute offences against, or other violations of, the law of the State concerned in conformity with the principles of international law".
75. Mr. Carey proposed to replace the words after "State concerned" in the amendment of Mr. Cristescu by the words "which comply with the provisions of international law and with the principles of the Universal Declaration of Human Rights". Mr. Cristescu agreed with that proposal.
76. Mr. Rybakov proposed that the new additional subparagraph, submitted by Mr. Cristescu, should read as follows: "Communications must not be based on facts which constitute violations, by the author of the communication, of the laws of the State concerned which comply with the principles of international law, including the principles of the Universal Declaration of Human Rights". Mr. Cristescu agreed with that proposal.
77. Mr. Cristescu's proposal, as amended by Mr. Rybakov, was rejected by 2 votes in favour to 18 against, with 3 abstentions.

Paragraph 4

78. A proposal by Mr. Humphrey to delete the entire paragraph was rejected by 5 votes in favour to 15 against, with 4 abstentions.
79. Mr. Martinez Baez proposed to change the heading of paragraph 4 to read: "Existence of other remedies". The proposal was adopted by 17 votes in favour to 2 against, with 5 abstentions.
80. Mr. Martinez Cobo proposed to include an additional subparagraph before subparagraph 4 (a) which, after a debate and the submission of an amendment by Mr. Rybakov, read as follows: "Communications shall be inadmissible if the admission would prejudice the functions and powers of the specialized agencies of the United Nations". The proposal was adopted by 10 votes in favour to 4 against, with 6 abstentions.
81. A proposal by Mr. Rybakov, to delete the words "regional or other international" in the former subparagraph 4 (a), was adopted by 16 votes in favour to 1 against, with 3 abstentions.
82. The former subparagraph 4 (a), as amended, was adopted by 18 votes in favour to 2 against, with 1 abstention.
83. Mr. Carey proposed to add the words "as set forth in the Universal Declaration of Human Rights" after the words "human rights" in the former subparagraph 4 (b). Mr. Rybakov proposed to add at the end of the amendment submitted by Mr. Carey the words "and any other applicable instruments in the field of human rights". The proposal by Mr. Rybakov was adopted by 18 votes in favour to none against, with 3 abstentions. The amendment submitted by Mr. Carey, as amended by Mr. Rybakov, was adopted by 21 votes in favour to none against, with 1 abstention.
84. The former subparagraph 4 (b), as amended, was adopted by 17 votes in favour to 4 against, with 1 abstention.

Paragraph 5

85. A proposal by Mr. Lagos to delete the words "regional or international" was adopted unanimously.
86. A proposal by Mr. Juvigny to delete the word "final" was adopted by 17 votes in favour to none against, with 2 abstentions.
87. Paragraph 5, as amended, was adopted by 20 votes in favour to none against, with 2 abstentions.

88. At its 627th meeting, the Sub-Commission adopted the draft resolution (E/CN.4/Sub.2/L.549/Rev.1) as a whole, as amended, by 21 votes in favour, none against and 1 abstention.

89. The text of the resolution adopted by the Sub-Commission appears in chapter XII as resolution 1 (XXIV).

Voting on draft resolution contained in document E/CN.4/Sub.2/L.539/Rev.1

90. The voting on draft resolution contained in document E/CN.4/Sub.2/L.539/Rev.1, and the amendments proposed thereto (E/CN.4/Sub.2/L.551), was as follows:

Preamble

91. A proposal by Mr. Martinez Cobo, to delete the second paragraph of the preamble of the draft resolution, was adopted by 13 votes in favour to none against, with 7 abstentions.

Paragraph 1

92. Mr. Cristescu withdrew the third paragraph of the replacement proposed by him in paragraph 1 of document E/CN.4/Sub.2/L.551.

93. After an exchange of views, he revised the first paragraph of that replacement to read as follows: "The Chairman shall designate, after consultation with the members of the Sub-Commission, the members of the working group at the proposal of the other members of the Sub-Commission belonging to the same geographical region, on the basis of equitable geographical representation of the groups of members of the Sub-Commission from the African, Asian and Eastern European countries, the Western European region and other Western countries and the Latin American countries".

94. At the request of Mr. Cristescu, a roll-call vote was taken on that paragraph. The proposal was rejected by 4 votes in favour to 12 against, with 5 abstentions. The voting was as follows:

In favour: Messrs. Cristescu, Daoudy, Khan, Rybakov

Against: Messrs. Abu Rannat, Calvocoressi, Cassese, Ferguson, Gros Espiell, Humphrey, Ingles, Juvigny, Martinez Baez, Martinez Cobo, Nettel, Nikiema

Abstention: Miss Gichuru, Messrs. Ilako, Jankovic, Lafos, Ruhashyankiko

95. The proposal by Mr. Cristescu contained in the second paragraph in paragraph 1 of E/CN.4/Sub.2/L.551, as orally revised, read as follows: "In case of impediment a member of the working group may be replaced by another member from the same geographical group with the consent of the other members of the group". At the request of Mr. Cristescu a roll-call vote was taken on that subparagraph. The proposal was rejected by 3 votes in favour to 15 against, with 4 abstentions. The voting was as follows:

In favour: Messrs. Rybakov, Cristescu, Daoudy

Against: Messrs. Nikiema, Ruhashyankiko, Abu Rannat, Calvocoressi, Cassese, Ferguson, Miss Gichuru, Messrs. Gros Espiell, Humphrey, Ilako, Ingles, Juvigny, Martinez Baez, Martinez Cobo, Nettel

Abstention: Messrs. Jankovic, Khan, Khalifa, Lagos

96. On behalf of the sponsors of draft resolution E/CN.4/Sub.2/L.539/Rev.1, Mr. Ferguson said that the words "after consultations with the members of each geographical area" should be added after the word "Chairman" in subparagraph 1 (a) of that draft resolution.

97. Subparagraph 1 (a), as revised, was adopted by 18 votes in favour to 1 against, with 4 abstentions.

98. Mr. Cristescu withdrew the amendment contained in paragraph 2 of document E/CN.4/Sub.2/L.551.

99. Mr. Martinez Cobo orally proposed to replace subparagraph 1 (b) by the following: "If necessary, the Chairman may at any time, in order to fill a vacancy, designate a member from among the names of all Sub-Commission members of the same geographical area". Mr. Humphrey proposed to add the words "or the outgoing Chairman" after the word "Chairman". The proposal of Mr. Martinez Cobo, as amended by Mr. Humphrey, was adopted by 18 votes in favour to none against, with 5 abstentions.

100. Mr. Rybakov proposed to add the following new paragraph 2 to the draft resolution: "Further decides that the Working Group shall hold closed meetings and that the results of the Working Group's work shall be communicated to the Sub-Commission confidentially". The proposal was adopted unanimously.

101. Mr. Khalifa proposed to add the following paragraph to the draft resolution: "Elected members of the Sub-Commission will be allowed to attend the meetings of the Working Group. They will not have the right to vote". The proposal was rejected by 8 votes in favour to 9 against, with 4 abstentions.
102. At its 628th meeting, the Sub-Commission adopted the draft resolution contained in document E/CN.4/Sub.2/L.539/Rev.1 as a whole, as amended, by 20 votes in favour to 1 against, with 1 abstention.
103. The text of the resolution as adopted by the Sub-Commission appears in chapter XIII as resolution 2 (XXIV).
104. At the Sub-Commission's 634th meeting, the Chairman announced that he had appointed four of the five members who were to constitute the Working Group. Those members were: Mr. Martinez Baez, Mr. Humphrey, Mr. Ingles and Mr. Kettani. He would appoint the fifth member, who was to be an expert from the Eastern European area, in April 1972, after consultation with the experts from that area elected as members of the Sub-Commission by the Commission on Human Rights.

B. Report of the Sub-Commission under Commission on Human Rights
resolution 8 (XXIII)

105. In resolution 8 (XXIII), the Commission on Human Rights decided to give annual consideration to the item "Question of violations of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories" and requested the Sub-Commission to prepare, for its use, a report containing information on violations of human rights and fundamental freedoms from all available sources. The Commission also invited the Sub-Commission to bring to its attention any situation which it had reasonable cause to believe revealed a consistent pattern of violations of human rights and fundamental freedoms, in any country, including policies of racial discrimination, segregation and apartheid, with particular reference to colonial and other dependent territories. The Economic and Social Council, in resolution 1235 (XLII) welcomed the decision of the Commission to give annual consideration to the item and authorized the Commission and the Sub-Commission to examine information relevant to gross violations of human rights and fundamental freedoms, as

exemplified by the policy of apartheid as practised in the Republic of South Africa and the Territory of South West Africa (Namibia), currently under the direct responsibility of the United Nations and illegally occupied by the Government of South Africa, and by racial discrimination as practised notably in Southern Rhodesia, contained in the communications listed by the Secretary-General pursuant to Economic and Social Council resolution 728 F (XXVIII).

106. The Sub-Commission considered the item at its 629th and 633rd meetings.

107. The Sub-Commission agreed to hear the representative of the International Commission of Jurists, who referred to document E/CN.4/Sub.2/NGO.46, which contained a statement on behalf of 22 international non-governmental organizations in consultative status with the Economic and Social Council on recent events in East Pakistan. Before the Sub-Commission acceded to the request of the above-mentioned non-governmental organization to speak, one member pointed out that discussion of the matter would lead to a political controversy and was outside the terms of reference of the Sub-Commission. He further stated that the statement circulated by the non-governmental organizations was based on one-sided, biased or hostile press reports.

