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

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

New York, 25 August to 12 September 1969

Rapporteur: Mr. Antonio Martínez Báez

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CONTENTS

<u>Chapter</u>	<u>Paragraphs</u>	<u>Page</u>
I. ORGANIZATION OF THE SESSION	1 - 21	4
Opening and duration of the session	1 - 2	4
Attendance	3 - 11	4
Election of officers	12	8
Secretariat	13	8
Agenda	14	8
Organization of work	15	9
Meetings, resolutions and documentation	16 - 21	9
II. SPECIAL STUDY OF RACIAL DISCRIMINATION IN THE POLITICAL, ECONOMIC, SOCIAL AND CULTURAL SPHERES . .	22 - 45	11
Adoption of resolution	44	19
<u>Resolution 2 (XXII)</u> of 5 September 1969	45	20
III. STUDY OF EQUALITY IN THE ADMINISTRATION OF JUSTICE .	46 - 202	22
Introduction	46 - 54	22
Consideration of the report as a whole	55 - 62	24
Consideration of draft principles	63 - 141	25
Introduction of revised draft principles (E/CN.4/Sub.2/L.528 and Corr.1)	142 - 190	43
Consideration of draft resolution	191 - 198	57
Adoption of resolution	199 - 201	61
<u>Resolution 3 (XXII)</u> of 9 September 1969	202	61
IV. QUESTION OF SLAVERY AND THE SLAVE TRADE IN ALL THEIR PRACTICES AND MANIFESTATIONS, INCLUDING THE SLAVERY- LIKE PRACTICES OF <u>APARTHEID</u> AND COLONIALISM	203 - 223	63
Adoption of resolution	218 - 222	67
<u>Resolution 4 (XXII)</u> of 10 September 1969	223	68
V. QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF <u>APARTHEID</u> , IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES	224 - 233	71

CONTENTS (continued)

<u>Chapter</u>	<u>Paragraphs</u>	<u>Page</u>
VI. REVIEW OF FURTHER DEVELOPMENTS IN FIELDS IN WHICH THE SUB-COMMISSION HAS BEEN CONCERNED	234 - 259	79
Adoption of resolution	258	87
<u>Resolution 1 (XXII)</u> of 28 August 1969	259	88
VII. ADOPTION OF THE REPORT OF THE SUB-COMMISSION TO THE COMMISSION ON HUMAN RIGHTS	260	91
VIII. DRAFT RESOLUTION RECOMMENDED FOR ADOPTION BY THE COMMISSION ON HUMAN RIGHTS		92
Study of equality in the administration of justice		92

ANNEXES

I. FINANCIAL IMPLICATIONS OF RESOLUTIONS ADOPTED BY THE SUB-COMMISSION AT ITS TWENTY-SECOND SESSION . . .	93
II. LIST OF DOCUMENTS BEFORE THE SUB-COMMISSION AT ITS TWENTY-SECOND SESSION	97

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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-second session at the Headquarters of the United Nations, New York, from 25 August to 12 September 1969 inclusive.
2. The session was opened by Mr. Pierre Juvigny (France), Chairman of the Sub-Commission at its twenty-first session (557th meeting).

Attendance

3. The following members and alternates attended the session:

Mr. Mohammed A. Abu Rannat	(Sudan)
Mr. Alexander Bolintineanu	(Romania)
Mr. Peter Calvocoressi	(United Kingdom of Great Britain and Northern Ireland)
Mr. Derek Milton (alternate)	
Mr. Francesco Capotorti	(Italy)
Mr. John Carey (alternate for Clyde Ferguson, Jr.)	(United States of America)
Mr. George Thomas (alternate)	
Mr. Adib Daoudy	(Syria)
Mr. Vicente Díaz Samayoa	(Guatemala)
Mr. I.J.D. Durlong	(Nigeria)
Miss Mary M. Gichuru	(Kenya)
Mr. Héctor Gros Espiell	(Uruguay)
Mr. John P. Humphrey	(Canada)
Mr. José D. Ingles	(Philippines)
Mr. Alejandro D. Yango (alternate)	
Mr. Branimir Jankovic	(Yugoslavia)
Mr. Pierre Juvigny	(France)
Mr. Ahmed Kettani	(Morocco)
Mr. Ahmed Khalifa	(United Arab Republic)
Mr. A. Moussa (alternate)	

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Mr. Antonio Martínez Báez	(Mexico)
Mr. José R. Martínez Cobo	(Ecuador)
Mr. Erik Nettel	(Austria)
Mr. Gregor Woschnagg (alternate)	
Mr. Paul Nikiema	(Upper Volta)
Mr. Reaz Rahman (alternate for Mr. A.R. Cornelius)	(Pakistan)
Mr. Nicodème Ruhashyankiko	(Rwanda)
Mr. U.M. Rybakov	(Union of Soviet Socialist Republics)
Mr. G.I. Ragulin (alternate)	
Mr. Hernán Santa Cruz	(Chile)
Mr. José Piñera (alternate)	
Mr. W.E. Waldron-Ramsey	(United Republic of Tanzania)

4. Some members informed the Secretary-General that they were unable to attend the session and, in accordance with rule 70 of the rules of procedure of the functional commissions of the Economic and Social Council and with the consent of their Governments, appointed alternates as follows: Mr. A.R. Cornelius (Pakistan) and Mr. Clyde Ferguson, Jr. (United States of America) designated as their alternates for the entire session Mr. Reaz Rahman and Mr. John Carey, respectively. Mr. Peter Calvocoressi, Mr. José D. Ingles, Mr. Ahmed Khalifa, Mr. Erik Nettel, Mr. U.M. Rybakov and Mr. Hernán Santa Cruz designated as their alternates for certain meetings Mr. Derek Milton, Mr. Alejandro D. Yango, Mr. A. Moussa, Mr. Gregor Woschnagg, Mr. G.I. Ragulin and Mr. José Piñera, respectively. Mr. Carey designated Mr. George Thomas as his alternate for certain meetings. The Secretary-General was in agreement with these nominations, and the alternates therefore enjoyed during the session the same status as members of the Sub-Commission, including the right to vote.

5. Mr. Simon Ilako (Democratic Republic of the Congo) was unable to attend the session.

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6. Mr. Mohamed Awad attended the session in his capacity as Special Rapporteur on slavery.

7. The following Member States were represented by observers:

<u>Iraq:</u>	Mr. Mohamed Ridha al-Jabiri
<u>Israel:</u>	Mr. Shamay Cahana

8. In accordance with Economic and Social Council resolution 48 (IV), the Commission on the Status of Women was represented at the session by Mrs. Eugenia A. Stevenson.

9. The following specialized agencies were represented at the session as follows:

<u>International Labour Organisation</u> (ILO):	Mr. William Knight Miss Delia Garcia-Daireaux
<u>United Nations Educational, Scientific and Cultural Organization</u> (UNESCO):	Miss Lorna McPhee

10. The League of Arab States was represented at the session by the following observers: Mr. Rashad Mourad, Mr. Burhan Hammad and Mr. Mohamed M. Fahmy.

11. Non-governmental organizations in consultative status were represented as follows:

Category I

<u>International Council of Women:</u>	Mrs. Sylvester Carter
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Category II

<u>Agudas Israel World Organization:</u>	Mr. Isaac Lewin
<u>Anti-Slavery Society:</u>	Mr. Patrick Montgomery

Category II (continued)

<u>Consultative Council of Jewish Organizations:</u>	Mr. Moses Moskowitz
<u>Coordinating Board of Jewish Organizations:</u>	Mr. H. Schoenberg
<u>Friends World Committee:</u>	Mr. Cecil R. Evans
<u>International Conference of Catholic Charities:</u>	Mr. Louis Longarzo
<u>International Council of Jewish Women:</u>	Nettie S. Levy Mrs. Helene K. Plant
<u>International Federation for the Rights of Man:</u>	Miss Roberta Cohen
<u>International Federation of Business and Professional Women:</u>	Esther W. Hymer
<u>International Federation of Women Lawyers:</u>	Dora Aberlin Clennie C. Baker Ida M. Greenblatt Miss Anna R. Kumin Wilhelmina C. Montour
<u>International League for the Rights of Man:</u>	Mrs. Dora Roitburd
<u>Pan Pacific and South-East Asia Women's Association:</u>	Mrs. Leah Horwitz
<u>World Jewish Congress:</u>	Mr. Maurice L. Perlzweig
<u>World Muslim Congress:</u>	Mr. Issa Nakhley
<u>World Union of Catholic Women's Organizations:</u>	Miss Catherine Schaefer Margaret Stokes Alba Zizzamia
<u>World Young Women's Christian Associations:</u>	Mrs. Margaret Gordon Forsyth Mildred F.H. Jones

Roster

<u>International Humanist and Ethical Union:</u>	Mrs. Walter M. Weiss
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Election of officers

12. At its 557th meeting the Sub-Commission elected the following officers:

<u>Chairman:</u>	Mr. Mohammed Abu Rannat (Sudan)
<u>Vice-Chairmen:</u>	Mr. Alexander Bolintineanu (Romania)
	Mr. John P. Humphrey (Canada)
<u>Rapporteur:</u>	Mr. Antonio Martínez Báez (Mexico)

Secretariat

13. Mr. Marc Schreiber, Director of the Division of Human Rights, and Mr. Edward Lawson, Deputy Director, represented the Secretary-General. Mr. George Brand and Mr. Rupert John acted as Secretaries of the Sub-Commission.

Agenda

14. At its 557th meeting, the Sub-Commission adopted the following items listed in the provisional agenda (E/CN.4/Sub.2/295) as its agenda for the twenty-second session:

1. Election of officers.
2. Adoption of the agenda.
3. Special study of racial discrimination in the political, economic, social and cultural spheres.
4. Study of equality in the administration of justice.
5. Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism.
6. 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.
7. Communications concerning human rights.
8. Review of further developments in fields with which the Sub-Commission has been concerned.

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9. Protection of minorities.
10. Genocide.
11. Consideration of the future work of the Sub-Commission.
12. Report of the twenty-second session of the Sub-Commission to the Commission on Human Rights.

Organization of work

15. The Sub-Commission considered certain items on its agenda, in the following order: 8, 4, 3, 5 and 6. The consideration of these items occupied its entire session. It deferred consideration of items 7, 9, 10 and 11 until its twenty-third session. In connexion with item 7 (Communications concerning human rights) the Sub-Commission had before it: (a) a confidential list of communications (H.R. Communications Lists Nos. 19/Add.1-4 and H.R. Communications List No. 20) and replies of Governments (H.R. Communications Nos. 648-741); (b) a non-confidential list of communications (E/CN.4/Sub.2/CR.14); (c) the report of the Working Group appointed under resolution 2 (XXI) of the Sub-Commission (E/CN.4/Sub.2/R.1) and (d) a draft resolution submitted by Mr. Rybakov (E/CN.4/Sub.2/L.536). In connexion with item 9 of the agenda (Protection of minorities), the Sub-Commission had before it a draft resolution submitted by Messrs. Kettani, Khalifa and Waldron-Ramsey (E/CN.4/Sub.2/L.534) and a draft resolution submitted by Messrs. Díaz Samayoa and Gros Espiell (E/CN.4/Sub.2/L.535). In connexion with agenda item 10 (Genocide), the Sub-Commission had before it a note by the Secretary-General on the Status of the Convention on the Prevention and Punishment of the Crime of Genocide (E/CN.4/Sub.2/302) and a note by the Secretary-General containing information received from Governments in reply to the inquiry dispatched to them in accordance with resolution 1420 (XLVI) of the Economic and Social Council (E/CN.4/Sub.2/303 and Add.1-6). In connexion with item 11 (Consideration of the future work of the Sub-Commission), the Sub-Commission had before it a note by the Secretary-General (E/CN.4/Sub.2/L.530).

Meetings, resolutions and documentation

16. The Sub-Commission held twenty-five plenary meetings. The views expressed at those meetings are summarized in the records of the 557th to the 581st meetings (E/CN.4/Sub.2/SR.557-581).

17. The Sub-Commission heard statements by the representatives of the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) at its 558th meeting.
18. The Sub-Commission adopted resolutions 1 (XXII) - 4 (XXII). The texts of these resolutions appear below under the appropriate headings.
19. A draft resolution, recommended to the Commission on Human Rights for adoption, appears in chapter VIII.
20. Statements of financial implications prepared by the Secretary-General on resolutions 2 (XXII), 3 (XXII) and 4 (XXII) are reproduced in annex I.
21. The documents which the Sub-Commission had before it are listed in annex II.

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

(agenda item 3)

22. The Sub-Commission considered item 3 of its agenda at its 565th to 572nd meetings.

23. The Sub-Commission had before it an interim report (E/CN.4/Sub.2/301) submitted by the Special Rapporteur, Mr. Hernán Santa Cruz. In introducing his report, the Special Rapporteur drew attention to resolution 6 (XXI), adopted by the Sub-Commission at its twenty-first session, in which the Sub-Commission, taking into account the exchange of views which had occurred at that session, had invited him to submit a final report in time for it to be considered by the Sub-Commission at its twenty-second session. He had not, as the Sub-Commission realized, complied fully with that request, and had submitted an interim, rather than a final, report. That, he said, was due to the substantial reasons which he had stated in paragraphs 26 and 27 of the interim report. It was his view that the international community attached increasing importance to the problem of racial discrimination, which appeared to him to dominate United Nations concern in the field of human rights. It was therefore imperative that his study should be as comprehensive and detailed as possible. He felt that that objective could be achieved if he were to base his final report on no less than eighty conference room papers, rather than on the thirty-six on which the interim report was based.

24. Referring to the chapter on the danger of the revival of nazism and racial intolerance, the Special Rapporteur recalled that at the twenty-first session of the Sub-Commission he had stated that the chapter which he had then prepared on the subject was incomplete and that he would consider reorganizing the entire chapter for the final report. Since then new developments had taken place. For example, in resolution 10 (XXV), the Commission on Human Rights had requested the Sub-Commission to deal in the study with the danger of the revival of nazism and with the way in which it might affect the existence and safeguarding of fundamental rights and freedoms. The Commission also had invited Governments of Member States and organizations possessing information on the subject to send such information to the Special Rapporteur early enough to be taken into consideration in the

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study. Also, in resolution 2438 (XXIII) of the General Assembly, the Secretary-General had been requested to submit a summary of information which might be available to him on international instruments, legislation and other measures taken or envisaged, both at the national and international levels, with a view to halting racism, nazism and similar activities, such as apartheid. It was for those reasons that the Special Rapporteur had decided to postpone the presentation of his final report until the twenty-third session of the Sub-Commission.