108. During the discussion that followed, one member of the Sub-Commission pointed out that the Government of Pakistan was deeply conscious of the tragic nature of the internal situation. He stated that the Government was nevertheless compelled to put an end to an armed insurrection aiming at secession which threatened to destroy the very existence of his country. In such situations derogations from normal humanitarian standards were expressly allowed. There was no "pattern" of violations of human rights, much less a "consistent" pattern of such violations. The situation had the clear features of a civil strife and was within the domestic jurisdiction of the Member State concerned. He warned against accepting exaggerated claims and a distorted picture of the existing conditions. As the memorandum of the Secretary-General of 2 August to the Security Council indicated, the matter was essentially political and primarily within the competence of the Security Council. The humanitarian concern of the United Nations should concentrate on providing relief and assistance to alleviate human suffering. He was joined by another member of the Sub-Commission in maintaining that the question fell within the domestic jurisdiction of the State concerned. Still another member of the

Sub-Commission, recognizing the humanitarian aspects of the situation, stated that a speedy political settlement would, in the final analysis, serve the cause of international peace. At the 633rd meeting the Sub-Commission agreed to hear a statement by the Observer from India, who expressed the view that the humanitarian aspects of the situation, involving as it did violations of human rights, brought it within the purview of United Nations bodies acting in the field of human rights. He expressed surprise that one member had not considered a four to five months' period as sufficient to determine a consistent pattern of gross violation of human rights, particularly when it had during this period led to the exodus of nearly 8 million refugees from East Pakistan into India in panic and distress. He felt that it was necessary to go to the roots of that problem to ascertain the reasons for the continuing flight of the refugees and to stop any further exodus forthwith. One member of the Sub-Commission, in reply, enumerated the measures and steps taken by the Government of Pakistan to facilitate the return of refugees. It was doing all within its power to bring about their repatriation. The return of refugees was prevented due to the existence of armed clashes and clandestine raids on the border which they would have to cross. He invited attention to the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, adopted by the General Assembly, which stated that any attempt aimed at the disruption of national unity of States was contrary to the Charter, and that Member States must respect the territorial integrity and political independence of each other.

109. The Indian Observer asked for the floor again in order to reply to the points which the Pakistani expert had raised and in which he had brought in political matters. The Chairman, however, requested the Observer from India not to insist upon taking the floor.

110. The Chairman said that further discussion would be fruitless since the matter was political and outside the jurisdiction of the Sub-Commission.

III. INTERNATIONAL YEAR FOR ACTION TO COMBAT RACISM
AND RACIAL DISCRIMINATION

111. By resolution 2544 (XXIV) of 11 December 1969, the General Assembly designated the year 1971 as the International Year for Action to Combat Racism and Racial Discrimination. The Assembly approved the programme for the observance of the Year and invited the organs of the United Nations to co-operate and participate in the preparatory work and the observance of the Year.
112. At its 629th and 632nd meetings, the Sub-Commission considered item 4 of its agenda, "International Year for Action to Combat Racism and Racial Discrimination".
113. At the 629th meeting, the representative of the Secretary-General made a statement regarding the progress in implementation of the programme of the International Year as recommended by the General Assembly in resolution 2544 (XXIV).
114. During the discussion of this item it was pointed out that, as racial discrimination still existed in certain States and as there were forces in various countries which were attempting to keep certain groups of people in an inferior state, the United Nations, UNESCO and other competent bodies which have repeatedly condemned racism should continue their activities in this area during and after the International Year. It was further pointed out that, while the struggle against racial discrimination was a difficult one, the Sub-Commission should nevertheless make further contributions in this area. The attention of the Sub-Commission was drawn to the relationship between science and the struggle for racial equality. In this connexion, one member proposed that a permanent United Nations institute be envisaged to carry out research work in race relations.
115. At the 632nd meeting the following draft resolution (E/CN.4/Sub.2/L.556) was submitted by Mr. Rybakov, as follows:

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

Referring to General Assembly resolution 2544 (XXIV) of 11 December 1969, "Programme for the observance in 1971 of the International Year for Action to Combat Racism and Racial Discrimination",

Noting the importance of the measures taken at the national and the international level within the framework of the International Year for Action to Combat Racism and Racial Discrimination,

Considering that, after the observance of the International Year, the active struggle against racism and racial discrimination should continue until they are totally eliminated,

Recalling the decisions of United Nations organs designed to combat racism and requiring the elimination of the policy of apartheid and racial discrimination as being incompatible with the purposes and principles of the Charter of the United Nations and constituting a crime against humanity, and recalling further the repeated appeals of United Nations organs to the States concerned to take appropriate measures to eliminate racial discrimination, apartheid, nazism and other manifestations of racism,

Convinced that if the struggle against racism and apartheid is to be fully effective States Members of the United Nations, in particular the trading partners of South Africa, must immediately and unconditionally implement the resolutions of the General Assembly, the Security Council and other United Nations organs concerning apartheid and racism,

1. Requests the United Nations Commission on Human Rights to review at its forthcoming twenty-eighth session the results of the observance of the International Year for Action to Combat Racism and Racial Discrimination and to submit its conclusions and recommendations to the Economic and Social Council;

2. Decides to give urgent attention at its forthcoming twenty-fifth session, for the purpose of preparing suitable recommendations for the United Nations Commission on Human Rights, to the question of the termination of assistance provided by certain Powers to the racist and colonial régimes of southern Africa;

3. Draws attention to the need for urgent measures to achieve the implementation of United Nations decisions designed to prohibit the criminal activity of racist, Nazi and neo-Nazi organizations and groups wherever they are not already prohibited.

116. Mr. Gros Espiell presented an oral amendment, to replace operative paragraphs 2 and 3 of the draft resolution by the following:

"(2) Decides to consider at its twenty-fifth session the question of the consequences for the effectiveness of human rights of the aid which in some cases might be given to the racist and colonial régimes of southern Africa."

"(3) Takes note of the need to adopt, within the Sub-Commission's sphere of competence and respecting the principles of the Universal Declaration of Human Rights, measures designed to prevent the activities of the racist or nazi groups wherever they may occur."

This amendment was accepted by Mr. Rybakov.

117. Mr. Nettel orally proposed that the word "Requests" in operative paragraph 1 be replaced by "Recommends that". The proposal was accepted by Mr. Rybakov.

118. The draft resolution, as orally amended, was adopted by the Sub-Commission at its 632nd meeting on 18 August 1971 by a vote of 21 in favour to none against, with 3 abstentions. The text of the resolution appears in chapter XII as resolution 5 (XXIV).

IV. QUESTION OF SLAVERY AND THE SLAVE TRADE IN ALL THEIR PRACTICES AND MANIFESTATIONS, INCLUDING THE SLAVERY-LIKE PRACTICES OF APARTHEID AND COLONIALISM

119. The Sub-Commission considered item 5 of its agenda, "Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism", at its 630th and 631st meetings. It had before it the report on this subject (E/CN.4/Sub.2/322) submitted by its Special Rapporteur, Mr. Mohammed Awad, in accordance with Economic and Social Council resolution 1330 (XLIV).

120. In introducing the report^{3/} the Special Rapporteur stated inter alia that he had attempted to comply with resolution 1 (XXIII) on this subject, adopted at the previous session of the Sub-Commission; accordingly, he had taken into account the exchange of views at that session by the members of the Sub-Commission on his progress report (E/CN.4/Sub.2/312). Moreover, he had attempted, within the limited time available to him, to incorporate the information called for in Economic and Social Council resolution 1593 (L) of 21 May 1971. With reference to Economic and Social Council resolution 1579 (L) of 20 May 1971, entitled "Special arrangement between the International Criminal Police Organization and the Economic and Social Council", he pointed out that the new arrangement could lead to more effective detection and suppression of slavery and the slave trade in all its forms. Finally he drew special attention to the recommendations made in his report regarding measures to eradicate slavery in all its forms and manifestations.

121. Members who participated in the debate were unanimous in their expressions of appreciation to the Special Rapporteur for his comprehensive report. It was stated that the report had presented feasible solutions to complex problems.

Consideration of the draft resolution

122. The consideration of this item focused on the draft resolution (E/CN.4/Sub.2/L.552) submitted jointly by Messrs. Abu Rannat, Ferguson, Ingles, Humphrey and Nikiema, which contained proposals for action by the Sub-Commission and a draft resolution recommended for adoption by the Economic and Social Council. The Sub-Commission also had before it an amendment proposed by Mr. Rybakov (E/CN.4/Sub.2/L.558), to add a new paragraph after paragraph 1 of the Council's draft resolution.

^{3/} The introductory statement of the Special Rapporteur is summarized in the record of the 630th meeting (E/CN.4/Sub.2/SR.630).

123. In introducing the joint draft resolution, the co-sponsors stated that the recommendations which it contained reflected those made by the Special Rapporteur in his report.

124. In introducing his amendment, which drew attention to the close relationship between the questions of slavery, apartheid and colonialism, Mr. Rybakov noted that the joint consideration of these questions was traditional in the United Nations and said that his amendment was supported by the conclusions made by the Special Rapporteur in his report. In this connexion, Mr. Nikiema stated that slavery, apartheid and colonialism resulted in a denial of human rights, and orally proposed the addition of the words "the effects of" before the words "slavery, apartheid and colonialism".