25. With regard to the structure of the interim report, the Special Rapporteur pointed out that, as a result of the discussion at the twenty-first session of the Sub-Commission, he had made a number of changes. The interim report consisted of an introduction and eleven chapters. Chapter I, which dealt with the historical background of racial discrimination, had been completely rewritten. Chapter II defined the scope of the study. Chapter III, which corresponded to chapter VIII of the draft report, had been revised in depth in the light of the additional country monographs which he had at his disposal. Chapters IV, V, VI and VII analysed the current situation in various parts of the world regarding racial discrimination in the political, economic, social and cultural spheres and were based mainly on the information derived from the conference room papers completed since the preparation of the draft report. Chapter VIII dealt with a new question not included in the draft report, namely, measures taken in connexion with the protection of indigenous peoples; and he informed the Sub-Commission that his final report would include a complete chapter dealing with the treatment of indigenous peoples. Chapter IX, which dealt with the policy of apartheid of the Government of the Republic of South Africa, reproduced substantially chapter IX of the draft report, together with information regarding new developments that had taken place since the preparation of that report. Chapter XI set out draft proposals and recommendations, revised in the light of the debate at the twenty-first session of the Sub-Commission. With regard to chapter X, dealing with the question of nazism, he said that he continued to feel that that chapter was still provisional and referred to paragraph 656 of his report, in which he pointed out that the conclusions presented in the draft report had been maintained for the time being, but stressed that they were still provisional in character. The chapter, as well as his conclusions, could only take final form when information from Governments became available.

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26. Observations were made by various members of the Sub-Commission, by observers from the Governments of Israel and Iraq, by the representative of the Commission on the Status of Women and by the observers from the World Jewish Congress, World Muslim Congress and the Agudas Israel World Organization. The Special Rapporteur was warmly congratulated on his report and references were made to its erudition, objectivity, comprehensiveness, balance and accuracy. Some of the questions raised in the debate on the report are summarized below.

27. All speakers considered that racist and nazi ideologies and practices were incompatible with the development of human society in an age in which science, civilization and culture were making substantial progress. In some statements it was observed that, in analysing the most important aspects of racial discrimination and indicating ways of combating them, the Special Rapporteur's study made a valuable contribution to the elimination of the threat which racial discrimination in all its forms and manifestations, including racial segregation, apartheid and nazism, posed to the fundamental values of mankind.

28. Several members welcomed chapter I, on the historical background of racial discrimination. In their view, it presented a very satisfactory appraisal of the origins of racial discrimination, dealt adequately with the two main considerations, namely, colonialism and slavery, and indicated clearly how public opinion and international law had changed in the course of time. Some members felt, however, that although the chapter devoted considerable space to theoretical views, it was perhaps lacking in sufficient practical information on the historical circumstances of the development of racism. The Special Rapporteur, in reply, stated that he would bear in mind the useful comments that had been made and would include in his final report material concerning the influence of current patterns of racial discrimination on the process of economic and social development and on the concept of racial discrimination as an instrument of exploitation.

29. There was a lengthy discussion on chapter X, which dealt with the danger of the revival of nazism and racial intolerance. Some members expressed serious concern at what they considered to be evidence of the resurgence of nazi activities in certain parts of the world, particularly in the Federal Republic of Germany, where organizations and associations were said to be propagating

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racism, militarism and revanchist ideas. In the view of those members, the National Democratic Party of the Federal Republic of Germany was the nucleus around which the advocates of fascism and of the continuation of the former Nazi party had regrouped. They felt that the party represented the most dangerous example of the resurgence of nazism. They strongly deplored the tolerance of some Governments toward the existence of Nazi organizations and the activities carried out by such organizations, whereas the United Nations had requested Governments to prohibit Nazi parties and organizations. On the other hand, the view was expressed that although nazism was the worst expression of European fascism, it was not the only one and was actually only a single aspect of a wider phenomenon. Those who shared that view felt that it was difficult to be objective where emotions were closely involved and that a distinction should be drawn between the past and the present and even the future of nazism.

30. A few members questioned the correctness of relying so heavily in the report on the judgement of the International Military Tribunal at Nuremberg in order to demonstrate the essence of nazism. They felt that it would have been preferable to adduce evidence of later origin, taken from other sources. It was also their view that it would have been preferable for the Special Rapporteur to give his own interpretation of the facts rather than reproducing lengthy quotations from the judgement. However, other members felt that the quotations served to point up the unmistakable heinousness of nazism, which ought not to be whitewashed. One member of the Sub-Commission expressed the view that, whereas the chapter on nazism dealt mainly with the problem in the Federal Republic of Germany, in the interest of a balanced treatment reference might also have been made to the position in Eastern Germany. However, another member noted that the German Democratic Republic had been able to achieve the total elimination of the ideology and practice of nazism and that there was in that country no party or organization which might propagate the inhuman ideas of nazism. The Special Rapporteur, in his reply, pointed out that the chapter on nazism had been submitted as a provisional draft and that it would be extensively revised in the light of the comments and suggestions made by the members of the Sub-Commission and of the additional material which he expected to receive from Governments. He stated that in the report a description had to be given not only of the racist components of nazism in the past but of any relevant current phenomena, whether in the Federal Republic of Germany or elsewhere.

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31. Various members commented favourably on the description of the racial policy of the Republic of South Africa as set out in chapter IX of the report. It was suggested, however, that the documentation prepared by the Ad Hoc Working Group of Experts, appointed under resolution 2 (XXIII) of the Commission on Human Rights, could more amply be used so as to broaden the scope of the study. One member felt that greater attention might be given to the reasons for the failure of international measures that had been adopted to combat apartheid. It was also suggested that the racial policies of Southern Rhodesia, Namibia and the Territories under Portuguese domination might be dealt with in the study within the context of apartheid. The Special Rapporteur stated that he would take those suggestions into consideration in the preparation of his final report.

32. Appreciation was expressed for the inclusion in the report of the chapter on measures taken in connexion with the protection of indigenous peoples. Several members also endorsed the intention, expressed by the Special Rapporteur, of including in the final report further material on the treatment of indigenous peoples. The view was expressed, however, that the existing chapter would be more useful if it contained more factual information on current conditions as opposed to legislation.

33. With certain reservations, there was general agreement in principle with the draft conclusions and proposals set out by the Special Rapporteur in chapter XI of the report. With regard to the statement in the second part of paragraph 755, concerning the position of the indigenous populations of some Latin American countries, some members of the Sub-Commission suggested that the sentence might be reworded, in particular so as to make it clear that there was no comparison, either historical or current, between the position of the indigenous populations of Latin America and that of the people of South Africa who lived under the system of apartheid. In reply, the Special Rapporteur stated that the paragraph was in no way intended to compare the situation in Latin America to apartheid. He pointed out that racial discrimination took many forms, with apartheid as pursued by the Government of the Republic of South Africa at one extreme and at the other extreme a more subtle form which might amount to class distinction, such as was experienced by the indigenous populations of Latin America.

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34. Various suggestions as to ways in which the structure of the report might be improved were made by several members. The Special Rapporteur promised to take those observations and comments into consideration in the preparation of his final report.

35. At the 571st meeting, Mr. Calvocoressi, Mr. Martínez Báez and Mr. Waldron-Ramsey submitted a draft resolution (E/CN.4/Sub.2/L.521), which read as follows:

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

"Having considered the interim report (E/CN.4/Sub.2/301) on the special study of racial discrimination in the political, economic, social and cultural spheres presented by the Special Rapporteur, Mr. Hernán Santa Cruz,

"1. Expresses its warm appreciation to Mr. Hernán Santa Cruz for his comprehensive and valuable report, which represents a further step forward in the Sub-Commission's work in this field;

"2. Requests the Special Rapporteur to continue his task, taking into account the exchange of views on the report during the twenty-second session of the Sub-Commission, and to prepare and submit a final report in time for consideration by the Sub-Commission at its twenty-third session."

36. At the same meeting, Mr. Rybakov submitted the following amendments (E/CN.4/Sub.2/L.523/Rev.1) to the draft resolution:

"Paragraph 1

"1. Add the following words to the end of the paragraph:

'and approves the approach taken in the report to the problems considered'.

"Paragraph 2 and new paragraphs

"2. Replace paragraph 2 by the following new paragraphs:

"2. Requests the Special Rapporteur to add to his report material on the revival of nazism in present-day conditions, on the connexion between modern nazism and racist forces in various regions of the world, on the pernicious influence of nazism on youth and on the financial support being provided to Nazi organizations;

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'3. Requests the Special Rapporteur to formulate recommendations concerning effective measures which should be taken to combat racial discrimination and nazism;

'4. Requests the Secretary-General to provide the Special Rapporteur with all the necessary assistance to enable him to complete his report and, in particular, to take measures to ensure that the information requested of Governments in accordance with resolution 10 (XXV) of the Commission on Human Rights is received in good time and presented to the Special Rapporteur;

'5. Requests the Secretary-General of the United Nations to submit the interim report (E/CN.4/Sub.2/301), prepared by the Special Rapporteur, Mr. Santa Cruz, to States prior to the beginning of the twenty-fourth session of the General Assembly for its use during the session;

'6. Requests the Special Rapporteur to submit the final version of his study in time for consideration by the Sub-Commission at its twenty-third session and decides to accord priority to the consideration of this question at that session.' "

37. In introducing the draft resolution (E/CN.4/Sub.2/L.521), Mr. Calvocoressi said that he spoke only for himself and not on behalf of the co-sponsors of the draft resolution. It was his view that the draft resolution was brief and to the point and followed the pattern of resolutions adopted regarding other studies undertaken by the Sub-Commission. With regard to the amendments proposed by Mr. Rybakov, he had no objection to most of them in substance but felt that they were not necessary, especially where they sought to give instructions to the Special Rapporteur. Moreover, he could not support the proposal to submit the report, as it stood, to the General Assembly. Some other members expressed similar views. It was also stated that, in any event, the interim report was available to all States Members of the United Nations and it was therefore unnecessary to include a paragraph in a resolution to confirm that fact.

38. In explaining the amendments which he had proposed, Mr. Rybakov expressed the view that they would strengthen the draft resolution. He felt that the new operative paragraph 2 would assist the Special Rapporteur in dealing with the question of nazism in his final report and was in keeping with resolutions adopted by higher bodies of the United Nations, such as General Assembly resolution 2438 (XXIII) and Economic and Social Council resolution 1417 (XLVI). With regard to the proposal to submit the interim report to the General Assembly,

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it was his view that the report, even though not yet final, contained valuable information that could be used by that higher body in its present form. Certain members supported this view, which was opposed by others.

39. At the 572nd meeting, Mr. Khalifa submitted the following amendments (E/CN.4/Sub.2/L.524) to Mr. Rybakov's amendments (E/CN.4/Sub.2/L.523/Rev.1):

"Paragraph 2

"Add the following words at the end of the paragraph:

'and to include in his report the consideration of all similar ideologies that are based on racial intolerance'."

"Paragraph 3

"Add the following words at the end of the paragraph:

'and all other similar ideologies'."

40. Those amendments were accepted by Mr. Rybakov. He also accepted an oral amendment by Mr. Khalifa to delete from operative paragraph 2 of his amendments the following words: "on the pernicious influence of nazism on youth and on the financial support being provided to Nazi organizations". He also accepted an oral proposal by Mr. Kettani to insert, at the end of his amendment to operative paragraph 1, the words "taking into account the exchange of views on the report at the twenty-second session of the Sub-Commission".

41. On the proposal of some members, Mr. Rybakov deleted the word "effective" before the word "measures" in operative paragraph 3. He also revised operative paragraph 4 by inserting the word "Again" before "Requests" in the first line, and by inserting the words "once again to request States" between the words "particular" and "to ensure" in the third line. In the light of the discussion thereon, he withdrew operative paragraph 5 of his amendment. He withdrew operative operative 6 of his amendment in favour of operative paragraph 2 of the draft resolution (E/CN.4/Sub.2/L.521), with the insertion of the word "priority" before the word "consideration".

42. At the same meeting, Mr. Jankovic orally proposed the following new paragraph for inclusion after operative paragraph 1 of the draft resolution:

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"Invites the Special Rapporteur to deal also in his report with the characteristics and manifestations of the policy of segregation throughout southern Africa: in Southern Rhodesia, in Namibia and in the Territories under Portuguese domination."

43. The representative of the Secretary-General drew the attention of the Sub-Commission to document E/CN.4/Sub.2/L.522, containing the statement of financial implications by the Secretary-General relating to the draft resolution contained in document E/CN.4/Sub.2/L.521.

Adoption of resolution

44. At its 572nd meeting, the Sub-Commission voted on the draft resolution submitted by Mr. Calvocoressi, Mr. Martínez Báez and Mr. Waldron-Ramsey (E/CN.4/Sub.2/L.521), and the amendments thereto, as follows:

- (a) The preambular paragraph was adopted unanimously.
- (b) Mr. Rybakov's oral amendment to operative paragraph 1 was adopted by 15 votes to 1, with 8 abstentions.
- (c) Operative paragraph 1 as a whole as amended was adopted by 17 votes to none, with 8 abstentions.
- (d) Mr. Jankovic's oral amendment was adopted by a roll-call vote of 24 to 1. The voting was as follows:

In favour: Mr. Abu Rannat, Mr. Bolintineanu, Mr. Calvocoressi, Mr. Capotorti, Mr. Carey, Mr. Daoudy, Mr. Durlong, Miss Gichuru, Mr. Gros Espiell, Mr. Humphrey, Mr. Jankovic, Mr. Juvigny, Mr. Kettani, Mr. Khalifa, Mr. Martínez Báez, Mr. Martínez Cobo, Mr. Nettel, Mr. Kikiema, Mr. Rahman, Mr. Ruhashyankiko, Mr. Piñera, Mr. Rybakov, Mr. Waldron-Ramsey and Mr. Yango.

Against: Mr. Díaz Samayoa.

(e) Operative paragraph 2 of Mr. Rybakov's amendment (E/CN.4/Sub.2/L.523/Rev.1), as further revised, was adopted by a roll-call vote of 16 to 6, with 2 abstentions. The voting was as follows:

In favour: Mr. Abu Rannat, Mr. Bolintineanu, Mr. Daoudy, Mr. Durlong, Miss Gichuru, Mr. Gros Espiell, Mr. Humphrey, Mr. Jankovic, Mr. Kettani, Mr. Khalifa, Mr. Nettel, Mr. Rahman, Mr. Ruhashyankiko, Mr. Piñera, Mr. Rybakov and Mr. Waldron-Ramsey.

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Against: Mr. Calvocoressi, Mr. Capotorti, Mr. Carey, Mr. Díaz Samayoa, Mr. Martínez Báez and Mr. Martínez Cobo.

Abstaining: Mr. Juvigny and Mr. Yango.

(f) Operative paragraph 3 of Mr. Rybakov's amendment (E/CN.4/Sub.2/L.523/Rev.1), as further revised, was adopted by a roll-call vote of 17 to none, with 8 abstentions. The voting was as follows:

In favour: Mr. Abu Rannat, Mr. Bolintineanu, Mr. Capotorti, Mr. Daoudy, Mr. Durlong, Miss Gichuru, Mr. Humphrey, Mr. Jankovic, Mr. Juvigny, Mr. Kettani, Mr. Khalifa, Mr. Nettel, Mr. Nikiema, Mr. Piñera, Mr. Rahman, Mr. Rybakov and Mr. Waldron-Ramsey.