125. Operative paragraph 2 of the draft resolution recommended for adoption by the Council, among other provisions, called on States to extradite persons found in their territory who were holding persons in the status of slavery or servitude, "provided such State has made out a prima facie case;". Mr. Nettel orally proposed a separate vote on those words because they might conflict with existing provisions in agreements regarding extradition.

126. Mr. Daoudy was of the opinion that operative paragraph 7 of the draft resolution implied that slavery still existed in many parts of the world, and that this contradicted the conclusions contained in the Special Rapporteur's report. He orally proposed that the beginning of the paragraph be redrafted as follows:

"Calls upon States where total emancipation of slaves and other persons of servile status has not taken place to accelerate this emancipation and to make every effort to absorb such persons..."

Mr. Juvigny orally proposed, and Mr. Daoudy agreed, to add the word "yet" before the words "taken place".

127. Mr. Nettel pointed out that paragraph 10 of the draft resolution should be addressed only to Governments harbouring refugees, since only those Governments were in a position to issue travel documents to victims of racial discrimination who leave their countries to escape the slavery-like practices of apartheid; he orally proposed to add the words "of countries of refuge" after the words "to Governments".

128. Several members expressed reservations regarding operative paragraph 11, which recommended that conferences and seminars on the question of slavery be organized "amongst peoples having a common cultural background". Some members felt that the expression "common cultural background" might imply a common experience of slavery. Others expressed doubt as to the desirability of limiting a meeting on slavery to a particular area, since the problem often extended beyond a specific region; some members stated that Governments might be reluctant to participate in a meeting on slavery because such participation might be said to imply that slavery existed within their borders. Mr. Calvocoressi proposed that the paragraph be deleted.

129. In discussing operative paragraph 12 of the draft resolution, several members stated that the Secretariat, rather than the Sub-Commission, was the competent organ to prepare, as suggested, "a five-year plan of technical co-operation to eradicate slavery and the slave trade". Mr. Nettel questioned the feasibility of establishing a time-table for the eradication of slavery and proposed the substitution of operative paragraph 12 by the following text:

"Requests the Secretary-General to prepare a plan of technical co-operation to eradicate slavery and the slave trade in all their practices and manifestations and to transmit it to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for consideration;"

Mr. Juvigny was of the view that the proposed plan would help to eradicate slavery and orally proposed a subamendment, to replace the words "to eradicate" by the words "to contribute to the eradication of".

130. A statement of the financial implications of operative paragraph 3 of the Sub-Commission's draft resolution (E/CN.4/Sub.2/L.557) was circulated by the Secretary-General.

Voting

131. At its 631st meeting, on 17 August 1971, the Sub-Commission voted on the joint draft resolution (E/CN.4/Sub.2/L.552) and the amendments thereto. The voting was as follows:

(a) The oral subamendment of Mr. Nikiema, to add the words "the effects of" to the amendment of Mr. Rybakov (E/CN.4/Sub.2/L.558) was adopted by 10 votes in favour, none against with 10 abstentions;

(b) The amendment of Mr. Rybakov, as subamended, to add a new operative paragraph 2, was adopted by 20 votes in favour, none against with 1 abstention;

(c) At the request of Mr. Nettel a separate vote was taken on the words "provided such State has made out a prima facie case;". By a vote of none in favour, 12 against and 7 abstentions the phrase was not retained.

(d) The oral amendment of Mr. Daoudy to revise the beginning of operative paragraph 7, as subamended, (see paragraph 126 above) was adopted by 19 votes in favour, none against with 2 abstentions.

(e) The oral amendment of Mr. Nettel to add the words "of countries of refuge" after the word "Governments" in operative paragraph 10 was unanimously adopted.

(f) A separate vote was taken at the request of Mr. Calvocoressi on paragraph 11. By 1 vote in favour, 9 against and 9 abstentions, the paragraph was deleted.

(g) The proposal of Mr. Calvocoressi to delete paragraph 12 was defeated by 6 votes in favour, 7 against with 7 abstentions.

(h) The oral subamendment of Mr. Juvigny to Mr. Nettel's amendment to paragraph 12, to substitute the words "to contribute to the eradication of" for the words "to eradicate" was adopted by 18 votes in favour, none against with 4 abstentions;

(i) The oral amendment of Mr. Nettel (see paragraph 129 above), as subamended, to replace operative paragraph 12 was unanimously adopted.

(j) At the request of Mr. Rybakov a separate vote was taken on operative paragraph 13. By 8 votes in favour, 7 against with 6 abstentions, the paragraph was retained.

132. The draft resolution as amended was unanimously adopted by the Sub-Commission. It appears in chapter XII as resolution 3 (XXIV).

V. COMMUNICATIONS CONCERNING HUMAN RIGHTS

133. The Sub-Commission considered item 6 of its agenda at its 633rd meeting.
134. The Secretary-General had distributed to the members of the Sub-Commission the monthly confidential lists of communications covering the period August 1970 to July 1971 (H.R. Communications Lists Nos. 24 to 35), and replies of Governments thereto, (H.R. Communications Nos. 821 to 914), prepared in accordance with Economic and Social Council resolutions 728 F (XXVIII), 1235 (XLII) and 1503 (XLVIII). A non-confidential list of communications containing a brief indication of the substance of each communication, however addressed, which dealt with the principles involved in the promotion of universal respect for and observance of human rights (E/CN.4/Sub.2/CRP.16) was also distributed.
135. The Sub-Commission took note of that documentation.

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

136. At its 633rd meeting, the Sub-Commission considered item 7 of its agenda, "Review of further developments in the fields with which the Sub-Commission has been concerned". In connexion with the item, the Sub-Commission had before it (a) a memorandum by the Secretary-General (E/CN.4/Sub.2/318) relating to developments between 16 June 1970 and 15 June 1971 in fields with which the Sub-Commission had been concerned; (b) a memorandum summarizing the recent activities of the International Labour Organisation in combating discrimination in respect of employment and occupation (E/CN.4/Sub.2/319); (c) a memorandum summarizing the recent activities of the United Nations Educational, Scientific and Cultural Organization in combating discrimination in education and in the field of race relations (E/CN.4/Sub.2/320); and (d) a résumé of those parts of periodic reports on human rights that relate to matters falling within the terms of reference of the Sub-Commission, particularly matters with which it had been concerned (E/CN.4/Sub.2/321).
137. The Sub-Commission took note of the information contained in the above-mentioned documents.

VII. PROTECTION OF MINORITIES

138. At its 632nd meeting the Sub-Commission considered agenda item 8, "Protection of minorities".

139. The Sub-Commission, in its resolution 9 (XX), had decided to include in the programme of its future work, and to initiate as soon as possible, a study of the implementation of the principles set out in article 27 of the International Covenant on Civil and Political Rights with special reference to analysing the concept of minority, taking into account the ethnic, religious and linguistic factors and considering the position of ethnic, religious or linguistic groups in multinational societies. The Economic and Social Council, in resolution 1418 (XLVI), had approved the Sub-Commission's decision and authorized it to designate a Special Rapporteur from among its members to carry out the study. The Sub-Commission had been unable to deal with the matter at its twenty-third session and had deferred consideration of it to the twenty-fourth session.

140. A draft resolution (E/CN.4/Sub.2/L.553) was submitted by Mr. Humphrey and Mr. Martinez Baéz, proposing that the Sub-Commission appoint Mr. Capotorti as its Special Rapporteur to carry out the study. A second draft resolution (E/CN.4/Sub.2/L.561), proposing the appointment of Mr. Jankovic, was presented by Mr. Khalifa and read as follows:

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

Taking note of resolution 1418 (XLVI) of the Economic and Social Council authorizing the Sub-Commission to designate a special rapporteur from among its members to carry out the study on prevention of discrimination and protection of minorities,

1. Decides to appoint Mr. B. Jankovic as its Special Rapporteur to carry out the study on prevention of discrimination and protection of minorities taking into account the discussions on this study during the twenty-first and twenty-second sessions of the Sub-Commission;

2. Requests the Secretary-General to invite Member States to co-operate with the Special Rapporteur in carrying out the study;

3. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur;

4. Invites the specialized agencies concerned and the intergovernmental and non-governmental organizations in consultative status with the Council, to co-operate with the Special Rapporteur in the preparation of the study.

141. All speakers recognized that both candidates had excellent qualifications for carrying out the task in question. They felt it most important for the Sub-Commission to comply at the current session with the mandate of higher organs with regard to the preparation of that important study. A few members drew attention to the advisability of ensuring that the appointment of special rapporteurs was made in such a way that account was taken of the various geographical regions represented in the Sub-Commission.

Adoption of resolution

142. Acting under rule 62 of the rules of procedure of the functional commissions of the Economic and Social Council, the Sub-Commission proceeded to vote by secret ballot on the two candidates before it. As a result of the balloting, the draft resolution contained in document E/CN.4/Sub.2/L.553 was adopted, with 15 votes cast in its favour. Nine votes were cast in favour of the draft resolution contained in document E/CN.4/Sub.2/L.561. One ballot was invalid.

143. The text of the resolution adopted by the Sub-Commission at its 632nd meeting on 18 August 1971 appears in chapter XII as resolution 6 (XXIV).

VIII. GENOCIDE

144. At its 632nd meeting, the Sub-Commission examined agenda item 9, "Genocide".

145. In resolution 1420 (XLVI), the Economic and Social Council had approved the decision that the Sub-Commission had taken, in its resolution 8 (XX), to undertake a study of the question of the prevention and punishment of the crime of genocide, and had authorized the Sub-Commission to designate a Special Rapporteur from among its members to carry out that study. The Sub-Commission had been unable to deal with this matter at its twenty-third session and deferred consideration of it to the twenty-fourth session. At its twenty-fourth session the Sub-Commission had before it a note by the Secretary-General (E/CN.4/Sub.2/303 and Add.1-8), containing information received from Governments on the measures which they had adopted to give effect to the Genocide Convention, submitted in accordance with Economic and Social Council resolution 1420 (XLVI).

146. A draft resolution submitted by Mr. Nettel and Mr. Nikiema (E/CN.4/Sub.2/L.554) was unanimously adopted by the Sub-Commission.

147. The resolution adopted by the Sub-Commission at its 632nd meeting on 18 August 1971 appears in chapter XII as resolution 7 (XXIV).

IX. COMPLETE AND COMPREHENSIVE STUDY OF THE PROBLEM OF
DISCRIMINATION AGAINST INDIGENOUS POPULATIONS

148. The Sub-Commission considered item 10 of its agenda, "Complete and comprehensive study of the problem of discrimination against indigenous populations" at its 632nd meeting, held on 18 August 1971.

149. The Economic and Social Council, on 21 May 1971, had adopted resolution 1589 (L), paragraph 7 of which authorized the Sub-Commission to make such a study of the problem of discrimination against indigenous populations and to suggest the necessary national and international measures for eliminating such discrimination, in co-operation with the other organs and bodies of the United Nations and with the competent international organizations.

150. Mr. Gros Espiell and Mr. Calvocoressi submitted a draft resolution (E/CN.4/Sub.2/L.555), proposing that the Sub-Commission appoint Mr. Martínez Cobo as Special Rapporteur to carry out the study.

151. In the light of a statement made by the Representative of the Secretary-General,^{4/} there was a brief discussion of the possible financial implications of the draft resolution which, taken in conjunction with the resolutions adopted earlier by the Sub-Commission, would call for the preparation of three studies simultaneously. In the course of the debate it was suggested that the Special Rapporteur for the study on discrimination against indigenous populations might submit his report to the Sub-Commission at its twenty-sixth session rather than at its twenty-fifth session. It was pointed out, however, that previous practice in the matter was that during the first year special rapporteurs were expected only to submit general guidelines and outlines for the preparation of their studies, which, after being approved by the Sub-Commission, would be sent to Governments for

^{4/} A statement of the financial implications of the resolution was later circulated in document E/CN.4/Sub.2/L.562.

collection of information. Past experience showed that it was only at later stages of the preparation of such studies that extensive research would be needed and financial implications would arise, in particular because of the preparation of country monographs.

152. The Sub-Commission adopted the draft resolution contained in document E/CN.4/Sub.2/L.555, by 23 votes to none, with 1 abstention.

153. For the text of the resolution, see chapter XII, resolution 8 (XXIV).

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

154. At its 632nd and 633rd meetings, the Sub-Commission considered item 11 of its agenda, "Consideration of the future work of the Sub-Commission".

155. A draft resolution (E/CN.4/Sub.2/L.559) was submitted by Miss Gichuru and Messrs. Abu Rannat, Calvocoressi, Cassese, Cristescu, Daoudy, Delprée-Crespo, Ferguson, Gros Espiell, Humphrey, Ilako, Inglés, Jankovic, Juvigny, Kettani, Khan, Martínez Baéz, Martínez Cobo, Nettel, Nikiema and Ruhashyankiko. Mr. Rybakov asked that his name be added to the list of sponsors, on the understanding that his position with respect to the resolution mentioned in the draft resolution remained unchanged.

156. At the 633rd meeting another draft resolution (E/CN.4/Sub.2/L.560) was submitted by Messrs. Cristescu and Gros Espiell. The draft resolution read as follows:

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

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

Recalling that the right to self-determination is upheld by the Charter, by the International Covenants of human rights, by the Declaration on the Granting of Independence to Colonial Countries and Peoples and by many other resolutions of the United Nations General Assembly,

Recalling that according to the "Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States", adopted by the United Nations General Assembly at its twenty-fifth session, "the principle of equal rights and self-determination of peoples constitutes a significant contribution to contemporary international law, and its effective application is of paramount importance for the promotion of friendly relations among States, based on respect for the principle of sovereign equality",

Convinced that a study of the concept of the right to self-determination in the light of its historical and current development on the basis of the United Nations Charter and other documents adopted by United Nations organs would be most useful for the development of friendly relations among nations, based on respect for the principle of equal rights and the right to self-determination, and for the achievement of co-operation in the promotion and encouragement of respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Recommends that the Commission on Human Rights should request the Sub-Commission on Prevention of Discrimination and Protection of Minorities to place the following item on its agenda:

"The right to self-determination in the light of its historical and current development on the basis of the Charter of the United Nations and other documents adopted by United Nations organs"

and to submit a special study on the subject to the Commission on Human Rights.

157. Speakers, in general, did not oppose the substance of the proposal contained in the second draft resolution. Some members expressed reservations, however, regarding the adoption of the proposal at that stage. It was felt that the matter was a highly political one which members of the Sub-Commission should be given more time to consider. Some members raised the question of the competence of the Sub-Commission to deal with the subject of the right to self-determination in view of the activities of other organs of the United Nations in that area. It was argued, on the other hand, that the resolution as drafted did not constitute an encroachment on the work being done in that field by higher organs in the United Nations and that the question of lack of time could be remedied by a discussion in the Commission on Human Rights, which would be the ultimate body to decide whether the Sub-Commission should be entrusted with a study dealing with the right to self-determination.

158. The draft resolution contained in document E/CN.4/Sub.2/L.559 was adopted unanimously by the Sub-Commission at its 632nd meeting on 18 August 1971. The resolution adopted by the Sub-Commission appears in chapter XII as resolution 4 (XXIV).

159. Messrs. Daoudy and Nettel presented an oral amendment proposing that the text quoted in the operative paragraph of the resolution contained in document E/CN.4/Sub.2/L.560 should read: "The historical and current development of the right of peoples to self-determination on the basis of the Charter of the United Nations and other instruments adopted by the United Nations organs". Mr. Ferguson orally proposed that the last line of the operative paragraph "and to submit a special study on the subject to the Commission on Human Rights" be deleted. Those oral amendments were accepted by the sponsors. The Sub-Commission adopted the draft resolution, as orally amended, by a vote of 13 in favour to none against, with 2 abstentions.

160. The text of the resolution adopted by the Sub-Commission at its 633rd meeting on 18 August 1971 appears in chapter XII as resolution 9 (XXIV).

XI. ADOPTION OF THE REPORT

161. The Sub-Commission considered the draft report of its twenty-fourth session (E/CN.4/Sub.2 (XXIV)/CRP.1-2, 4-5 and 7-15) at its 634th and 635th meetings on 20 August 1971, and adopted the report, as amended, by 14 votes to none, with 1 abstention.

XII. RESOLUTIONS ADOPTED BY THE SUB-COMMISSION AT ITS
TWENTY-FOURTH SESSION

- 1 (XXIV). QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES 5/

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

Considering that the Economic and Social Council, by its resolution 1503 (XLVIII), decided that the Sub-Commission should devise appropriate procedures for dealing with the question of admissibility of communications received by the Secretary-General under Council resolution 728 F (XXVIII) of 30 July 1959 and in accordance with Council resolution 1235 (XLII) of 6 June 1967,

Adopts the following provisional procedures for dealing with the question of admissibility of communications referred to above:

(1) Standards and criteria

(a) The object of the communication must not be inconsistent with the relevant principles of the Charter, of the Universal Declaration of Human Rights and of the other applicable instruments in the field of human rights.

(b) Communications shall be admissible only if, after consideration thereof, together with the replies if any of the Governments concerned, there are reasonable grounds to believe that they may reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in any country, including colonial and other dependent countries and peoples.

(2) Source of communications

(a) Admissible communications may originate from a person or group of persons who, it can be reasonably presumed, are victims of the violations referred to in subparagraph (1) (b) above, any person or group of persons who have direct and reliable knowledge of those violations, or non-governmental organizations

acting in good faith in accordance with recognized principles of human rights, not resorting to politically motivated stands contrary to the provisions of the Charter of the United Nations and having direct and reliable knowledge of such violations.

(b) Anonymous communications shall be inadmissible; subject to the requirements of subparagraph 2 (b) of resolution 728 F (XXVIII) of the Economic and Social Council, the author of a communication, whether an individual, a group of individuals or an organization, must be clearly identified.

(c) Communications shall not be inadmissible solely because the knowledge of the individual authors is second-hand, provided that they are accompanied by clear evidence.

(3) Contents of communications and nature of allegations

(a) The communication must contain a description of the facts and must indicate the purpose of the petition and the rights that have been violated.