Against: None.

Abstaining: Mr. Calvocoressi, Mr. Carey, Mr. Díaz Samayoa, Mr. Gros Espiell, Mr. Martínez Báez, Mr. Martínez Cobo, Mr. Ruhashyankiko and Mr. Yango.

(g) Operative paragraph 4 of Mr. Rybakov's amendment (E/CN.4/Sub.2/L.523/Rev.1), as further revised, was adopted by 22 votes to 2, with 1 abstention.

(h) Operative paragraph 2 of the draft resolution (E/CN.4/Sub.2/L.521), as orally revised by insertion of the word "priority" before the word "consideration", was adopted by 23 votes to none.

45. The text of resolution 2 (XXII), as adopted by the Sub-Commission at its 572nd meeting on 5 September 1969, reads as follows:

Resolution 2 (XXII)

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

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

Having considered the interim report (E/CN.4/Sub.2/301) on the special study of racial discrimination in the political, economic, social and cultural spheres presented by the Special Rapporteur, Mr. Hernán Santa Cruz,

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1. Expresses its warm appreciation to Mr. Hernán Santa Cruz for his comprehensive and valuable report, which represents a further step forward in the Sub-Commission's work in this field, and approves the approach taken in the report to the problems considered, taking into account the exchange of views on the report at the twenty-second session of the Sub-Commission;

2. Invites the Special Rapporteur to deal also in his report with the characteristics and manifestations of the policy of segregation throughout southern Africa: in Southern Rhodesia, in Namibia and in the Territories under Portuguese domination;

3. Requests the Special Rapporteur to add to his report material on the revival of nazism in present-day conditions, on racial discrimination and on the connexion between nazism in its present-day forms and racist forces in various regions of the world and to include in his report the consideration of all similar ideologies that are based on racial intolerance;

4. Requests the Special Rapporteur to formulate recommendations concerning measures which should be taken to combat racial discrimination and nazism and all other similar ideologies;

5. Again requests the Secretary-General to provide the Special Rapporteur with all the necessary assistance to enable him to complete his report and, in particular, once again to request States to ensure that the information requested of Governments in accordance with resolution 10 (XXV) of the Commission on Human Rights is received in good time and presented to the Special Rapporteur;

6. Requests the Special Rapporteur to continue the completion of his task, taking into account the exchange of views on the report during the twenty-second session of the Sub-Commission, and to prepare and submit a final report in time for priority consideration by the Sub-Commission at its twenty-third session.

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III. STUDY OF EQUALITY IN THE ADMINISTRATION OF JUSTICE

(agenda item 4)

Introduction

46. The Sub-Commission considered item 4 of its agenda at its 561st to 564th, 573rd to 574th and 576th meetings.

47. The Sub-Commission had before it the final study (E/CN.4/Sub.2/296) submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat. The study had been carried out in accordance with Sub-Commission resolution 1 (XV). On the recommendation of the Commission on Human Rights, the Economic and Social Council, in resolution 958 (XXXVI) of 12 July 1963, had approved that decision. In carrying out the study, the Special Rapporteur had followed the standard directives relating to the preparation of studies and of recommendations for action set out in resolution B of the Sub-Commission, adopted at its sixth session, as amended by the Commission on Human Rights by resolution III of its tenth session.

48. The report contained a preface, five chapters and two annexes. The preface delineated the scope of the study. Chapter I contained a short historical introduction which presented certain antecedents of the concept of a fair hearing as it is now recognized. Chapter II, on the meaning of equality in the administration of justice, explored the implications of the concept of a fair hearing, without necessary reference to the question whether discrimination had been found by the Special Rapporteur to exist in relation to any particular aspect thereof. Chapter III contained a statement of the ways in which discrimination had been found by the Special Rapporteur to operate in the administration of justice. Chapter IV described the methods which had been adopted to combat discrimination in the administration of justice. Chapter V contained the Special Rapporteur's conclusions and recommendations. Annex I described the way in which the study had been prepared, and annex II contained the outline on the basis of which information for the study had been collected.

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49. In introducing his report, the Special Rapporteur pointed out that it was based upon studies relating to eighty-six countries and various Non-Self-Governing Territories. The countries concerned were enumerated in the foot-note to paragraph 10 of the report. The country studies had been under preparation since the summer of 1965. Members of the Sub-Commission had seen the report gradually develop from year to year as the available material permitted. The principal difference between its final version and the previous year's draft report (E/CN.4/Sub.2/289) was that chapters III and IV had been expanded on the basis of further information, and chapter V, containing the conclusions and recommendations, had been added.

50. The Special Rapporteur explained that there were two reasons for setting out in chapter II the implications of a fair hearing without necessary references to the question whether discrimination had been found to exist in relation to any particular aspect thereof. In the first place, any study of discrimination in the administration of justice necessitated some analysis of the nature of a fair hearing; unless one knew what the norm was, one could not accurately identify the existing departures from it. In the second place, it was essential to specify the implications of the right to a fair hearing in relation to which no discrimination should exist at any time.

51. The Special Rapporteur observed that virtually all the countries studied had been mentioned in chapter III of the report and that every country studied had been mentioned in chapter IV. Discrimination on all the grounds laid down in article 2 of the Universal Declaration had been found to operate in the administration of justice. The Special Rapporteur felt that discrimination on the ground of property was the most widespread and that it contributed to the effects of other types of discrimination, including discrimination on grounds of race or colour.

52. The Special Rapporteur pointed out that the conclusions and recommendations contained in chapter V were linked by cross-references to the material in earlier chapters. Those conclusions and recommendations included within their scope the methods adopted to combat discrimination in the administration of justice that had been described in chapter IV. They also suggested methods for dealing with types of discrimination to which attention was drawn in chapter III but for which, as shown in chapter IV, no corresponding remedy was to be found.

53. The Special Rapporteur said that chapter V closed with certain draft principles, which were offered as a possible basis for one or more international instruments dealing with equality in the administration of justice. By including draft principles in the report, the Special Rapporteur had followed the precedent of previous reports on aspects of discrimination prepared under the authority of rapporteurs appointed by the Sub-Commission. The Sub-Commission had previously debated and revised those draft principles and had recommended them to the Commission on Human Rights as possible bases for international instruments. The Special Rapporteur suggested that the Sub-Commission might wish similarly to concentrate its debate on the draft principles.

54. The Special Rapporteur added that in chapter V he had also recommended that the study should be printed, as had been done with previous studies, and that aspects of equality in the administration of justice should be dealt with further under the programme of advisory services in the field of human rights.

Consideration of the report as a whole

55. Speakers warmly congratulated the Special Rapporteur on having produced a unique piece of legal scholarship which was clearly the fruit of much labour and reflection. Some remarks were also made on parts of the report other than the draft principles.

56. One speaker claimed that most discrimination in the administration of justice was now de facto discrimination. The functioning of a judicial system was largely dependent on its social background, and this was conditioned by economic factors. There would be no equality in the administration of justice in certain countries until there was a profound social change. Poverty often impeded the enjoyment of legal rights by large segments of a population. Membership of the legal profession and of the judiciary was often open only to the middle and upper classes. Disparities frequently occurred in sentences handed down by different judges for essentially the same offence and in decisions for or against granting probation to juvenile offenders in similar circumstances.

57. It was pointed out that in many countries economic conditions prevented the State from ensuring equality in the administration of justice, since there was a

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shortage of judges, lawyers and other judiciary personnel. Under such conditions it was impossible always to grant a speedy hearing or to ensure that adequate legal assistance was provided to all.

58. Attention was drawn to the danger of trials of individuals by ad hoc tribunals, especially since such tribunals offered a means whereby the normal guarantees could be denied to accused persons.

59. Reference was made to discrimination in the administration of justice arising from lack of financial means of litigants or accused persons; in relation to accused persons: discrimination on the ground of property arose, for instance in connexion with bail.

60. Many speakers endorsed the Special Rapporteur's suggestion, in paragraph 593 of his report, that the study should be printed and widely disseminated; one member expressed his agreement to that suggestion on the understanding that the study would be put on sale.

61. In addition, several members suggested improvements in various passages of the report. The Special Rapporteur assured the members that he would take those suggestions into account before any printing of the report was made.

Consideration of draft principles

62. Since most other parts of the report had been discussed at earlier sessions, the Sub-Commission concentrated its debate on the draft principles set out in paragraph 596 thereof.

63. There was some discussion as to the procedure to be adopted in relation to the draft principles set out in paragraph 596 of the report. Attention was drawn to the number and detail of these principles and to the shortage of time available for their discussion. One suggestion made was that the draft principles should be treated in the same way as the rest of the report, namely that they should remain the responsibility of the Special Rapporteur and be sent forward to the Commission on Human Rights on that understanding; the Special Rapporteur might amend them in the light of the Sub-Commission's discussion, however, just as he had made changes in other parts of his report on previous occasions. The view which prevailed was that the study of equality in the administration of justice should

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be treated as had been previous reports of aspects of discrimination, namely that the draft principles should be discussed and amended by the Sub-Commission and forwarded to the Commission on Human Rights on the responsibility of the Sub-Commission itself but without recommendation as to whether they should be embodied in a convention, a recommendation, a declaration or more than one such instrument.

64. The Sub-Commission discussed the draft principles at its 562nd to 564th and 573rd to 574th meetings without taking a final decision on their wording. The following paragraphs describe some of the issues debated and suggestions made.

65. Draft principle 1 read as follows:

"1. Everyone shall be entitled to the following guarantees in the determination of his rights and obligations and of any criminal charge against him, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status:

- "(i) the right to access to tribunals;
- "(ii) the right to be heard by his lawful judge, that is to say by the competent tribunal previously established by law and not by a tribunal assigned ad hoc or specially set up to hear his case;
- "(iii) the right to be heard by an independent and impartial tribunal;
- "(iv) the right to be assisted and represented by counsel of his own choosing;
- "(v) the right to a prompt and speedy hearing, subject to his equal right to have adequate time and facilities to prepare and present his case;
- "(vi) the right to present his case and to produce and examine witnesses and other evidence, either in person or through counsel;
- "(vii) the right to a public hearing, subject to the possibility that the press or the public may be excluded from all or part of a hearing for reasons of morals, public order, or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice;

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- "(viii) the right to have the decision in his case based only on the evidence placed before the court and known to all the parties;
- "(ix) the right to have the decision on his case rendered in public, except where the interest of juveniles otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children;
- "(x) the right of appeal;
- "(xi) in the determination of any criminal charge against him, in addition to what appears above:
 - "(a) the right to be presumed innocent until proved guilty according to law;
 - "(b) the right to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - "(c) the right to be informed, if he does not have legal assistance, of his right to defend himself either in person or through counsel of his choosing;
 - "(d) the right to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - "(e) the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnessed against him;
 - "(f) the right to have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - "(g) the right not to be compelled to testify against himself or to confess guilt."

66. The question was asked whether the rights laid down in the draft principle were intended to apply to civil and to other non-criminal judicial procedure, as well as to criminal proceedings. The Special Rapporteur replied in the affirmative. The introductory wording of draft principle 1 had been taken from article 10 of the Universal Declaration of Human Rights, which was the basis of the Rapporteur's study as laid down by the Sub-Commission, by the Commission on

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Human Rights and by the Economic and Social Council. The preface to the report analysed the meaning of that article, and made it clear that the study covered not only criminal proceedings but civil proceedings, administrative proceedings and any other judicial proceedings in which a person's legal rights or obligations were determined. The draft principle was intended to have the same scope. The Special Rapporteur agreed that it might be desirable to refer, in the opening wording, specifically to criminal proceedings, civil proceedings and administrative proceedings, while maintaining the wording taken from article 10 of the Universal Declaration.

67. The question was raised whether the draft principle was intended to cover questions of equity in the sense of that term as used in the Anglo-Saxon legal systems. It was claimed that equity often entailed the exercise of discretion rather than the enforcement of rights. The Special Rapporteur replied that in contemporary times equity constituted, for the most part, a body of fixed rules, the application of which entailed roughly the same degree of discretion as did that of the common law. He therefore suggested that no change was needed in the draft principle to make it cover equity proceedings.

68. Some members wished to avoid using the word "guarantees" in the opening wording of the draft principle. It was pointed out that the expression referred, in some legal systems, to procedures whereby rights were enforced, and not to the rights themselves. Article 10 of the Universal Declaration, from which the passage in question was derived, had not used the expression "guarantees".

69. It was observed that paragraph (ii) of the draft principle would unintentionally include within its scope arbitral and similar tribunals.

70. It was pointed out that the right to a prompt and speedy hearing is protected more in criminal than in civil cases; the question was raised, therefore, whether paragraph (v) of the draft principle should be worded so as to apply to civil proceedings. On the other hand, it was maintained that the need for speed applied as much to civil as to criminal cases. The Special Rapporteur stated that it had been his intention to have the provision apply to all judicial proceedings, since delay in any type of judicial proceedings discriminates against poor persons, for reasons set out in chapter III of the report. He recalled also that the draft principles were intended not merely to reflect the position as it

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already existed in a majority of countries but to furnish a basis for international instruments which would constitute a step forward in relation to equality in the administration of justice.

71. It was asked what was meant by "equal right" in paragraph (v) of the draft principle.

72. It was said that the reference to "facilities" in paragraph (v) of the draft principle was vague and that the paragraph should deal only with the element of time.

73. It was suggested that, in paragraph (vi) of the draft principle, reference should be made to the right "to have witnesses and other evidence produced and examined", as well as to the right of the litigant or the accused, in person or through counsel, to produce and examine witnesses and evidence, since in some legal systems witnesses were produced and examined by the judge, if he acceded to a request to that effect.

74. It was suggested that paragraph (vii) of the draft principle should speak of "the press and the public" instead of "the press or the public", so as to make the text coincide with the wording of paragraph 1 of article 14 of the International Covenant on Civil and Political Rights.

75. Several members suggested the removal from paragraph (vii) of the draft principle of the words "in a democratic society", appearing after the words "national security". The Special Rapporteur recalled that the limitations on the right to a public hearing which appeared in the draft principle, including the reference to "national security in a democratic society", had been derived from paragraph 1 of article 14 of the International Covenant on Civil and Political Rights. It was said by some members, however, that many readers of the draft principle would be unaware of the origin of the words "in a democratic society" in this context and would be confused by its appearance in the draft principles. The term was also said to be too vague for inclusion in the text, since virtually all régimes would claim to be democratic. It was also said that the expression "democratic society" derived from outmoded and exclusively European attitudes. Other speakers, however, said that the term "in a democratic society" was worth including in the text as it provided a measure of safeguard against arbitrary limitation of the right to a public hearing on the ground of national security.