(b) Communications shall be inadmissible if their language is essentially abusive and in particular if they contain insulting references to the State against which the complaint is directed. Such communications may be considered if they meet the other criteria for admissibility after deletion of the abusive language.

(c) A communication shall be inadmissible if it has manifestly political motivations and its subject is contrary to the provisions of the Charter of the United Nations.

(d) A communication shall be inadmissible if it appears that it is based exclusively on reports disseminated by mass media.

(4) Existence of other remedies

(a) Communications shall be inadmissible if their admission would prejudice the functions of the specialized agencies of the United Nations system.

(b) Communications shall be inadmissible if domestic remedies have not been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged. Any failure to exhaust remedies should be satisfactorily established.

(c) Communications relating to cases which have been settled by the State concerned in accordance with the principles set forth in the Universal Declaration of Human Rights and other applicable documents in the field of human rights will not be considered.

(5) Timeliness

A communication shall be inadmissible if it is not submitted to the United Nations within a reasonable time after the exhaustion of the domestic remedies as provided above.

2 (XXIV). QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES 6/

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

Considering that the Economic and Social Council in paragraph 1 of resolution 1503 (XLVIII), adopted on 27 May 1970, authorized the Sub-Commission to appoint a working group consisting of not more than five of its members, with due regard to geographical distribution, to meet once a year in private meetings for a period not exceeding 10 days immediately before the sessions of the Sub-Commission to consider all communications, including replies of Governments thereon, received by the Secretary-General under Council resolution 728 F (XXVIII) of 30 July 1959 with a view to bringing to the attention of the Sub-Commission those communications, together with replies of Governments, if any, which appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms within the terms of reference of the Sub-Commission,

1. Decides that the working group referred to in paragraph 1 of Economic and Social Council resolution 1503 (XLVIII) shall be constituted in the manner set out below:

6/ Adopted at the 628th meeting, on 16 August 1970. See chap. II, para. 102.

(a) Before the end of each session of the Sub-Commission, the names of five members of the Sub-Commission shall be selected by the Chairman, after consultations with the members of each geographical area to constitute the working group for the next session, one from each of the following geographical areas, namely (i) African, (ii) Asian, (iii) Eastern European, (iv) Western European and other States, (v) Latin American,

(b) If necessary, the Chairman or the outgoing Chairman may at any time, in order to fill a vacancy, designate a member from among the names of all Sub-Commission members of the same geographical area.

2. Further decides that the Working Group shall hold closed meetings and that the results of the Working Group's work shall be communicated to the Sub-Commission confidentially.

3 (XXIV). QUESTION OF SLAVERY AND THE SLAVE TRADE IN ALL THEIR PRACTICES AND MANIFESTATIONS, INCLUDING THE SLAVERY-LIKE PRACTICES OF APARTHEID AND COLONIALISM 7/

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

Having considered the report on the question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism (E/CN.4/Sub.2/322) prepared by its Special Rapporteur, Mr. Mohamed Awad;

1. Expresses its deep appreciation to the Special Rapporteur for his valuable report;
2. Transmits the report to the Commission on Human Rights as the study which it was authorized to undertake in operative paragraphs 1 and 2 of Economic and Social Council resolution 1330 (XLIV);
3. Requests the Secretary-General to make arrangements for Mr. Mohamed Awad to attend any meetings of the Commission on Human Rights or the Economic and Social Council at which his report is considered;
4. Requests the Commission on Human Rights to transmit the study to the Economic and Social Council and to recommend to the Council the adoption of the following draft resolution:

7/ Adopted at the 631st meeting, on 17 August 1971. See chap. IV, para. 131.

"The Economic and Social Council,

"Recalling that the Universal Declaration of Human Rights proclaims that no one shall be held in slavery or servitude and that slavery and the slave trade shall be prohibited in all their forms,

"Noting the recommendations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 3 (XXIV) and of the Commission on Human Rights in its resolution (XXVIII), on the question of slavery and the slave trade in all their practices and manifestations,

"Bearing in mind the information and recommendations on these matters contained in the Report on Slavery (United Nations publication, Sales No. 67, XIV.2) prepared by its Special Rapporteur, Mr. Mohamed Awad, in accordance with Council resolutions 960 (XXXVI) and 1077 (XXXIX), and submitted to the Council at its forty-first session in 1966,

"Bearing in mind also the information and recommendations contained in the study transmitted to it by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on the measures which might be taken to implement the International Slavery Convention of 1926 and the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery and the various recommendations included in the resolutions of the General Assembly, the Council and the Commission on Human Rights relating to the abolition of slavery, the slave trade, and institutions and practices similar to slavery, and on the possibilities of international police co-operation to put an end to the transportation of persons in danger of being enslaved (E/CN.4/Sub.2/322),

"Convinced of the need for the adoption of urgent measures to accelerate the ratification of or accession to the International Slavery Convention of 1926 and the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery, and to implement those Conventions and the various recommendations included in the resolutions of the General Assembly, the Council and the Commission on Human Rights on the abolition of slavery, the slave trade, and institutions and practices similar to slavery,

"Mindful of the work of the International Labour Organisation relating to freedom of association and freedom of labour and of its programme for the elimination of apartheid in labour matters in the Republic of South Africa, of the activities of the United Nations Educational, Scientific and Cultural Organization to correct a social outlook tolerating the existence of slavery and forms of servitude similar to slavery, and of the special responsibility of the Food and Agriculture Organization in connexion with problems of land tenure,

"Noting that technical assistance is now available to States for the purpose of improving their administrative machinery with a view to combating any vestiges of slavery, the slavery trade, and institutions and practices resembling slavery which may exist,

"1. Calls upon all eligible States which are not yet Parties, to become Parties as soon as possible to the International Slavery Convention of 1926 and the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery;

"2. Draws attention to the close relationship between the effects of slavery, apartheid and colonialism and to the need to take concrete measures to ensure the effective implementation of the relevant international conventions and decisions of the United Nations with a view to bringing about the complete elimination of these shameful phenomena.

"3. Calls upon all States to enact any legislation necessary to prohibit slavery and the slave trade in all their practices and manifestations and to provide effective penal sanctions for persons committing, or ordering to be committed, any of the following acts: (a) abduction, or planning the abduction, or giving instructions for the abduction, of any person by force, treachery, gifts, abuse of authority or power, or intimidation, which results in that person being placed in a status of slavery or servitude as defined in the International Slavery Convention of 1926 and the Supplementary Convention of 1956; (b) holding any person in a status of slavery or servitude as defined in those Conventions; to search for persons alleged to have committed, or to have ordered to be committed, any such acts, and to bring such persons, regardless of their nationality, before its own courts, or to hand such persons over for trial to another State concerned;

"4. Calls upon all eligible States which have not yet done so to ratify the following International Labour Organisation Conventions which deal with matters closely related to the abolition of slavery, the slave trade, and institutions and practices similar to slavery: the Employment Policy Convention (No. 122) of 1965, the Forced Labour Convention (No. 29) of 1930, the Forced Labour Convention (No. 105) of 1957, the Social Policy (Basic Aims and Standards) Convention (No. 117) of 1962, the Freedom of Association and Protection of the Right to Organize Convention (No. 87) of 1948, the Right to Organize and Collective Bargaining Convention (No. 98) of 1949, and the Convention Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries (No. 107) of 1957;

"5. Appeals to all States to give effect, by national legislation or otherwise, to the recommendation prepared by the ILO concerning the improvement of conditions of life and work of tenants, share-croppers and similar categories of agricultural workers (No. 132) of 1968;

"6. Invites INTERPOL to co-operate, within the limits established by its constitution and in accordance with the Special Arrangement between the Council

and INTERPOL, approved by the Council in resolution 1579 (L) of 20 May 1971, with the United Nations in its efforts to eliminate slavery, the slave trade, and institutions and practices resembling slavery, and in particular to forward to the Secretary-General annually any information at its disposal with regard to the international traffic in persons, including reports on the subject received from its national central bureaux;

"7. Requests the Secretary-General to utilize such information to supplement information made available to him under the terms of the Supplementary Convention of 1956 and Council resolution 1597 (L), and to present a summary of available information to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at each session;

"8. Calls upon States where total emancipation of slaves and other persons of servile status has not yet taken place to accelerate this emancipation and to make every effort to absorb such persons into the general labour force and to give them access to vocational guidance and training facilities;

"9. Recommends to all specialized agencies, intergovernmental organizations and non-governmental organizations concerned that they continue and expand their assistance to such persons, including vocational guidance and training in particular;

"10. Recommends that Governments, through the Secretary-General, call upon the experts on the list kept by the Secretary-General, and other important persons, in accordance with Council resolution 1330 (XLIV), for advice on matters relating to the liquidation of slavery and the slave trade in all their practices and manifestations;

"11. Recommends to Governments of countries of refuge that refugee facilities and travel documents should be made easily available to the victims of racial discrimination who have to leave their countries to escape the slavery-like practices of apartheid, enabling them in particular to return to their country of refuge;

"12. Requests the Secretary-General to prepare a plan of technical co-operation to contribute to the eradication of slavery and the slave trade in all their practices and manifestations and to transmit it to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for consideration;

"13. Requests the Secretary-General to ascertain the needs of Governments in this respect and to submit a report thereon to the Sub-Commission at its twenty-fifth session;

"14. Requests the Secretary-General to report on the implementation of the present resolution to the Council at its fifty-third session on the basis of information obtained from Governments, the specialized agencies, regional intergovernmental organizations and the competent non-governmental organizations in consultative status."

4 (XXIV). CONSIDERATION OF THE FUTURE WORK OF THE SUB-COMMISSION^{8/}

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

Recalling that in resolution 7 (XXIII) of 28 August 1970 it requested the Commission on Human Rights to recommend to the Economic and Social Council that in principle future annual sessions of the Sub-Commission should be held during the month of January, if possible at Headquarters and in Geneva in alternate years, and that such sessions should in no case be held at the same time as the session of the General Assembly;

Noting that neither the Commission nor the Economic and Social Council took any action on the Sub-Commission's request at their sessions held in 1970;

1. Draws the attention of the Commission to Sub-Commission resolution 7 (XXIII) and requests it to consider it at its twenty-eighth session;
2. Requests the Secretary-General to bring resolution 7 (XXIII) and the present resolution to the attention of the Economic and Social Council.

5 (XXIV). INTERNATIONAL YEAR FOR ACTION TO COMBAT RACISM AND RACIAL DISCRIMINATION ^{9/}

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

Referring to General Assembly resolution 2544 (XXIV) of 11 December 1969, "Programme for the observance in 1971 of the International Year for Action to Combat Racism and Racial Discrimination",

Noting the importance of the measures taken at the national and the international level within the framework of the International Year for Action to Combat Racism and Racial Discrimination,

Considering that, after the observance of the International Year, the active struggle against racism and racial discrimination should continue until they are totally eliminated,

^{8/} Adopted at the 632nd meeting, on 18 August 1971. See chap. X, para. 158.

^{9/} Adopted at the 632nd meeting, on 18 August 1971. See chap. III, para. 118.

Recalling the decisions of United Nations organs designed to combat racism and requiring the elimination of the policy of apartheid and racial discrimination as being incompatible with the purposes and principles of the Charter of the United Nations and constituting a crime against humanity, and recalling further the repeated appeals of United Nations organs to the States concerned to take appropriate measures to eliminate racial discrimination, apartheid, nazism and other manifestations of racism,

Convinced that if the struggle against racism and apartheid is to be fully effective States Members of the United Nations, in particular the trading partners of South Africa, must immediately and unconditionally implement the resolutions of the General Assembly, the Security Council and other United Nations organs concerning apartheid and racism,

1. Recommends that the United Nations Commission on Human Rights review at its forthcoming twenty-eighth session the results of the observance of the International Year for Action to Combat Racism and Racial Discrimination and to submit its conclusions and recommendations to the Economic and Social Council;

2. Decides to consider at its twenty-fifth session the question of the consequences for the effectiveness of human rights of the aid which in some cases might be given to the racist and colonial régimes of southern Africa;

3. Takes note of the need to adopt, within the Sub-Commission's sphere of competence and respecting the principles of the Universal Declaration of Human Rights, measures designed to prevent the activities of the racist or nazi groups wherever they may occur.

✓ 6 (XXIV). PROTECTION OF MINORITIES^{10/}

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

Recalling its decision, in resolution 9 (XX), to include in the programme of its future work and to initiate as soon as possible a study of the implementation of the principles set out in article 27 of the International Covenant on Civil and

^{10/} Adopted at the 632nd meeting, on 18 August 1971. See chap. VII, para. 142.

Political Rights with special reference to analysing the concept of minority, taking into account the ethnic, religious and linguistic factors and considering the position of ethnic, religious and linguistic groups in multinational societies,

Recalling further that the Economic and Social Council, in resolution 1418 (XLVI), approved the Sub-Commission's decision and authorized it to designate a special rapporteur from among its members to carry out the study,

1. Decides to appoint Mr. Francesco Capotorti as its Special Rapporteur to carry out the study;
2. Requests the Special Rapporteur to submit a progress report on the study to the Sub-Commission at its twenty-fifth session.

7 (XXIV). GENOCIDE^{11/}

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

Recalling that in resolution 1420 (XLVI), the Economic and Social Council approved the decision taken by the Sub-Commission in its resolution 8 (XX) to undertake a study on the question of the prevention and punishment of the crime of genocide and authorized the Sub-Commission to designate a special rapporteur from its members to carry out that study;

1. Decides to appoint Mr. Ruhashyankiko as its Special Rapporteur to carry out the study;
2. Requests the Special Rapporteur to submit a progress report on the study to the Sub-Commission at its twenty-fifth session.

✓ 8 (XXIV). COMPLETE AND COMPREHENSIVE STUDY OF THE PROBLEM OF DISCRIMINATION AGAINST INDIGENOUS POPULATIONS ^{12/}

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

Recalling that the Economic and Social Council, on 21 May 1971, adopted resolution 1589 (L), in paragraph 7 of which it authorized the Sub-Commission to

^{11/} Adopted at the 632nd meeting, on 18 August 1971. See chap. VIII, para. 176.

^{12/} Adopted at the 632nd meeting, on 18 August 1971. See chap. IX, para. 152.

make a complete and comprehensive study of the problem of discrimination against indigenous populations,

1. Decides to appoint Mr. Martinez Cobo as its Special Rapporteur to carry out the study;
2. Requests the Special Rapporteur to submit a progress report on the study to the Sub-Commission at its twenty-fifth session.

9 (XXIV). CONSIDERATION OF THE FUTURE WORK OF THE SUB-COMMISSION^{13/}

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

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

Recalling that the right to self-determination is upheld by the Charter, by the International Covenants on human rights, by the Declaration on the Granting of Independence to Colonial Countries and Peoples and by many other resolutions of the United Nations General Assembly,

Recalling that according to the "Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States", adopted by the United Nations General Assembly at its twenty-fifth session, "the principle of equal rights and self-determination of peoples constitutes a significant contribution to contemporary international law, and its effective application is of paramount importance for the promotion of friendly relations among States, based on respect for the principle of sovereign equality",

Convinced that a study of the concept of the right to self-determination in the light of its historical and current development on the basis of the United Nations Charter and other documents adopted by United Nations organs would be most useful for the development of friendly relations among nations, based on respect for the

^{13/} Adopted at the 633rd meeting, 18 August 1971. See chap. X, para. 160.

principle of equal rights and the right to self-determination, and for the achievement of co-operation in the promotion and encouragement of respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

1. Recommends that the Commission on Human Rights should request the Sub-Commission on Prevention of Discrimination and Protection of Minorities to place the following item on its agenda:

"The historical and current development of the right of peoples to self-determination on the basis of the Charter of the United Nations and other instruments adopted by the United Nations organs."



ANNEXES

Annex I

ATTENDANCE

MEMBERS AND ALTERNATES

Mr. Mohammed A. Abu Rannat	(Sudan)
Mr. Peter Calvocoressi Miss Tessa Solesby (alternate)	(United Kingdom of Great Britain and Northern Ireland)
Mr. Clyde C. Ferguson Mr. John Carey (alternate) Mr. George Gowen (alternate)	(United States of America)
Mr. Antonio Cassese (alternate for Mr. Francesco Capotorti)	(Italy)
Mr. Juan Carlos Deprée Crespo (alternate for Mr. Vicente Díaz Samayo)	(Guatemala)
Mr. Aurel Cristescu	(Romania)
Mr. Adib Daoudy	(Syria)
Mr. I.J.D. Durlong Mr. Adamu Mohammed (alternate)	(Nigeria)
Miss Mary N. Gichuru Mrs. K.N.E. Kinyanjui (alternate)	(Kenya)
Mr. Hector Gros Espiell	(Uruguay)
Mr. John P. Humphrey	(Canada)
Mr. Simon Ilako	(Democratic Republic of the Congo)
Mr. José José Figueres Mr. Cecilio Espejo (alternate)	(Philippines)
Mr. Branimir Jankovic Mr. Naste Calvoski (alternate)	(Yugoslavia)

Mr. Pierre Juvigny	(France)
Mr. Ahmed Kettani	(Morocco)
Mr. Ahmed Khalifa	(United Arab Republic)
Mr. Amre Mahmoud Moussa (alternate)	
Mr. Najmul Saguib Khan (alternate for Mr. A.R. Cornelius)	(Pakistan)
Mr. Munir Akram (alternate)	
Mr. Ricardo Lagos (alternate for Mr. Hernán Santa Cruz)	(Chile)
Mr. Antonio Martínez Báez	(Mexico)
Mr. José Martínez Cobo	(Ecuador)
Mr. Erik Nettel	(Austria)
Mr. Paul Nikiema	(Upper Volta)
Mr. Nicodème Ruhashyankiko	(Rwanda)
Mr. U.M. Rybakov Mr. N. Yevdokeyev (alternate)	(Union of Soviet Socialist Republics)

SPECIAL RAPPORTEUR ON SLAVERY

Mr. Mohamad Awad	(United Arab Republic)
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OBSERVERS FROM STATES MEMBERS OF THE UNITED NATIONS

<u>India:</u>	Mr. N.P. Jain Mr. A.N.D. Haksar Mr. A.S. Mani
<u>Israel:</u>	Mr. Jacob Barmore Mr. Joshua Pratt
<u>United States of America:</u>	Mr. Elliot C. Rothenberg Mr. Anthony Stillman
<u>Venezuela:</u>	Mr. Hector Griffin