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The inclusion of the term in instruments on human rights would make it easier for supervisory bodies to examine the way in which limitations were imposed by States upon the exercise of rights. The expression "in a democratic society" had received a certain international recognition from its inclusion in paragraph 2 of article 29 of the Universal Declaration of Human Rights and in paragraph 1 of article 14 of the International Covenant on Civil and Political Rights, and it was claimed that the adoption of the latter instrument, as recently as 1966, showed that the expression did not derive from outmoded or exclusively European attitudes.

76. It was asked whether the exception set out in paragraph (ix) of the draft principle, to the right to have the decision on one's case rendered in public, was not excessively wide.

77. Some members doubted whether paragraph (xi) (d) of the draft principle should contain the wording "in any case where the interests of justice so require", as a condition upon which an accused should have legal assistance assigned to him.

78. The suggestion was made to add, in paragraph (xi) (e) of the draft principle, a reference to the right of an accused to examine documentary evidence against him.

79. Two suggestions were made for additions to paragraph (xi) of the draft principle, each intended to reduce the detention faced by accused persons. The first suggestion was that there should be a reference to the right, without discrimination, to a preliminary hearing within a reasonable time, to establish whether there was sufficient reason to detain an accused pending trial. The second was that a reference should be added to the right without discrimination, to be admitted to bail as the normal procedure to be applied in criminal cases.

80. Draft principle 2 read as follows:

"2. To the fullest extent consistent with the nature of the question, matters connected with the administration of justice shall be regulated by constitutional or statutory provisions or by rules of court."

81. It was pointed out that the draft principle did not indicate which particular subjects should be dealt with by constitutional provisions and which by statutory provisions. It was suggested that certain administrative details could safely be left to executive decision. It was also pointed out that in

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some legal systems rules of judicial procedure were not laid down by the courts, and it was claimed therefore that the reference to "rules of court" was inappropriate. Other members, however, found no difficulty in accepting that expression, since their own legal systems permitted courts to adopt rules of judicial procedure.

82. Draft principle 3 read as follows:

"3. Written constitutions, where they exist, shall lay down at least the general rules affecting the administration of justice."

83. In connexion with the draft principle, it was suggested that a reference should be made to "basic rules" affecting the administration of justice as being those which should be provided for in written constitutions, where those existed.

84. The question was asked whether there was need for both draft principles 2 and 3.

85. Draft principle 4 read as follows:

"4. National laws concerning the rights to equal access to the courts and to equality before the law in general shall provide specifically that these rights shall be accorded to all, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

86. It was suggested that a reference should be made, in the draft principle to "philosophical opinion" among the grounds upon which no distinction should be permitted in connexion with equal access to the courts with equality before the law in general.

87. Draft principle 5 read as follows:

"5. As regards the administration of justice married women shall be ensured the right to an independent domicile."

88. Some members felt that the principle should be redrafted so as to make it clear that married women should have the freedom to choose, or not to choose, an independent domicile. It was felt that the wording of the draft principle might make it obligatory for married women to have an independent domicile. The Special Rapporteur drew attention to the fact that the wording of the draft principle had been taken from resolution 587 D III (XX) of the Economic and Social Council.

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89. Draft principles 6-8 read as follows:

"6. Being essential requirements for promoting equality in the administration of justice, the independence and impartiality of members of all levels of the judiciary shall be ensured by the laws and practices governing their training, selection, jurisdiction, oath or affirmation, privileges and immunities, tenure of office, transfer, salaries and pensions, the limitations placed on their non-judicial activities, the circumstances disqualifying them from acting in particular cases, the protection against improper influences accorded to them by the criminal law and the sanctions applicable to them.

"7. Being essential requirements for promoting equality in the administration of justice, the independence and impartiality of jurors and assessors, where they function, shall be ensured by the laws and practices affecting their selection and compensation, their oath or affirmation, their immunities, the incompatibility of certain activities with service as juror or assessor, the challenges which may be made to their acting in particular cases, the protection against improper influences accorded to them by the criminal law and the sanctions applicable to them.

"8. Being essential requirements for promoting equality in the administration of justice, the independence and impartiality of lawyers practising before courts shall be ensured by the laws and practices affecting the relationship between such lawyers and their organizations, on the one hand, and the State, on the other, the incompatibility of certain activities with the profession of the law, the circumstances under which a practising lawyer may not accept a case, the grounds on which a practising lawyer may not refuse his services to a client, the access of the individual to his lawyer and the privacy of communication between the two, the preservation of the secrecy of information received by lawyers during professional dealings with their clients, the immunities of lawyers and the sanctions applicable to them."

90. It was maintained that draft principles 6, 7 and 8 were too complex and detailed and called for simplification. It was asked what was meant by the reference in principles 6 and 7 to the "protection against the improper influences" accorded to judges, jurors and assessors by the criminal law and as to the meaning of the reference, in the same draft principles, to the "sanctions applicable" to judges, jurors and assessors. The question was also raised whether draft principle 6 should refer to the "jurisdiction" of judges. It was questioned whether the same principle should refer to the "privileges" of

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judges, and the word "prerogatives" was suggested as a suitable substitution. In connexion with draft principle 8, a question was raised as to the circumstances in which a practising lawyer may not accept a case. A question was also raised as to the meaning of the "impartiality of lawyers", since a lawyer is expected to favour his client's case.

91. Draft principle 9 read as follows:

"9. National laws shall ensure that everyone shall have equal access to the judiciary, to service as juror or assessor and to the legal profession, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

92. Several members suggested that the draft principle should be redrafted in such a way as to stress non-discrimination, i.e., to provide that national laws should ensure that no one shall be denied access to the judiciary, to service as jurors or assessors, or to legal profession on any of the grounds of discrimination specified.

93. Attention was drawn to the fact that the draft principle, like draft principles 1 and 4, made use of the language of article 2 of the Universal Declaration of Human Rights: "without distinction of any kind". It was claimed that, while that general expression was appropriate in draft principles 1 and 4, which laid down fundamental rights, it was not appropriate in draft principle 9, which referred to national laws on access to the judiciary, to service as juror or assessor and to the legal profession. In that connexion, it was considered permissible for the State to lay down reasonable restrictions.

94. Draft principle 10 read as follows:

"10. In view of the public interest involved, the State shall subsidize the training of suitable persons as judges, lawyers, and court interpreters, and shall do so without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

95. Several members drew attention to the fact that some countries were not in a position to subsidize the training of judges and other court personnel. It was suggested that the principle should be redrafted so as to provide that, whenever the State subsidized the training of judges, lawyers and court interpreters, it should do so without discrimination.

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96. Attention was also drawn to the risk that persons educated at the expense of the State to enter these professions might not do so in their countries of origin. On the other hand, it was stressed that the draft principle was aimed at ensuring that the State should play its proper role in aiding poor persons to avail themselves of access to the judiciary, the legal profession and related occupations.

97. It was stated that the specific reference to court interpreters in the draft principle was restrictive and should be expanded to include all types of court officials.

98. Draft principle 11 read as follows:

"11. The distribution of courts within a country, and the movements of itinerant judges, shall be determined by the distribution of population, subject to the special needs of persons living in isolated areas."

99. In relation to the draft principle, it was observed that extra judges could be added to deal with excessively heavy workloads of courts. Some members asked how the principle related to equality in the administration of justice.

100. Draft principle 12 read as follows:

"12. Measures shall be taken to eliminate unnecessary rigidity and complexity in judicial procedures."

101. The question was asked how the draft principle related to equality in the administration of justice; its deletion was suggested.

102. Draft principle 13 read as follows:

"13. Measures shall be taken, appropriate to the circumstances prevailing in each country concerned, to reduce the delays facing the courts in reaching and dealing with cases to the minimum consistent with the right of accused or other parties to judicial proceedings adequately to prepare and present their cases."

103. It was asked what connexion the draft principle had with equality in the administration of justice. It was also asked whether the idea contained in the draft principle had not already been covered by paragraph (v) of draft principle 1.

104. The Special Rapporteur suggested that the meaning of the draft principle should be clarified by the addition, at the beginning, of the words "In view of the hardship caused in particular to poor persons by delays in judicial proceedings".

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105. Draft principle 14 read as follows:

"14. Except in time of national emergency, civilians shall not be subject to trial by military tribunals."

106. Several members felt that the words "except in time of national emergency" were too vague, and one suggestion made was that they be replaced by "except in time of war". Another was that the words be deleted. It was observed that there might be a relationship between the draft principle and paragraph (ii) of draft principle 1, concerning the right to be heard by the competent tribunal previously established by law or established under pre-existing law and not by a tribunal assigned ad hoc or specially set up to hear one's case.

107. Draft principle 15 read as follows:

"15. Trials in absentia shall not be held without the provision of proper guarantees to the accused, including prior notification and a full opportunity having been given previously to the accused to attend his trial; representation by counsel shall be made mandatory in trials in absentia; persons convicted in absentia shall be permitted to have the proceedings against them reopened or reviewed; trials in absentia for political offences shall be prohibited."

108. In connexion with the draft principle, it was claimed that the provision of paragraph (iii) (d) of article 14 of the Draft Covenant on Civil and Political Rights, to the effect that a person had the right to be tried in his presence, would seem to prohibit trials in absentia altogether. It was added that, since there were legal systems where trials in absentia were not possible, the draft principle should contain the words "in those legal systems which permit them" after the opening words "Trials in absentia". It was claimed that to make representation by counsel mandatory in trials in absentia was too rigid, since in some countries the needed lawyers might not be available. It was also said that the accused himself might not wish to have legal representation. The question of how national laws could provide for the reopening or review of cases of persons convicted in absentia was raised.

109. Draft principle 16 read as follows:

"16. National laws shall be framed with a view to prohibiting or limiting as far as possible discrimination in the exercise of the governmental power to prosecute suspected offenders."

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110. Several members suggested the deletion of the words "or limiting" in the draft principle, on the ground that the inclusion of those words would permit the continuation of discriminatory practices. It was pointed out that in some legal systems the authorities possess no discretion as to whether or not to prosecute persons, provided that adequate evidence of crime exists against them. Reference was also made to the fact that frequently an injured party has the right to bring criminal proceedings, even if the authorities do not wish to do so.

111. Draft principle 17 read as follows:

"17. When any of several judges or benches may legally hear a case, the allocation of a case to a judge or bench shall be determined by a mechanical system based on chance."

112. Several members questioned the use of the words "mechanical system based on chance". One suggestion was to delete the draft principle. Another was to redraft it so as to provide in effect that, where one or several judges or benches might legally hear a case, the allocation of a case to the judge or bench should be determined by a system which would ensure a fair trial.

113. Draft principle 18 read as follows:

"18. Subject to a possible priority for criminal cases where the same courts hear criminal and civil cases, cases shall be heard strictly in order of receipt by the court."

114. Several members felt that the draft principle was too rigid, and the suggestion made was that the words "ready for trial" should be added before the words "shall be heard". A possible connexion between draft principle 18 and paragraph (v) of draft principle 1 was pointed out.

115. Draft principle 19 read as follows:

"19. National laws relating to the venue of hearings of court shall permit a change of venue, at the request of an accused or another party, when this is likely to ensure a fair hearing."

116. In connexion with the draft principle, it was claimed that the factors which would cause the venue of the hearing of a case to be changed, in practice, frequently would not include the request of an accused or another party to the case. On the other hand, reference was made to paragraphs 253-255 of the report, in which examples appear of legal provisions permitting the venue of a

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hearing to be moved, at the request of a party and in the interest of a fair hearing, from the court normally having jurisdiction to another court, where local feeling might influence a jury, witnesses or the court itself.

117. Draft principle 20 read as follows:

"20. Measures taken for the special protection of minors in judicial proceedings shall not diminish their right to equality in the administration of justice."

118. The suggestion was made that the draft principle should be expanded so as to provide that measures of rehabilitation, and other procedures applied in the light of modern developments in the social sciences, should not detract from the right to equality in the administration of justice, not only of minors but of persons in general.

119. Draft principle 21 read as follows:

"21. Trials of military personnel by military tribunals shall afford to the accused person the essential guarantees of a fair hearing set out in principle 1, with the exception that necessary limitations may be placed on the right to a public hearing."

120. It was suggested that in the draft principle the words "with the exception that necessary limitations may be placed on the right to a public hearing" should be deleted, since they placed excessive stress upon the secrecy of trials of military personnel and since permissible limitations on the right to a public hearing had already been laid down in paragraph (viii) of draft principle 1.

121. Draft principle 22 read as follows:

"22. National laws concerning legal aid shall develop such aid to the utmost extent consistent with the economic resources of the country concerned, with a view to the ultimate elimination of all expenses arising from the enforcement of a reasonable legal claim or defence in any judicial proceedings, whether such expenses arise from court charges, lawyers' fees, fees of expert witnesses, travelling expenses of witnesses or otherwise."

122. There was general agreement with the opening sentence of the draft principle. There was a difference of opinion, however, as to the remainder, which envisaged the ultimate elimination of all expenses arising from the enforcement of a reasonable legal claim or defence.

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123. On the one hand, the wording of the draft principle was defended, since its implementation would eliminate discrimination on the ground of property in the matter of access to the courts and the securing of justice therefrom. The anachronistic character of many of the arrangements made for access to the courts was stressed. It was pointed out that at one time rich people had employed private police and even armies for their protection, whereas now there were national police forces and national armies. At one time toll charges were levied on roads and canals, but such tools had been abolished, and access to roads and canals was free to the public. It was asked why access to justice should be treated differently. The granting of legal assistance to the poor by bar associations and other bodies as a matter of benevolence was said to be insufficient. The poor person should have the right to access to the court simply in his capacity as a citizen. Another view was that the categories having access to the court tended to be the rich, who could personally afford it, and the very poor, who received legal aid in most countries, whereas people in between these categories were unable to defend their rights. It was time for the right of all to justice to be recognized, and the State should recognize its responsibilities in the matter, as it had in relation to education, health and housing. It was maintained that the word "reasonable" should be deleted from the draft principle, since a poor man needing legal aid should receive such aid without the application of any test of reasonableness on the part of the public authorities.

124. On the other hand, it was maintained that complete equality between persons in the administration of justice was an unattainable ideal, and the lack of necessary economic resources in many countries was stressed. It was observed that the implementation of the draft principle would mean that wealthy companies would be able to litigate against one another, and the cost of such litigation would have to be borne by taxpayers in general.

125. Particular passages of the draft principle were also discussed. It was claimed that the elimination of court charges would cause many cases to be brought before the courts by persons having no prospect of succeeding therein; on the other hand, it was pointed out that procedures other than the payment of court charges were available to prevent abusive use of courts proceedings. It was observed that court fees had been abolished in many countries. In relation

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to lawyers' fees, it was claimed that if a personal relationship existed between a lawyer and his client, involving the payment of a fee to the former by the latter, there was a greater incentive for the lawyer to pursue the case vigorously. It was also claimed that the independence of the legal profession would be endangered by a system under which the State would pay the fees of lawyers. On the other hand, attention was drawn to provisions already existing by which poor persons were provided with legal aid without personally paying the fees.