UNITED NATIONS SECRETARIAT

Representatives of the Secretary-General: Mr. Marc Schreiber,
Director of the Division
of Human Rights;
Mr. Edward Lawson,
Deputy Director of the
Division of Human Rights

Secretary of the Sub-Commission: Mr. Levan Alexidze

SPECIALIZED AGENCIES

International Labour Organisation: Mr. Juan A. Mateos
Mr. Vernon Chivers

United Nations Educational, Scientific and
Cultural Organization: Miss Lorna McPhee
Mr. Claude Lussien
Mr. G. Ledakis
Mrs. Marion Glean

INTERGOVERNMENTAL ORGANIZATIONS

International Criminal Police Organization: Mr. Kenneth Giannoules

REGIONAL INTERGOVERNMENTAL ORGANIZATIONS

League of Arab States: Mr. Mani Hammad

NON-GOVERNMENTAL ORGANIZATIONS

Category I

International Confederation of Free
Trade Unions: Miss B. Von Roemer

Category II

Agudas Israel World Organization: Mr. Isaac Lewin

Anti-Slavery Society: Mr. Patrick Montgomery

Baha'i International Community: Mrs. Anna Maria Honnold

Consultative Council of Jewish Organizations: Mr. Moses Moskovitz

Co-ordinating Board of Jewish Organizations: Mr. William Korey
Mr. Harris Schoenberg

Friends World Committee for Consultation: Mr. Robert Cory

International Association for Religious
Freedom:

Mrs. Elvia Fradlin

International Commission of Jurists:

Mr. John P. Salzberg

International Council of Jewish Women:

Mrs. Nettie S. Levy
Mrs. Helaine K. Plant

International Federation for the Rights of Man:

Mrs. Roberta Cohen

International Federation of Women Lawyers:

Miss Dora Aberlin
Miss Anna R. Kumin

International League for the Rights of Man:

Mr. Sidney Liskofsky

International Social Service:

Mrs. Rosalind W. Harris

Pan-Pacific and South-East Asia Women's
Association:

Mrs. Leah Horwitz

Pax Romana:

Mrs. Eileen Egan

St. Joan's International Alliance:

Miss Frances McGillicuddy

Women's International League for Peace and
Freedom:

Mrs. Mary Hornaday

Women's International Zionist Association:

Mrs. Evelyn Sommer

World Jewish Congress:

Mr. Max Melamet

World Union of Catholic Women's
Organizations:

Miss Catherine Schaefer
Miss Alba Zizzamia

Roster

International Humanist and Ethical Union:

Mrs. Walter M. Weiss

Annex II

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

1. In the course of its twenty-fourth session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted nine resolutions, six of which have financial implications. Prior to the adoption of these resolutions, the Secretary-General, in compliance with financial regulation 13.1 and rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, submitted statements of the administrative and financial implications of the proposals.
2. Should the action taken by the Commission on Human Rights and the Economic and Social Council in respect of the proposals of the Sub-Commission require the Secretary-General to enter into commitments in 1972, the Secretary-General would include requests for additional credits, as appropriate, in the supplementary estimates for 1972 which the Secretary-General will submit to the General Assembly at its twenty-seventh session.

Resolution 2 (XXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories

3. In operative paragraph 1 of this resolution, the Sub-Commission decided to constitute the working group referred to in paragraph 1 of Economic and Social Council resolution 1503 (XLVIII) in the manner set out below:

(a) Before the end of each session of the Sub-Commission, the names of five members of the Sub-Commission shall be selected by the Chairman, after consultations with the members of each geographical area, to constitute the working group for the next session, one from each of the following geographical areas, namely (i) African, (ii) Asian, (iii) Eastern European, (iv) Western European and other states, (v) Latin American.

(b) If necessary the Chairman or the outgoing Chairman may at any time, in order to fill a vacancy, designate a member from among the names of all Sub-Commission members of the same geographical area.

4. The financial implications of Economic and Social Council resolution 1503 (XLVIII) were put before the Council in document E/4816/Add.1 of 5 May 1970 in connexion with the Council's consideration of resolution 7 (XXVI) of the Commission on Human Rights. On the basis of assumptions made at that time, the Secretary-General already included in the 1972 Budget Estimates provision to cover subsistence of five members of the working group for the 1972 meetings immediately before the twenty-fifth (1972) session of the Sub-Commission, which is now scheduled to be held at United Nations Headquarters. He plans to make similar provisions in the budget estimates for subsequent years.

5. The request in operative paragraph 4 (e) of Council resolution 1503 (XLVIII) would involve translation into the working languages of the Sub-Commission of such communications as are referred to the Sub-Commission by the working group, at the prevailing cost of \$12.50 to \$15.00 per page per language. Provision for this purpose is not however included in the 1972 budget estimates as it is not yet possible to estimate in advance the number of pages to be translated.

Resolution 3 (XXIV). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism

6. In operative paragraph 3 of this resolution the Sub-Commission requests the Secretary-General to make arrangements for Mr. Mohamed Awad to attend any meetings of the Commission on Human Rights or the Economic and Social Council at which his report is considered.

7. The cost of first-class travel and subsistence for Mr. Mohamed Awad, Special Rapporteur responsible for the study on this subject, to attend the meetings of the Commission on Human Rights in March/April 1972 at Headquarters is estimated at \$2,000. If his attendance is also required at the meetings of the Economic and Social Council in May/June 1972 at Headquarters, an additional \$2,000 would be required to cover his travel and subsistence. Thus the total cost is estimated at \$4,000 for 1972.

Resolution 4 (XXIV). Consideration of the future work of the Sub-Commission

8. By operative paragraph 1 of this resolution, the Sub-Commission requests the Commission on Human Rights to consider Sub-Commission resolution 7 (XXIII) of 28 August 1970 at its twenty-eighth (1972) session. In operative paragraph 2, the Sub-Commission requests the Secretary-General to bring resolution 7 (XXIII) as well as resolution 4 (XXIV) to the attention of the Economic and Social Council.

9. It will be recalled that in operative paragraph 1 of resolution 7 (XXIII) the Sub-Commission had requested the Commission on Human Rights to recommend to the Economic and Social Council that, in principle, future annual sessions of the Sub-Commission should be held during the month of January, if possible at Headquarters and in Geneva in alternate years, and that such sessions should in no case be held at the same time as the session of the General Assembly.

10. Prior to the adoption of Sub-Commission resolution 7 (XXIII), the Secretary-General had drawn attention in the statement of financial implications (E/CN.4/1040) to General Assembly resolution 2478 (XXIII) of 21 December 1968 on the pattern of conferences.

11. At such time as the Sub-Commission's resolutions 7 (XXIII) and 4 (XXIV) may be considered by the organs concerned, the Secretary-General would advise these organs of the effects of the Sub-Commission's request on the schedule of conferences and meetings for the years in question, and in particular in relation to sessions of the Commission on Human Rights, and the availability of conference facilities in Geneva. As the Sub-Commission was again reminded at its twenty-fourth session, it is necessary to allow an adequate interval of time between sessions of the Sub-Commission and those of the Commission and also between sessions of the Commission and those of the Economic and Social Council.

Resolution 6 (XXIV). Protection of minorities; Resolution 7 (XXIV), Genocide; and Resolution 8 (XXIV). Complete and comprehensive study of the problem of discrimination against indigenous populations

12. By operative paragraph 1 of resolution 6 (XXIV), the Sub-Commission decided to appoint Mr. Francisco Capotorti (Italy) as its Special Rapporteur to carry out the study of the implementation of principles set out in article 27 of the

International Covenant on Civil and Political Rights, authorized by the Economic and Social Council in resolution 1418 (XLVI). In operative paragraph 1 of resolution 7 (XXIV), the Sub-Commission decided to appoint Mr. Ruhashyankiko (Rwanda) as its Special Rapporteur to carry out the study on the question of the prevention and punishment of the crime of genocide, authorized by the Council in resolution 1420 (XLVI). In operative paragraph 1 of resolution 8 (XXIV), the Sub-Commission decides to appoint Mr. Martinez Cobo (Ecuador) as its Special Rapporteur to carry out the complete and comprehensive study of the problem of discrimination against indigenous populations, authorized by the Council in its resolution 1589 (L). In the case of each study, the Special Rapporteur is requested to submit a progress report to the Sub-Commission at its twenty-fifth (1972) session.

13. The Sub-Commission was reminded that, when the Economic and Social Council considered resolutions 1418 (XLVI), 1420 (XLVI) and 1589 (L), it had been advised that the nature and scope of the proposed studies had not been clarified by the Sub-Commission, but that presumably they would each generally follow the normal pattern of studies undertaken by the Sub-Commission. The Division of Human Rights is staffed to deal simultaneously at the most with only two such studies.

14. As in previous instances, the Division of Human Rights would make available to each Special Rapporteur in 1972 assistance in the planning of his work, in the preparation of an outline or questionnaire to be used as the basis for the collection of information and in the preparation of a number of country monographs. It may be assumed that in 1973 the Division would provide assistance primarily in the preparation of additional country monographs for each Special Rapporteur and that in 1974 or 1975 the studies would be concluded with a final report. As in the case of earlier studies prepared by Special Rapporteurs of the Sub-Commission, the studies would then be published.