126. The suggestion was made that the words "of the inequality in the administration of justice otherwise resulting from the expenses" should replace the words "of all expenses" in the draft principle. It was also suggested that the draft principle should provide for the limitation, to the fullest extent possible, of expenses arising from the enforcement of a reasonable legal claim for defence in any judicial proceeding. A further suggestion was that the draft principle should ensure the freedom of the ordinary person from such expenses while not providing equally advantageous facilities to rich persons or entities.

127. Draft principle 23 read as follows:

"23. Provisions shall be made through legal aid schemes or otherwise for ensuring adequate legal representation to persons whose political opinions may otherwise be a disadvantage to them in judicial proceedings."

128. The fear was expressed that the application of the draft principle might result in discrimination in the allocation of legal aid in favour of persons possessing certain political opinions. It was therefore suggested that the draft principle should be deleted.

129. Draft principle 24 read as follows:

"24. Aliens permanently resident in a country shall have the benefits of legal aid to the same extent as citizens."

130. It was suggested that the words "permanently resident" should be deleted from the draft principle, or that the principle should accord the benefits of legal aid to all inhabitants of a country.

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131..Draft principles 25-28 read as follows:

"25. Judges shall explain to accused persons their essential procedural rights during trial and their right of appeal.

"26. Judges, jurors, assessors, accused persons, other parties to judicial proceedings, lawyers, witnesses and interpreters shall be permitted to make an affirmation, instead of taking an oath, if they object to the religious character of any oath required of them in connexion with their roles in the administration of justice.

"27. Whatever the jurisdiction of such religious courts as may exist in a country, civil courts shall offer a forum for the settlement of all justiciable disputes. No person shall be without a court to resort to, due to his not belonging to any of the religions whose courts have exclusive jurisdiction over the matter at issue.

"28. National laws concerning provisional release from custody pending or during trial shall be so framed as to eliminate any requirement of pecuniary guarantees and shall be designed also so as to reduce detention pending or during trial to a minimum and to limit to the extent possible any discriminatory exercise of the power to grant provisional release."

132. It was suggested that the application of draft principle 28, entailing the elimination of requirements of pecuniary guarantees for provisional release from custody pending or during trial, would, in effect, mean that persons who otherwise might have been admitted to bail would be kept in custody. It was added that bail is usually levied bearing in mind the resources of the accused person and, therefore, that the possibility of discrimination on economic grounds was not great. It was also pointed out that the position must be viewed not only from the point of view of the person involved but from the point of view of the State and that the purpose of bail was mainly to prevent the accused person from escaping and evading justice. On the other hand, attention was drawn to the alternatives which existed to the levying of bail.

133. Draft principles 29-33 read as follows:

"29. Purported confessions secured under the influence of promises, deception, threats or force shall be inadmissible as evidence and the extraction of purported confessions by means of such influences shall be an offence.

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"30. Interpretation shall be provided free for all accused persons and other parties to judicial proceedings, if they do not have a command of the language of the court.

"31. Analogous arrangements shall be made free for accused persons and other parties to judicial proceedings who are handicapped in speech or hearing.

"32. National laws relating to publicity of judicial proceedings shall be framed in such a manner as to prohibit, prior to the final decision of the court, publicity prejudicial to accused persons or other parties to judicial proceedings.

"33. Courts shall be required to give their reasons when rendering judgement."

134. It was suggested that the scope of draft principle 33 should be extended so as to cover also dissenting opinions.

135. Draft principles 34-35 read as follows:

"34. National laws concerning appeals to higher courts shall include provision for appeals on grounds of the discriminatory application of laws relating to jurisdiction and procedure as well as of substantive law.

"35. With a view to eliminating discrimination arising out of the status of the territory to which a person belongs, full application shall be given to the Declaration on the Granting of Independence to Colonial Countries and Peoples, proclaimed by the United Nations General Assembly in resolution 1514 (XV) of 14 December 1960."

136. It was suggested that the following words should be added to draft principle 35: "which proclaims the necessity of bringing to an end colonialism in all its forms". Those words, it was noted, were derived from General Assembly resolution 1514 (XV), to which the draft principle referred.

137. It was also suggested that draft principle 35 should include a reference to the proposal which had been made to set up an international body to examine offences on the part of persons exercising de facto authority in Namibia.

138. It was urged that two additional draft principles should be added. The first would state that it was impermissible to employ, in judicial organs, former Nazis or persons propagating the ideas of nazism, apartheid and other forms and manifestations of racial discrimination. The second would state that the law should guarantee against the use of judicial organs for purposes of political terror directed against the masses and of vengeance against democratic organizations.

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139. Having considered the draft principles, the Sub-Commission turned its attention to the preamble thereto. The preamble read as follows:

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

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

"WHEREAS the Universal Declaration of Human Rights proclaims in its article 2 that everyone is entitled to all the rights and freedoms set forth in that Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, or the status of the territory to which he belongs,

"WHEREAS the Universal Declaration proclaims in its article 10 that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him,

"WHEREAS some aspects of the administration of justice have been dealt with in provisions of various other international instruments, including article 14 of the International Covenant on Civil and Political Rights, article 5 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination, article 16 of the Convention Relating to the Status of Refugees and article 16 of the Convention Relating to the Status of Stateless Persons,

"WHEREAS types of discrimination based on each of the grounds specifically condemned by article 2 of the Universal Declaration operate in the administration of justice,

"WHEREAS methods of combating these types of discrimination have been tested in many parts of the world and sufficient national experience has been gained to warrant the adoption of an international instrument or international instruments aimed at eliminating discrimination in the administration of justice,

"NOW THEREFORE the following principles are proclaimed with a view to eliminating all forms of discrimination in the administration of justice:".

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140. The final preambular paragraph was said to be unnecessary, on the grounds that it gave the impression that the availability of sufficient national experience was a prerequisite for the adoption of international instruments on a given matter.

141. At the completion of the debate on the draft principles, the Special Rapporteur indicated that he would comment further on the remarks made during the debate on the draft principles when he introduced a revised version of the draft principles made in the light of the debate thereon.

Introduction of revised draft principles

142. The Special Rapporteur circulated a revised version of the draft principles (E/CN.4/Sub.2/L.528 and Corr.1), at the 576th meeting and proposed that they be adopted by the Sub-Commission. The revised draft principles read as follows:^{1/}

"DRAFT PRINCIPLES ON EQUALITY IN THE ADMINISTRATION OF JUSTICE

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

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

"WHEREAS the Universal Declaration of Human Rights proclaims in its article 2 that everyone is entitled to all the rights and freedoms set forth in that Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, or the status of the territory to which he belongs,

"WHEREAS the Universal Declaration proclaims in its article 10 that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him,

^{1/} The revisions are indicated either by underlining or by foot-notes.

"WHEREAS some aspects of the administration of justice have been dealt with in provisions of various other international instruments, including article 14 of the International Covenant on Civil and Political Rights, article 5 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination, article 16 of the Convention Relating to the Status of Refugees and article 16 of the Convention Relating to the Status of Stateless Persons,

"WHEREAS types of discrimination based on each of the grounds specifically condemned by article 2 of the Universal Declaration operate in the administration of justice,

"WHEREAS methods of combating these types of discrimination have been tested in many parts of the world and sufficient national experience has been gained to warrant the adoption of an international instrument or international instruments aimed at eliminating discrimination in the administration of justice,

"NOW THEREFORE the following principles are proclaimed with a view to eliminating all forms of discrimination in the administration of justice:

"1. In the determination of any criminal charge against him or in the determination of his rights or his obligations through civil, administrative or other judicial proceedings, everyone shall be entitled to the following rights, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status:

"(i) the right to access to tribunals;

"(ii) the right to be heard by his lawful judge, that is to say by the competent tribunal previously established by law or established under pre-existing law and not by a tribunal assigned ad hoc or specially set up to hear his case;

"~~(iii)~~ the right to be heard by an independent and impartial tribunal;

"(iv) the right to be assisted and represented by counsel of his own choosing;

"(v) the right to a prompt and speedy hearing, subject to his right 2/ to have adequate time 3/ to prepare and present his case;

"(vi) the right, either in person or through counsel, to present his case and to produce and examine witnesses and other evidence, or to have such witnesses or other evidence produced and examined;

2/ The word "equal" before "right" has been deleted.

3/ The words "and facilities" after "time" have been deleted.

- "(vii) the right to a public hearing, subject to the possibility that the Press and the public may be excluded from all or part of a hearing for reasons of morals, public order, or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice;
- "(viii) the right to have the decision in his case based only on the evidence placed before the court and known to all the parties;
- "(ix) the right to have the decision on his case rendered in public, except where the interest of juveniles otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children;
- "(x) the right of appeal;
- "(xi) in the determination of any criminal charge against him, in addition to what appears above:
 - "(a) the right to be presumed innocent until proved guilty according to law;
 - "(b) the right to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - "(c) the right to be informed, if he does not have legal assistance, of his right to defend himself either in person or through counsel of his choosing;
 - "(d) the right to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - "(e) the right to examine, or have examined, the witnesses against him, to examine documentary evidence against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - "(f) the right to have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - "(g) the right not to be compelled to testify against himself or to confess guilt.

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"2. To the fullest extent consistent with the nature of the question, matters connected with the administration of justice shall be regulated by constitutional or statutory provisions or by rules of court, whichever may be appropriate, and not by executive decisions.

"3. Written constitutions, where they exist, shall lay down at least the basic general rules affecting the administration of justice.

"4. National laws concerning the rights to equal access to the courts and to equality before the law in general shall provide specifically that these rights shall be accorded to all, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

"5. As regards the administration of justice married women shall be ensured the right to an independent domicile.

"6. Being essential requirements for promoting equality in the administration of justice, the independence and impartiality of members of all levels of the judiciary shall be ensured by the laws and practices governing their training, selection, jurisdiction, oath or affirmation, privileges and immunities, tenure of office, transfer, salaries and pensions, the limitations placed on their non-judicial activities, the circumstances disqualifying them from acting in particular cases, the protection against improper influences accorded to them by the criminal law and the sanctions applicable to them in the event of their failing to display independence and impartiality in performing their functions.

"7. Being essential requirements for promoting equality in the administration of justice, the independence and impartiality of jurors and assessors, where they function, shall be ensured by the laws and practices affecting their selection and compensation, their oath or affirmation, their immunities, the incompatibility of certain activities with service as juror or assessor, the challenges which may be made to their acting in particular cases, the protection against improper influences accorded to them by the criminal law and the sanctions applicable to them in the event of their failing to display independence and impartiality in performing their functions.

"8. Being essential requirements for promoting equality in the administration of justice, the independence of lawyers practising before courts and their impartiality in according their services to potential clients shall be ensured by the laws and practices affecting the relationship between such lawyers and their organizations, on the one hand, and the State, on the other, the incompatibility of certain activities with the profession of the law, the circumstances under which a practising lawyer may not accept a case, the grounds on which a practising lawyer may not refuse his services to a client, the access of the individual to his

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lawyer and the privacy of communication between the two, the preservation of the secrecy of information received by lawyers during professional dealings with their clients, the immunities of lawyers and the sanctions applicable to them.

"9. National laws shall ensure that no one shall be denied equal access to the judiciary, to service as juror or assessor and to the legal profession, without distinction based upon race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

"10. In view of the public interest involved, the State shall, to the utmost extent consistent with the economic resources of the country concerned, subsidize the training of suitable persons as judges, lawyers, court interpreters and other court officials, and shall do so without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

"11. The distribution of courts within a country and the movements of itinerant judges, shall be determined by the distribution of population, subject to the special needs of persons living in isolated areas.

"12. Measures shall be taken to eliminate unnecessary rigidity and complexity in judicial procedures.

"13. In view of the hardship caused in particular to poor persons by delays in judicial proceedings, measures shall be taken, appropriate to the circumstances prevailing in each country concerned, to reduce the delays facing the courts in reaching and dealing with cases to the minimum consistent with the right of accused or other parties to judicial proceedings adequately to prepare and present their cases.

"14. Except in time of national emergency, civilians shall not be subject to trial by military tribunals.

"15. Trials in absentia, in those legal systems which permit them, shall not be held without the provision of proper guarantees to the accused, including prior notification and a full opportunity having been given previously to the accused to attend his trial; representation by counsel shall be made mandatory in trials in absentia; persons convicted in absentia shall be permitted to have the proceedings against them reopened or reviewed; trials in absentia for political offences shall be prohibited.

"16. National laws shall be framed with a view to prohibiting^{4/} as far as possible discrimination in the exercise of the governmental power to prosecute suspected offenders.

^{4/} The words "or limiting" have been deleted.

"17. When any of several judges or benches may legally hear a case, the allocation of a case to a judge or bench shall be determined by a 5/ system based on chance.

"18. Subject to a possible priority for criminal cases where the same courts hear criminal and civil cases, cases ready for trial shall be heard strictly in order of receipt by the court.

"19. National laws relating to the venue of hearings of courts shall permit a change of venue, at the request of an accused or another party, when this is likely to ensure a fair hearing.

"20. Measures taken for the special protection of minors in judicial proceedings shall not diminish their right to equality in the administration of justice.

"21. Trials of military personnel by military tribunals shall afford to the accused person the essential guarantees of a fair hearing set out in principle 1. 6/

"22. National laws concerning legal aid shall develop such aid to the utmost extent consistent with the economic resources of the country concerned, with a view to the ultimate elimination of all expenses arising from the enforcement of a reasonable legal claim or defence in any judicial proceedings, whether such expenses arise from court charges, lawyers' fees, fees of expert witnesses, travelling expenses of witnesses or otherwise.

"23. Provisions shall be made through legal aid schemes or otherwise for ensuring adequate legal representation to persons whose political opinions may otherwise be a disadvantage to them in judicial proceedings.

"24. Aliens 7/ in a country shall have the benefits of legal aid to the same extent as citizens.

"25. Judges shall explain to accused persons their essential procedural rights during trial and their right of appeal.

"26. Judges, jurors, assessors, accused persons, other parties to judicial proceedings, lawyers, witnesses and interpreters shall be permitted to make an affirmation instead of taking an oath if they object to the religious character of any oath required of them in connexion with their roles in the administration of justice.

5/ The word "mechanical" has been deleted.

6/ The words "with the exception that necessary limitations may be placed on the right to a public hearing" have been deleted.

7/ The words "permanently resident" have been deleted.

"27. Whatever the jurisdiction of such religious courts as may exist in a country, civil courts shall offer a forum for the settlement of all justiciable disputes. No person shall be without a court to resort to, due to his not belonging to any of the religions whose courts have exclusive jurisdiction over the matter at issue.

"28. National laws concerning provisional release from custody pending or during trial shall be so framed as to eliminate any requirement of pecuniary guarantees and shall be designed also so as to reduce detention pending or during trial to a minimum and to limit to the extent possible any discriminatory exercise of the power to grant provisional release.

"29. Purported confessions secured under the influence of promises, deception, threats or force shall be inadmissible as evidence and the extraction of purported confessions by means of such influences shall be an offence.

"30. Interpretation shall be provided free for all accused persons and other parties to judicial proceedings, if they do not have a command of the language of the court.

"31. Analogous arrangements shall be made free for accused persons and other parties to judicial proceedings who are handicapped in speech or hearing.

"32. National laws relating to publicity of judicial proceedings shall be framed in such a manner as to prohibit, prior to the final decision of the court, publicity prejudicial to accused persons or other parties to judicial proceedings.

"33. Courts shall be required to give their reasons when rendering judgement.

"34. National laws concerning appeals to higher courts shall include provision for appeals on grounds of the discriminatory application of laws relating to jurisdiction and procedure as well as of substantive law.

"35. With a view to eliminating discrimination arising out of the status of the territory to which a person belongs, full application shall be given to the Declaration on the Granting of Independence to Colonial Countries and Peoples, proclaimed by the United Nations General Assembly in resolution 1514 (XV) of 14 December 1960, which proclaims the necessity of bringing to an end colonialism in all its forms."

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143. Introducing the revised draft principles, the Special Rapporteur recalled that some members had had difficulties with the word "guarantees" in the opening wording of draft principle 1, and it had been suggested that the principle could be redrafted so as to eliminate that word. In order to remove those difficulties and to make clear the full scope of the draft principle, he had reworded it.

144. In paragraph (ii) of draft principle 1, he had inserted the words "or established under pre-existing law" after the words "previously established by law", to exclude from the scope of the paragraph tribunals, such as arbitration tribunals, which may be set up to deal with a particular case but which are not objectionable on the grounds set out in the opening wording of the principle.

145. In paragraph (v) of the draft principle, the reference to "equal right" had been meant to signify "equally important right" or "equally valid right"; however, in view of the possible confusion which might be caused by the inclusion of the word "equal", he had deleted it from the text.

146. As suggested during the debate, he had also deleted the words "and facilities" from paragraph (v) of the draft principle.

147. For the reason suggested in the debate, he had redrafted paragraph (vi) of the draft principle.

148. In paragraph (vii), he had revised the words "the press or the public", so as to read "the press and the public", to make the text coincide with that of paragraph 1 of article 14 of the International Covenant on Civil and Political Rights.

149. The question had been asked whether the exception set out in paragraph (ix) of draft principle 1 to the right to have the decision on one's case rendered in public was not excessively wide. Without wishing to claim that the language of the International Covenant on Civil and Political Rights was necessarily to be followed, he pointed out that the wording of this exception had been taken from paragraph 1 of article 14 of that Covenant.

150. Some members had doubted whether paragraph (xi) (d) of the draft principle should contain the wording "in any case where the interests of justice so require". Again, without claiming that the language of the International Covenant on Civil and Political Rights was necessarily to be followed, he pointed out that this wording had come from paragraph 3 (d) of article 14 of the Covenant.

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151. Following a suggestion made in the debate, he had added the words "to examine documentary evidence against him" in paragraph (xi) (e) of the draft principle.

152. The Special Rapporteur recalled that a suggestion had been made to refer in paragraph (xi) of the draft principle to the right of accused persons, without discrimination, to a preliminary hearing within a reasonable time, to establish whether there is sufficient reason to detain an accused pending trial; he felt, however, that the idea might be thought to have been sufficiently covered by paragraph (v).

153. Another suggestion had been to add a reference to the **right** of an accused, without discrimination, to be admitted to bail as the normal procedure to be applied in criminal cases. That suggestion might be found to be adequately covered by draft principle 28. The main purpose of draft principle 28 was to eliminate the requirement of pecuniary guarantees for provisional release from custody pending or during trial; but it also stated that detention pending or during trial should be reduced to a minimum and that the discriminatory exercise of the power to grant provisional release should be limited to the extent possible.

154. In view of the fact that national practice varied on the question of whether the courts could lay down their own rules of procedure, he had revised draft principle 2 by adding the words, "whichever may be appropriate and not by executive decisions". The new wording would not bind any country to abandon its established codes of judicial procedure in favour of a system of rules of court. It would also make clear the intention of the draft principle, which was to state that the regulation of matters connected with the administration of justice by means of constitutional or statutory provisions or by rules of court is preferable to placing such matters in the domain of executive decision.

155. In accordance with a suggestion made in the debate, he had added the word "basic" before the words "general rules" in draft principle 3.

156. He explained that the intended difference in stress between draft principles 2 and 3 was the following: the aim of draft principle 2 was to take matters relating to the administration of justice out of the hands of the

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executive as far as possible; and the aim in draft principle 3 was to require that the basic general rules affecting the administration of justice should be included in constitutions, where constitutions exist.

157. As regards the suggestion that a reference to philosophical opinion be added to draft principle 4, the Special Rapporteur pointed out that the enumeration of types of discrimination which appeared in draft principle 4 and elsewhere was taken from article 2 of the Universal Declaration of Human Rights. He assumed that the words "other opinion" contained therein were felt by the framers of that Declaration to be wide enough to include philosophical opinions.

158. Several members having suggested that draft principles 6, 7 and 8 called for simplification, the Special Rapporteur stated that every clause in these three principles had been derived from sections - sometimes quite extensive - of chapter IV of his report, on methods adopted to combat discrimination. These three principles admittedly covered many topics in a condensed form. It would be difficult to simplify them, however, except by removing some of the subjects of laws and practices mentioned therein. He believed, however, that all of these subjects of laws and practices were worth including.

159. He believed that the word "jurisdiction" was appropriate in draft principle 6 because, if a judge's jurisdiction were accurately and appropriately defined, he would be more immune from interference.

160. To the question, in connexion with that principle, of the meaning of the words "the protection against improper influences" accorded to judges by the criminal law and to "the sanctions applicable to them", the Special Rapporteur referred to the illustrative material contained in paragraphs 215-217 and 263-268, respectively, of his report, which fall in chapter IV, on methods adopted to combat discrimination in the administration of justice. He had attempted to clarify the meaning of principle 6 by adding, at its end, the words "in the event of their failing to display independence and impartiality in performing their functions".

161. Although it had been suggested that draft principle 6 should speak of "prerogatives and immunities" of judges, he continued to feel, in the light of the examples given in paragraphs 213-214 of his report, that the expression "privileges and immunities" was more appropriate.

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162. He had been asked, in relation to draft principle 7, what was meant by the reference to "the protection against improper influences" accorded to jurors and assessors by the criminal law and to "the sanctions applicable to them". In that connexion he drew attention to paragraphs 295-297 and 300-302 of his report, in which these matters were illustrated. He had attempted to clarify the meaning of draft principle 7 by adding, at its end, the words "in the event of their failing to display independence and impartiality in performing their functions".

163. In relation to draft principle 8, he had been asked what was meant by "the circumstances under which a practising lawyer may not accept a case". These circumstances, he explained, were dealt with in paragraph 318 of his report.

164. In an attempt to dispel the ambiguity of the expression "impartiality of lawyers" in draft principle 8, he had substituted for the words "the independence and impartiality of lawyers practising before courts", the words "the independence of lawyers practising before courts and their impartiality in according their services to potential clients".

165. He had accepted the suggestion to replace the words "National laws shall ensure that everyone shall have equal access to" in draft principle 9, by the words "National laws shall ensure that no one shall be denied equal access to".

166. He had also been persuaded by the argument that, in draft principle 9, the words "without distinction of any kind, such as race" should be replaced by the words "without distinction based upon race".

167. In draft principle 10, he had added the words "to the utmost extent consistent with the economic resources of the country concerned" after the words "the State shall" because some members had drawn attention to the fact that some countries were not economically in a position to subsidize the training of judges and other personnel.

168. The suggestion that draft principle 10 should simply lay down that, where the State subsidizes the training of judges, lawyers and court interpreters, that should be done without discrimination, would in his view remove from the principle an element which, for several reasons, he had intended to include in it. In the first place, the State should remove economic obstacles currently

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preventing poor persons, who are otherwise suitable, from becoming judges, lawyers and court interpreters. In the second place, any expanded system of legal aid, and even more a national legal service such as that envisaged in paragraphs 491-512 of the report, would require an increased number of lawyers. The reduction of judicial delay would, in many places, require an increase in courts or in judges. For those reasons, it was in the public interest that the State should subsidize the training of judges, lawyers and court personnel to the extent possible.

169. He had included a reference to court interpreters in draft principle 10 because, as mentioned in his study, a lack of court interpreters sometimes caused hardship to members of linguistic minorities or to aliens not commanding the language of the court; moreover, an economic disadvantage was suffered by poor persons where the individual had to pay the interpreters' fee. He agreed, however, that the text should speak of "court interpreters and other court officials".

170. Having been asked how draft principle 11 related to equality in the administration of justice, he drew attention to paragraphs 168-170, 396-398 and 518 of his report, which showed that draft principle 11 had a direct relationship with the avoidance of discrimination on grounds of property.

171. Having been asked how draft principle 12 related to equality in the administration of justice, he replied that paragraph 516 of his report indicated that the avoidance of unnecessary rigidity and complexity in judicial proceedings would benefit in particular persons who could least afford the judicial delays and legal expenses to which they could give rise.

172. Having been asked how draft principle 13 related to equality in the administration of justice, he replied that paragraph 172 of his report showed that the poor are less able than others to afford the results of judicial delay; in paragraph 514 there was an enumeration of the most common causes of delay, and the methods adopted to avoid or minimize delays in civil, criminal and other proceedings had been reviewed in paragraphs 402-403. There was a further comment on this matter in paragraph 515. In order to clarify draft principle 13, he had added the words, at the beginning: "In view of the hardship caused in particular to poor persons by delays in judicial proceedings".

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173. Since it had been suggested that draft principle 13 overlapped paragraph (v) of draft principle 1, the Special Rapporteur explained that there was a difference of stress between the two. Draft principle 13 aimed at reducing discrimination on the ground of property, whereas draft principle 1 enumerated certain rights necessary to a fair hearing which should be available to all without discrimination.

174. It had been suggested that in draft principle 14 the words "Except in time of national emergency" should be either deleted or replaced by the words "Except in time of war"; the Special Rapporteur said that he had decided to maintain the original wording.

175. He had adopted the suggestion to insert, in draft principle 15, the words "in those legal systems which permit them" after the opening words "Trials in absentia", in recognition of the fact that there were legal systems in which trials in absentia were not permitted.

176. In draft principle 16, he had adopted the suggestion to delete the words "or limiting", since it had been felt that these words might permit a continuation of discriminatory practices.

177. In draft principle 17, he maintained the reference to allocation of cases to judges or benches according to a system based on chance, because of the many possibilities of discrimination which arose under other systems. He had, however, deleted the word "mechanical", which might be misunderstood.

178. Some members having expressed the view that draft principle 18 was too rigid, he had adopted the suggestion to add "ready for trial" after "cases" in the final clause of that draft principle. Draft principle 18 was aimed in particular at the discriminatory arranging of cases on court calendars, a problem which had been discussed in paragraphs 96 and 487 of his report.

179. Draft principle 19, he pointed out, was intended to ensure that a trial could be moved to a different locality in the interest of a fair hearing, if local feeling might prejudice a jury, witnesses or the court itself; the possibility of challenging a particular judge had been referred to separately in draft principle 6, where reference was made to the circumstances disqualifying judges from acting in particular cases.

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180. It had been suggested that draft principle 20 should be expanded so as to ensure that measures of rehabilitation and other procedures applied in the light of modern developments in the social sciences should not detract from the right to equality in the administration of justice, not only of minors but of persons in general; the Special Rapporteur had not altered the wording of that principle since the problem had not been dealt with in his report.

181. The Special Rapporteur had accepted the suggestion that in draft principle 21, the words "with the exception that necessary limitations may be placed on the right to a public hearing" should be deleted, since those words placed excessive stress upon the secrecy of trials of military personnel and since the legitimate limitations to the right of a public hearing had already been laid down in paragraph (viii) of draft principle 1.

182. He had decided to leave draft principle 22 unrevised, since it represented, in a condensed form, the implications of certain changes in the basic philosophy of the administration of justice which were, according to his report, taking place. These philosophical changes and their implications had been explored at length in paragraphs 492-513 of the report; which included a discussion of the possibility of establishing national legal services similar to the national medical services which exist in certain countries and an examination of the problems arising in that connexion.

183. Not being convinced that draft principle 23 might lead to discrimination in favour of certain persons on the ground of political opinion in the matter of access to legal aid, he had left that draft principle unchanged.

184. He had followed the suggestion to delete the words "permanently resident" in draft principle 24.

185. Since it had been claimed that the implementation of draft principle 28, including the abolition of bail, would, in effect, mean that more accused would be kept in detention than otherwise would be the case, the Special Rapporteur drew attention to paragraph 519 of his report, which set out twenty rules, each found to be applicable in various parts of the world, and combinations of which could be adopted as an alternative to the imposing of pecuniary guarantees.

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186. It had been suggested that draft principle 33 should include reference to dissenting opinions. The Special Rapporteur felt that the word "judgement" could be interpreted to include dissents. Even if it did not, he felt that it was the judgement of the court as a whole which was important for the avoidance of discrimination, for reasons set out in paragraph 477 of his report.

187. He had accepted the suggestion to add, at the end of draft principle 35, the words "which proclaims the necessity of bringing to an end colonialism in all its forms".

188. The Special Rapporteur recalled the suggestion that draft principle 35 should make a specific reference to a proposal which had been made to set up an international tribunal to try offences on the part of persons exercising de facto authority in Namibia. That question had not been touched upon in his report, and he could not express an opinion thereon in his capacity as Special Rapporteur.

189. It had also been suggested that the final preambular paragraph to the draft principles should be deleted on the ground that the adoption of international instruments does not depend upon the availability of sufficient relevant national experience. The Special Rapporteur was not convinced that that was a sufficient reason for deleting the preambular paragraph in question, since it was simply an indirect reference to the fact that the study of equality in the administration of justice had been made and that the national experience described therein had been used in the preparation of the draft principles.

190. The Special Rapporteur urged that any elaboration of an international instrument or international instruments on the basis of the draft principles should be done in the light of the material contained particularly in chapters IV and V of his study, since those chapters contained further detail which would be needed, especially for the drafting of a convention or conventions, detail which it had been impossible to include in the draft principles if they were to be kept reasonably short.