15. In 1972 each of the Special Rapporteurs accordingly may be required to make two visits to United Nations Headquarters in order to hold preliminary consultations with the Secretariat for approximately three weeks and to prepare progress reports for approximately one week. Should any of the Special Rapporteurs not be re-elected as a member of the Sub-Commission in 1972, a special trip to Headquarters would be required to enable him to present the progress report to the Sub-Commission.

16. During 1973 and subsequent years, until final reports have been submitted to the Sub-Commission, the Special Rapporteurs will each be required to visit Headquarters twice, to prepare their reports for approximately three weeks and to present those reports to the Sub-Commission. In the case of Special Rapporteurs re-elected as members of the Sub-Commission, the second visit in each case may not involve additional expense.

17. In order to provide substantive support to the Special Rapporteurs and to the Sub-Commission in 1972 and subsequent years, it will be necessary to reassign staff resources from other programmes and to make appropriate adjustments in the resources available to the Secretary-General. It is envisaged, moreover, that some additional staff resources would be required as the three studies must be undertaken simultaneously with a view to their completion in 1975. In the light of the discussions in the Sub-Commission as to the preliminary nature of the progress report required, the Secretary-General would not request additional staff resources for 1972, but he would make appropriate provisions in the initial budget estimates for subsequent years.

18. The financial implications of resolutions 6 (XXIV), 7 (XXIV) and 8 (XXIV) are accordingly set forth below.

	<u>1972</u> \$	<u>1973</u> \$	<u>1974</u> \$	and /or	<u>1975</u> \$
(a) Travel and subsistence of three Special Rapporteurs					
(i) Mr. F. Capotorti, Special Rapporteur for study on protection of minorities	3,100	1,800	1,800		1,800
(ii) Mr. Ruhashyankiko, Special Rapporteur for study on genocide	4,400	2,500	2,500		2,500
(iii) Mr. Martinez Cobo, Special Rapporteur for study on indigenous populations	2,300	1,450	1,450		1,450

	<u>1972</u> \$	<u>1973</u> \$	<u>1974</u> \$	and /or	<u>1975</u> \$
(b) Typing and contractual translation of three reports (English, French, Russian and Spanish) and reproduction	18,000 ^{1/}	26,850 ^{2/}	18,000 ^{3/}		18,000 ^{3/}
(c) Additional staff required by the Division of Human Rights - salaries, related allowances etc.					
(i) For study on protection of minorities (1 P-5 and 1 G-3/4)	-	33,400	31,200		31,200
(ii) For study on indigenous populations (1 P-5 and 1 G-3/4)	-	33,400	31,200		31,200
TOTAL	27,800	99,400	86,150		86,150

19. Should a Special Rapporteur not be re-elected as a member of the Sub-Commission, appropriate provision would be required in 1972 and in each subsequent year to cover travel and subsistence for the Special Rapporteur in connexion with the submission of his report to the Sub-Commission.

20. Provision in an amount of \$4,500 for two of the three rapporteurs had been included in the 1972 Budget Estimates on a pro forma basis. On the basis of the decision of the Economic and Social Council in resolution 1587 (L) which authorized the Sub-Commission to prepare a comprehensive study on indigenous populations, provision for the travel and subsistence of the third rapporteur appointed for this study may have to be included in the revised budget estimates for 1972. The Secretary-General will review the need for additional requirements arising out of the decision of the Sub-Commission to appoint a third rapporteur for the above study and will request, if required, the additional resources to implement the Sub-Commission's decision.

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- ^{1/} Approximately 100 pages each of three progress reports.
 - ^{2/} Approximately 150 pages each of three further reports.
 - ^{3/} Approximately 100 pages each of three final reports.

Annex III

LIST OF DOCUMENTS BEFORE THE SUB-COMMISSION
AT ITS TWENTY-FOURTH SESSION

1. Documents issued in the general series

- E/CN.4/Sub.2/317 Provisional agenda and annotations to the provisional agenda: Note by the Secretary-General
- E/CN.4/Sub.2/318 Review of further developments in fields with which the Sub-Commission has been concerned: Note by the Secretary-General
- E/CN.4/Sub.2/319 Review of further developments in fields with which the Sub-Commission has been concerned: Memorandum submitted by the International Labour Office
- E/CN.4/Sub.2/320 Review of further developments in fields with which the Sub-Commission has been concerned: Memorandum submitted by the United Nations Educational, Scientific and Cultural Organization
- E/CN.4/Sub.2/321 Review of further developments in the fields with which the Sub-Commission has been concerned -- Résumé of those parts of the periodic reports on human rights which relate to matters falling within the terms of reference of the Sub-Commission: Note by the Secretary-General
- E/CN.4/Sub.2/322 Question of Slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism: Report submitted by the Special Rapporteur, Mr. Mohamed Awad
- E/CN.4/Sub.2/NGO.46 Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Statement submitted by non-governmental organizations in consultative status with the Economic and Social Council, category II
- E/CN.4/Sub.2/CR.16 Non-confidential list of communications concerning discrimination and minorities

2. Documents issued in the limited series

- E/CN.4/Sub.2/L.539 and Rev.1 Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Draft resolution submitted by Messrs. Clyde C. Ferguson, John P. Humphrey and P. Juvigny
- E/CN.4/Sub.2/L.540 Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Draft resolution submitted by Messrs. Clyde C. Ferguson, John P. Humphrey and P. Juvigny
- E/CN.4/Sub.2/L.541 Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Proposal by Mr. Aurel Cristescu
- E/CN.4/Sub.2/L.542 Question of the violation of human rights and fundamental freedoms including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Amendment proposed by Mr. A. Cassese to the draft resolution submitted by Messrs. Ferguson, Humphrey and Juvigny (E/CN.4/Sub.2/L.540)
- E/CN.4/Sub.2/L.543 Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Draft resolution submitted by Mr. Rybakov
- E/CN.4/Sub.2/L.544 and Add.1 Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Reports of the Chairman-Rapporteur of the Working Group, Mr. Erik Nettel

E/CN.4/Sub.2/L.545

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Proposal by Mr. Aurel Cristescu

E/CN.4/Sub.2/L.546

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries with particular reference to colonial and other dependent countries and territories: Amendment by Mr. Nettel to the draft resolution submitted by Mr. Rybakov (E/CN/Sub.2/L.543)

E/CN.4/Sub.2/L.547

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Amendment by Mr. Moussa to the draft resolution submitted by Messrs. Ferguson, Humphrey and Juvigny (E/CN.4/Sub.2/L.540)

E/CN.4/Sub.2/L.548

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Amendment by Mr. Inglés to the text proposed by the Drafting Group (E/CN.4/Sub.2/L.544)

E/CN.4/Sub.2/L.549 and Rev.1

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Draft resolution submitted by Messrs. Abu Rannat, Jankovic, Kettani, Khan, Khalifa and Lagos

E/CN.4/Sub.2/L.550

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Amendment by Mr. Rybakov to the text proposed by the drafting group (E/CN.4/Sub.2/L.544)

E/CN.4/Sub.2/L.551

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Amendments by Mr. Aurel Cristescu

E/CN.4/Sub.2/L.552

Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism: Draft resolution submitted by Messrs. Abu Rannat, Ferguson, Inglés, Humphrey and Nikiema

E/CN.4/Sub.2/L.553

Protection of Minorities: Draft resolution submitted by Messrs. Humphrey and Martínez Baéz

E/CN.4/Sub.2/L.554

Genocide: Draft resolution submitted by Messrs. Mohammed, Nettel and Nikiema

E/CN.4/Sub.2/L.555

Complete and comprehensive study of the problem of discrimination against indigenous populations: Draft resolution submitted by Mr. Gros Espiell and Calvocoressi

E/CN.4/Sub.2/L.556

International Year for Action to Combat Racism and Racial Discrimination: Draft resolution submitted by Mr. Rybakov

E/CN.4/Sub.2/L.557

Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism: Statement of financial implications by the Secretary-General relating to the draft resolution contained in document E/CN.4/Sub.2/L.552

E/CN.4/Sub.2/L.558

Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism: Amendment by Mr. Rybakov to the draft resolution contained in document E/CN.4/Sub.2/L.552

E/CN.4/Sub.2/L.559

Consideration of the future work of the Sub-Commission: Draft resolution submitted by Messrs. Abu Rannat, Calvocoressi, Ferguson, Cassese, Delprée-Crespo, Cristesçu, Daoudy, Gichuru, Gros Espiell, Humphrey, Ilako, Inglés, Jankovic, Juvigny, Kettani, Khan, Martínez Baéz, Martínez-Cobo, Nettel, Nikiema and Ruhashyankiko

E/CN.4/Sub.2/L.560

Consideration of the future work of the Sub-Commission: Draft resolution submitted by Messrs. Cristesçu, Gros Espiell and Lagos

E/CN.4/Sub.2/L.561

Protection of Minorities: Draft resolution submitted by Mr. Khalifa

E/CN.4/Sub.2/L.562

Protection of Minorities; Genocide; Complete and Comprehensive study of the problem of discrimination against indigenous populations: Statement of financial implications by the Secretary-General relating to the draft resolutions contained in documents E/CN.4/Sub.2/L.553, 554, 555 and 561

E/CN.4/Sub.2/L.563

Consideration of the future work of the Sub-Commission: Note by the Secretary-General