Consideration of draft resolution

191. At the 576th meeting of the Sub-Commission, Messrs. Capotorti, Carey and Nettel submitted a draft resolution (E/CN.4/Sub.2/L.518), which read as follows:

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

"Having considered the final report (E/CN.4/Sub.2/296) on the study of equality in the administration of justice, presented by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat,

"1. Expresses its deep appreciation to the Special Rapporteur for his valuable work on the study and congratulates him warmly on his final report;

"2. Expresses its gratitude to the States Members of the United Nations and members of the specialized agencies, to the specialized agencies and to the non-governmental organizations concerned, for their collaboration in supplying information for use in the study;

"3. Expresses its thanks to the Secretary-General for the collaboration given to the Special Rapporteur in the preparation of the study;

"4. Transmits the Special Rapporteur's report to the Commission on Human Rights for its earliest practicable consideration;

"5. Transmits also to the Commission the draft principles on equality in the administration of justice annexed to this resolution;

"6. Invites the Commission on Human Rights to examine these draft principles with a view to making recommendations to the Economic and Social Council concerning the form and content of an international instrument or international instruments on equality in the administration of justice;

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

'The Economic and Social Council,

'Taking into account the unique contribution made by the study of equality in the administration of justice (E/CN.4/Sub.2/296) submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its twenty-second session by its Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat,

'1. Expresses its appreciation to Mr. Abu Rannat for his valuable study;

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

'3. Requests the Secretary-General to make arrangements for Mr. Abu Rannat to attend the meetings of the Commission on Human Rights when it considers his report and the draft principles on equality in the administration of justice approved by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its twenty-second session.'

ANNEX

"Draft principles on equality in the administration of justice

"Here will be inserted the draft principles which the Sub-Commission will adopt."

192. Also at the 576th meeting, Mr. Rybakov submitted amendments (E/CN.4/Sub.2/L.526) to the draft resolution. These amendments read as follows:

"Operative paragraph 4

"1. Between the words 'the Special Rapporteur's report' and the words 'to the Commission on Human Rights', insert the words 'including the draft principles on equality in the administration of justice'.

"Operative paragraphs 5 and 6

"2. Delete these paragraphs.

"Operative paragraph 7 (paragraph 2 of draft resolution for adoption by the Economic and Social Council

"3. Between the words 'the Special Rapporteur's study' and the words 'and circulate it' insert the words 'including the draft principles on equality in the administration of justice'.

"Operative paragraph 7 (paragraph 3 of draft resolution for adoption by the Economic and Social Council)

"4. Delete the words 'approved by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its twenty-second session'.

"5. After the phrase 'considers his report', replace the word 'and' with the word 'including'."

193. The representative of the Secretary-General drew the attention of the Sub-Commission to document E/CN.4/Sub.2/L.520, containing a statement of the financial implications of the draft resolution contained in document E/CN.4/Sub.2/L.518.

194. Members of the Sub-Commission endorsed the draft resolution in so far as it related to the report of the study of equality in the administration of Justice as distinct from the question of the draft principles. After a discussion as to the procedure to be followed, it was generally agreed, however, that the

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Sub-Commission did not have at its disposal sufficient time to discuss and to vote upon the draft principles, even though the Special Rapporteur had lightened its task by revising the draft principles in the light of the discussion in the Sub-Commission. Attention was drawn to the many and complex issues to which the principles gave rise, to the diversity of legal systems which had to be taken into account and to the need for further research and reflection on the part of the Sub-Commission which would be necessary for their adequate consideration.

195. Two procedures were discussed. According to the first, the Sub-Commission would forward both the draft principles and the report to the Commission on Human Rights on the understanding that the report and the principles would be regarded as being equally the responsibility of the Special Rapporteur. It was thought that the Commission on Human Rights might decide which of the draft principles were suitable for inclusion in a convention and which in a declaration and might then refer the principles back to the Sub-Commission with guidelines as to the Sub-Commission's further action in the matter.

196. According to the other possible procedure, the Sub-Commission would defer to its twenty-third session discussion of the draft principles; meanwhile the report would be transmitted to the Commission with a request that it recommend that the Economic and Social Council request the Secretary-General to print the study. It was stressed that any delay in printing the study would cause it to become unnecessarily out of date.

197. As a result of these exchanges of views, Mr. Capotorti, speaking also for the co-sponsors of the draft resolution contained in document E/CN.4/Sub.2/L.518, orally amended that draft resolution so as to (a) replace operative paragraphs 5 and 6 by the following: "5. Decides to complete at its next session consideration of the principles contained in the study on equality in the administration of justice, submitted by the Special Rapporteur"; and (b) delete from operative paragraph 8 of the resolution proposed for adoption by the Economic and Social Council the words "and the draft principles on equality in the administration of justice approved by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its twenty-second session".

198. In the light of the oral revision of the draft resolution, Mr. Abu Rannat withdrew his proposal that the Sub-Commission adopt the revised draft principles contained in document E/CN.4/Sub.2/L.528, and Mr. Rybakov withdrew his amendments contained in document E/CN.4/Sub.2/L.526.

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Adoption of resolution

199. Operative paragraphs 1-4 and the new paragraph 5 of the draft resolution contained in E/CN.4/Sub.2/L.518 were unanimously adopted.
200. Operative paragraph 7 of the draft resolution as orally amended was adopted by 15 votes to none, with 2 abstentions (renumbered paragraph 6).
201. The resolution as a whole was adopted by 16 votes to none, with 1 abstention.
202. The text of resolution 3 (XXII), as adopted at the 576th meeting on 9 September 1969, reads as follows:

Resolution 3 (XXII)

STUDY OF EQUALITY IN THE ADMINISTRATION OF JUSTICE

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

Having considered the final report (E/CN.4/Sub.2/296) on the study of equality in the administration of justice, presented by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat,

1. Expresses its deep appreciation to the Special Rapporteur for his valuable work on the study and congratulates him warmly on his final report;
2. Expresses its gratitude to the States Members of the United Nations and members of the specialized agencies, to the specialized agencies and to the non-governmental organizations concerned for their collaboration in supplying information for use in the study;
3. Expresses its thanks to the Secretary-General for the collaboration given to the Special Rapporteur in the preparation of the study;
4. Transmits the Special Rapporteur's report to the Commission on Human Rights for its earliest practicable consideration;
5. Decides to complete at its next session consideration of the principles contained in the study on equality in the administration of justice submitted by the Special Rapporteur;
6. Requests the Commission on Human Rights to recommend to the Economic and Social Council the adoption of the following draft resolution:

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"The Economic and Social Council,

"Taking into account the unique contribution made by the study of equality in the administration of justice (E/CN.4/Sub.2/296) submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its twenty-second session by its Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat,

"1. Expresses its appreciation to Mr. Abu Rannat for his valuable study;

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

"3. Requests the Secretary-General to make arrangements for Mr. Abu Rannat to attend the meetings of the Commission on Human Rights when it considers his report."

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

(agenda item 5)

203. The Sub-Commission considered item 5 of its agenda at its 575th and 577th meetings.

204. The Sub-Commission had before it: (a) the preliminary report (E/CN.4/Sub.2/304) submitted by the Special Rapporteur, Mr. Mohamed Awad, in pursuance of Economic and Social Council resolutions 1330 (XLIV) of 31 May 1968 and 1419 (XLVI) of 9 June 1969; and (b) a note by the Secretary-General (E/CN.4/Sub.2/300 and Corr.1 and Add.1-3) containing: (i) additional information received by the Secretary-General in reply to the questionnaire on slavery; (ii) information received on further measures which might be adopted to implement the International Slavery Convention of 1926 and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery of 1956 (paragraph 2 (a) of Economic and Social Council resolution 1331 (XLIV); (iii) information received on the protection given to persons escaping from slavery and the slavery-like practices of apartheid and colonialism in any of their forms (paragraph 5 of Economic and Social Council resolution 1331 (XLIV); (iv) information received on the possibilities of international police co-operation to interrupt and punish the transportation of persons in danger of being enslaved (paragraph 2 of resolution 7 (XXI) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities); and (v) a list of experts in economic sociological, legal and other relevant disciplines, whose advice could be made available to States concerned with the liquidation of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism (paragraph 3 of Economic and Social Council resolution 1330 (XLIV)).

205. At the 575th meeting, the Special Rapporteur introduced his preliminary report.

206. At the same meeting, a statement was made by the observer from the Anti-Slavery Society.

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207. Members of the Sub-Commission were unanimous in condemning slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism. It was recalled that the eradication of apartheid and colonialism had been the concern of a great many of the organs of the United Nations, including the General Assembly, the Security Council, the Economic and Social Council and the Commission on Human Rights, whereas slavery was directly within the Sub-Commission's competence, and in relation to slavery the Sub-Commission had a special duty.

208. It was pointed out that although apartheid was confined to a rather limited geographical area, it nevertheless was the cause of the misery of about 17 million people. Apartheid had been the concern of the United Nations from the very beginning of its activities. The racial policies of the Government of South Africa, in particular its policies of apartheid, had been the subject of deliberations by not only the principal and subsidiary organs of the United Nations but various special organs created to deal with this problem, for instance, the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa. Action already undertaken by international bodies - including the application of economic sanctions in order to force the Republic of South Africa to cease its policy of apartheid - was described by one speaker. It was pointed out that, although South Africa would not be readily affected by economic measures, it was not immune to damage from such measures because of its foreign trade and investments. It was suggested that, in order to eradicate the worst human evil, the policy of apartheid, both political and educational measures should be undertaken by the principal organs of the United Nations. Educational measures could include seminars on apartheid and the United Nations educational and training programme, which, in collaboration with appropriate specialized agencies, aimed at enabling South Africans to qualify as lawyers, engineers, agronomists, public administrators, teachers or skilled workers. Moreover, it was stressed that various bodies dealing with apartheid should co-ordinate their activities in order to attain the complete eradication of this evil.

209. Some speakers suggested that the Special Rapporteur in his work should deal not only with the classical forms of slavery but with its contemporary forms, such as the slavery-like practices of apartheid and colonialism. It was suggested that a study should be undertaken on the contemporary nature of slavery in all its forms with specific mention of the regions where such practices still exist.

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Others, however, felt that the subject of slavery would receive insufficient attention in such a combined study. It was pointed out that apartheid affected far more people than did slavery and was a much graver problem. Moreover, apartheid was defended and practised by certain Governments, and the question was to compel a change of policy on their part; whereas no Government approved of slavery, and the problem was to help some Governments to eradicate it from their territories.

210. It was pointed out that slavery was illegal in most States. However, some forms of the evil still existed because in some countries it was difficult to enforce the law against them. Some speakers stressed that slavery, and certain practices akin to slavery, survived in modern forms.

211. It was generally recognized that there was an important economic aspect to slavery because slaves, though inarticulate, were valuable possessions. Therefore, increased financial assistance by the United Nations and the specialized agencies to fight slavery and alleviate the conditions of its victims was called for by some speakers.

212. One speaker pointed out that the existence of slavery and the slave trade had been conclusively demonstrated and that the Special Rapporteur should start work on a thorough study of the practical steps which might be taken in order to complete the eradication of slavery in all its manifestations.

213. As far as the elimination of slavery was concerned, it was noted that the following documents existed: (a) the International Slavery Convention of 1926; (b) the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery of 1956; (c) the International Covenant on Civil and Political Rights, of which article 8 concerned the prohibition of slavery and the slave trade in all their forms and of which articles 28-45 contained a system of implementation; and (d) the questionnaire on slavery, in particular, its thirteenth question, which concerned legal, technical, administrative, financial or other assistance or co-operation desirable in eliminating or reducing conditions conducive to slavery, the slave trade and institutions and practices similar to slavery. However, the Covenant had not entered into force and no replies to the questionnaire had been received from twenty-nine States Members of the United Nations.

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214. Some speakers pointed out that slavery, the slave trade and institutions and practices similar to slavery could be overcome only by a gradual and fundamental change in the social and economic structure of the communities in which they still existed. In their view, development aid should be made available under the auspices of the United Nations. Technical assistance funds, in particular, should be made available to alleviate the situation of victims of slavery. Moreover, all specialized agencies should collaborate in granting aid in order to improve standards of life with the view of eradicating slavery, the slave trade and institutions and practices similar to slavery. It was stressed that the assistance to that end might be channelled through the programme of advisory services in the field of human rights (as by the award of fellowships and the holding of seminars), as well as through the provision of experts in the economic, sociological, legal and other relevant disciplines, whose advice would be available to States concerned with the liquidation of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism.. In the view of one speaker special attention should be given to the education and employment of slaves after their emancipation because freedom for former slaves would be worse than useless unless provision had been made beforehand for their effective rehabilitation.

215. One speaker suggested that regional organizations with competent organs should be given the responsibility of controlling the slave trade. The Arab League and its Organization for Social Defence Against Crime, which has a Criminal Police Bureau, could conveniently be used on the regional level for such combat.

216. It was stressed that international police co-operation could appreciably diminish the traffic of persons in danger of being enslaved across international frontiers only when appropriate international machinery in continuous operation existed. To that end, some of the techniques which had proved useful in the suppression of the illicit trade in narcotics might be adopted to suppress the clandestine trade in slaves.

217. Two speakers urged financial support for the work of the Special Rapporteur so that he might visit specialized agencies, the International Criminal Police Organization (INTERPOL) and the United Nations Commission on Narcotic Drugs at

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Geneva. It was suggested that he should also be encouraged to visit certain areas of the world to gather more precise information and to visit selected countries and inform them of the availability of assistance funds from the United Nations and specialized agencies.

Adoption of resolution

218. At the 577th meeting of the Sub-Commission, a draft resolution was submitted by Messrs. Calvocoressi, Capotorti, Carey, Durlong, Gros Espiell, Juvigny, Martínez Cobo and Ruhashyankiko (E/CN.4/Sub.2/529/Rev.1), which read as follows:

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

"Having considered the information on the question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism, presented by the Secretary-General in accordance with resolution 7 (XXI) of the Sub-Commission and resolutions 1330 (XLIV) and 1331 (XLIV) of the Economic and Social Council (E/CN.4/Sub.2/300),

"Having considered also the preliminary report on the same question prepared by its Special Rapporteur, Mr. Mohamed Awad (E/CN.4/Sub.2/304),

"1. Expresses its appreciation to the Special Rapporteur for his valuable report, and requests him to proceed to carry out, as rapidly as possible, the study within the terms of paragraphs 1 and 2 of Economic and Social Council resolution 1330 (XLIV), as confirmed by the Council in resolution 1419 (XLVI), and to present a progress report, bearing in mind the discussion on the preliminary report at the Sub-Commission's twenty-second session, to the Sub-Commission at its twenty-third session;

"2. Requests the Secretary-General to arrange for the Special Rapporteur to consult with the appropriate authorities of the Commission on Narcotic Drugs, the International Criminal Police Organization (INTERPOL) and other competent international organizations, with a view to obtaining the information required for the preparation of his study;

"3. Requests the Secretary-General to transmit to the Governments of States Members of the United Nations and members of the specialized agencies the list of experts in economic, sociological, legal and other relevant disciplines whose advice could be made available to States concerned with the liquidation 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.2/300, annex V), and to remind those Governments of the availability upon request of technical assistance for the purpose of combating such practices and manifestations;

"4. Further requests the Secretary-General to invite the Governments of Member States which have not yet done so to reply to the questionnaire on slavery as soon as possible in order to facilitate a final assessment by the Special Rapporteur of the nature and extent of slavery, the slave trade and slavery-like practices subsisting at the present time and definitive planning for the implementation of the Slavery Convention of 1926 and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956."

219. At the same meeting Mr. Waldron-Ramsey introduced an amendment (E/CN.4/Sub.2/L.532) containing the text of two new paragraphs to be inserted after operative paragraph 1 of the draft resolution:

"1. Requests the Special Rapporteur to include in his study the manifestations of the slavery-like practices akin to apartheid which exist in Southern Rhodesia and Namibia, especially the practices of forced, sweated African labour and the total denial of trade union rights to African in those territories;

"2. Invites the Special Rapporteur to take into account the findings in the reports contained in documents E/CN.4/950, E/CN.4/984 and Add.1-19 and E/4646 of the Ad Hoc Working Group of Experts dealing with the ill-treatment of prisoners in Southern Rhodesia, South Africa, Namibia and Portuguese Territories in Africa and the infringement of trade union rights in Southern Rhodesia, South Africa and Namibia."

220. After discussion, a revised draft resolution was orally submitted under the joint sponsorship of Messrs. Calvocoressi, Capotorti, Carey, Díaz Samaya, Durlong, Gros Espiell, Humphrey, Juvigny, Piñera, Ruhashyankiko and Yango.

221. A statement on the financial implications of the draft resolution (E/CN.4/Sub.2/L.533) was made by the representative of the Secretary-General.

222. The amended draft resolution was adopted by 22 votes to none, with no abstention.

223. The text of the resolution, as adopted by the Sub-Commission at its 577th meeting on 10 September 1969, reads as follows:

Resolution 4 (XXII)

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

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

Having considered the information on the question of slavery and the slave trade in all their practices and manifestations including the slavery-like practices of apartheid and colonialism, presented by the Secretary-General in accordance with resolution 7 (XXI) of the Sub-Commission and resolutions 1330 (XLIV) and 1331 (XLIV) of the Economic and Social Council (E/CN.4/Sub.2/300).

Having considered also the preliminary report on the same question prepared by its Special Rapporteur, Mr. Mohamed Awad (E/CN.4/Sub.2/304),

1. Expresses its appreciation to the Special Rapporteur for his valuable report and requests him to proceed to carry out, as rapidly as possible, the study within the terms of paragraphs 1 and 2 of Economic and Social Council resolution 1330 (XLIV), as confirmed by the Council in resolution 1419 (XLVI), and to present a progress report, together with concrete proposals for action, bearing in mind the discussion on the preliminary report at the Sub-Commission's twenty-second session, to the Sub-Commission at its twenty-third session;

2. Requests the Special Rapporteur to include in his study measures for combating the manifestations of the slavery-like practices akin to apartheid which exist in Southern Rhodesia and Namibia especially the practices of forced, sweated African labour and the total denial of trade union rights to Africans in those territories.

3. Invites the Special Rapporteur to take into account the findings in the reports contained in documents E/CN.4/950, E/CN.4/984 and Add.1-19 and E/4646 of the Ad Hoc Working Group of Experts dealing with the ill-treatment of prisoners in Southern Rhodesia, South Africa, Namibia and Portuguese Territories in Africa and the infringement of trade union rights in Southern Rhodesia, South Africa and Namibia;

4. Also invites the Special Rapporteur to take into account the work of the International Labour Organisation (ILO) on freedom of association and forced labour;

5. Requests the Secretary-General to arrange for the Special Rapporteur to consult with the appropriate authorities of the Commission on Narcotic Drugs, the International Criminal Police Organization, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and other competent international and regional organizations with a view to obtaining the information required for the preparation of his study and their further co-operation in the elimination of the abuses under consideration:

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6. Requests the Secretary-General to transmit to the Governments of States Members of the United Nations and members of the specialized agencies the list of experts in economic, sociological, legal and other relevant disciplines whose advice could be made available to States concerned with the liquidation 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.2/300, annex V), and to remind those Governments of the availability upon request of technical assistance for the purpose of combating such practices and manifestations;

7. Further requests the Secretary-General (a) to invite the Governments of Member States which have not yet done so to reply to the questionnaire on slavery as soon as possible in order to facilitate a final assessment by the Special Rapporteur of the nature and extent of slavery, the slave trade and slavery-like practices subsisting at the present time and definitive planning for the implementation of the Slavery Convention of 1926 and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery of 1956 and (b) to invite the Governments of all States Parties to the Supplementary Convention to furnish to the Secretary-General the information called for under article 8 (2) of that Convention, or, in the case of those States parties which in view of their existing laws, regulations or administrative measures have not found it necessary to enact or to put into effect new laws regulations or administrative measures in order to implement the provisions of the Convention, to inform the Secretary-General to that effect.

V. 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

(agenda item 6)

224. The Sub-Commission considered item 6 of its agenda at its 578th and 579th meetings.

225. Mr. Carey submitted to the Sub-Commission the following draft resolution (E/CN.4/Sub.2/L.527):

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

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

"Having been requested by the Commission on Human Rights, in resolution 8 (XXIII) of 16 March 1967, to prepare, for the use of the Commission, a report containing information on violations of human rights and fundamental freedoms from all available sources; and having been invited by the Commission, in the same resolution, to bring to the attention of the Commission any situation which it has reasonable cause to believe reveals a consistent pattern of violations of human rights and fundamental freedoms,

"Having been authorized by the Economic and Social Council, in resolution 1235 (XLII) of 6 June 1967, 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 in Namibia, territory under the direct responsibility of the United Nations and now illegally occupied by the Government of the Republic of South Africa, and 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) of 30 July 1959,

"Having examined the information contained in those communications,

"Noting that the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa, the United Nations Council for Namibia and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Working Group of

Experts created by the Commission on Human Rights are dealing with questions of gross violations of human rights and fundamental freedoms in the Republic of South Africa, Namibia, Southern Rhodesia, the Territories under Portuguese administration and the occupied territories of the Middle East,

"Having examined the report^{8/} of the working group composed of Messrs. Abu Rannat, Humphrey and Martínez-Báez, prepared pursuant to paragraph 1 of Sub-Commission resolution 2 (XXI),

"1. Expresses its gratitude to Messrs. Abu Rannat, Humphrey and Martínez-Báez for their comprehensive report;

"2. Decides, pending the decision of the Economic and Social Council on the recommendations concerning the procedure for dealing with communications relating to violations of human rights and fundamental freedoms submitted by the Sub-Commission in resolution 2 (XXI), transmitted with amendments to the Council by the Commission on Human Rights in resolution 17 (XXV) and referred by the Council in resolution 1422 (XLVI) to Member States for their consideration and comment, to request the working group of three of its members, appointed at its 554th meeting, to continue to sift such communications before the twenty-third and subsequent sessions of the Sub-Commission. Should a member of the working group consider that communications disclose a consistent pattern of gross violations of human rights, the group will bring the matter before the Sub-Commission, which will decide whether to draw the situations disclosed by such communications to the attention of the Commission on Human Rights;

"3. Draws to the attention of the Commission, pursuant to Commission resolution 8 (XXIII) and Economic and Social Council resolution 1235 (XLII) to the situations described in the following communications, which the Sub-Commission has reasonable cause to believe reveal a consistent pattern of violations of human rights and fundamental freedoms:

[Here insert the serial numbers, without mentioning the country concerned, of those communications and other documents which the Sub-Commission decides to include, noting in addition the existence of the Government's reply, if any, again without mentioning the Government by name or otherwise revealing its identity.]⁷"

Subsequently, Mr. Carey submitted a revised addendum (E/CN.4/Sub.2/L.527/Add.1/Rev.1) to his draft resolution:

"At the end of operative paragraph 3, in place of the material in brackets, add the following:

^{8/} Issued as a restricted document.

'Torture and killing'

21,035; 22,745; 23,594; 23,842; 23,920; 24,094; 24,185;
A/7500-S/8961.

'Mistreatment of women and children'

22,471; 23,582; 23,592; 23,594; 23,596; 23,822; 23,988;
24,070; 24,121.

'Mistreatment of civilians in armed conflict'

21,048; 22,800; 23,820; 23,594.

'Violations of right to leave any country and return to one's own country'

22,802; 23,593; 23,594; 23,623; 23,820; 23,945; 23,951;
24,185.

'Racial and religious discrimination'

22,802; 23,568; 23,623; 23,915; 23,954; 23,993; 24,134;
24,169; 24,196; 24,220; A/7104-S/8610.

'Violations of freedom of expression'

20,873; 22,741; 23,592; 23,596; 23,598; 23,897; 23,942;
24,201; 24,208; 24,304; 24,305; 24,332; 24,394."

226. Reviewing the legislative history of the question, some members referred to (a) General Assembly resolution 2144 (XXI) of 22 October 1966, in which the Assembly invited the Economic and Social Council and the Commission on Human Rights to give urgent consideration to ways and means of improving the capacity of the United Nations to put a stop to violations of human rights wherever they may occur; (b) resolution 8 (XXIII) of the Commission on Human Rights, in which the Commission decided to give annual consideration to the question of violations of human rights; requested the Economic and Social Council to authorize the Commission to examine information relevant to gross violations of human rights and fundamental freedoms, such as apartheid in all its forms and manifestations, contained in the communications listed by the Secretary-General pursuant to Economic and Social Council resolution 728 F (XXVIII) of 30 July 1959; invited the Sub-Commission to bring to the attention of the Commission any situation which it has reasonable cause to believe reveals a consistent pattern of violations of human rights and fundamental freedoms, in any country, including policies of racial discrimination

and of apartheid, with a particular reference to colonial and other dependent Territories, and requested the Sub-Commission to prepare, for the use of the Commission, a report containing information on violations of human rights and fundamental freedoms from all available sources; and (c) Economic and Social Council resolution 1235 (XLII) of 6 June 1967, in which the Council endorsed resolution 8 (XXIII) of the Commission 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, and to racial discrimination, contained in the communications listed by the Secretary-General pursuant to Economic and Social Council resolution 728 (XVIII).

227. A number of members stated that the draft resolution submitted by Mr. Carey did not apply to the problem of the violation of human rights and fundamental freedoms but had to do with the special problem of the procedure for dealing with complaints by private individuals against Governments, which was not included in the Sub-Commission's agenda for the session. They indicated that attempts to replace the question of the violation of human rights and fundamental freedoms by the question of the procedure for dealing with complaints by private individuals against Governments were aimed at diverting the Sub-Commission's attention from the series of problems connected with such flagrant violations of human rights as racial discrimination, segregation and apartheid. They also emphasized that such attempts were aimed at the illegal establishment of machinery for interfering in the internal affairs of sovereign States, using various types of slanderous statements by private individuals and the insinuations of certain non-governmental organizations financed from tainted sources. They indicated that, in the light of Economic and Social Council resolution 1422 (XLVI), it would be improper to undertake at the current session any further steps in the matter of the procedure for dealing with complaints by private individuals. Particular reference was also made to resolution 17 (XXV) of the Commission on Human Rights and to resolution 1422 (XLVI) of the Economic and Social Council in connexion with the question whether the Working Group, which had been appointed under resolution 2 (XXI) of the Sub-Commission to sift communications received by the Secretary-General pursuant to Council resolution 728 F (XXVIII), should continue its work. Some members commended the Group for the work done by its members. Others considered, however, that the Working Group should temporarily cease to function, since, in accordance with resolution 1422 (XLVI) of the Council, the resolution of the

Commission which endorsed resolution 2 (XXI) of the Sub-Commission had been transmitted to Member States for their consideration and comments. At the same time, it was emphasized that serious doubts had arisen as to the legality, correctness and desirability of establishing such a Working Group, since its activity might prejudice the principle of the sovereign independence of experts in formulating their judgement on complaints, and that, in the future, serious attention should be given to that circumstance.

228. During the discussion of the agenda item, statements were made in which facts were adduced concerning the flagrant violation of human rights and fundamental freedoms in southern Africa, in the Portuguese colonies and in the Middle East: some delegations made use, in the discussion, of various complaints by private individuals. The situation in the Arab territories occupied by Israel was referred to during the debate. Citing reports of the United Nations Relief and Works Agency for Palestine Refugees in the Near East and the International Committee of the Red Cross, the resolution adopted on 24 July 1969 by the thirty-second World Health Assembly of the World Health Organization (WHO), and other information available to them, some members declared that the Government of Israel was engaged in flagrant, extensive and systematic violations of human rights in the occupied territories. They asserted that the policy pursued by Israel violated numerous articles of the Universal Declaration of Human Rights, in particular the right to return to one's country, as well as the Geneva Conventions of 12 August 1949, particularly, the Convention Relative to the Protection of Civilian Persons in Time of War. They denounced the systematic refusal by the Government of Israel to comply with resolutions adopted by the International Conference on Human Rights, the General Assembly, the Security Council and the Commission on Human Rights. They recalled, in particular, that the special Working Group of Experts established by resolution 6 (XXV) of the Commission on Human Rights to investigate allegations concerning Israel's violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in the territories occupied by Israel, had not been able to complete its task in those territories because of the refusal of the Government of Israel to co-operate. They affirmed that large-scale destruction of the homes of persons suspected of hostility towards the Government of Israel, razing to the ground of entire villages, massive deportation orders, frequent acts of brutality, pillage and depredation against the civilian population, were acts which were being daily committed by Israeli authorities

in occupied territories. The policies of apartheid and racial discrimination pursued in South Africa, Southern Rhodesia and the Territories under Portuguese domination were unanimously condemned by the speakers. It was pointed out that the racist régimes in southern Africa would already have collapsed if certain great Powers had not persisted in maintaining diplomatic, commercial, cultural and even military relations with those countries. It was also noted that, despite numerous resolutions by United Nations organs, foreign investments were increasing in South Africa at an alarming rate. With reference to Namibia, it was said that all States should take vigorous action and bring pressure to bear on the Government of South Africa to revise its policy.

229. Some members expressed the view that the examination of individual communications was intimately linked to the question of violations of human rights and fundamental freedoms. They stated that the Sub-Commission should find ways to fulfil in a concrete manner the task entrusted to it by resolution 8 (XXIII) of the Commission on Human Rights and should allow private individuals the opportunity to draw the attention of competent United Nations organs to cases in which their rights were violated. They recalled that, under that resolution, the Sub-Commission was requested to prepare a report on information concerning violations of human rights and fundamental freedoms from all available sources. Individual communications were, in their opinion, one of the channels through which the attention of the Commission could be drawn to violations of rights and therefore constituted a valid source of information. It was also felt that, in examining the question of violations of human rights and fundamental freedoms, the Sub-Commission should not limit itself to the study of situations having a political character, such as those of southern Africa and the Middle East, inasmuch as these situations were already under investigation by other organs of the United Nations. The Sub-Commission should aim at universality and consider all cases of violations of human rights and fundamental freedoms, wherever they occur, provided that they reveal a consistent pattern. Such was, in their view, the purpose of Mr. Carey's draft resolution. Some members pointed out that, for a long time, the procedure for handling communications relating to human rights had appeared meaningless. The considerable efforts undertaken by the Commission on Human Rights and the Sub-Commission to solve the problem during the past years should not be abandoned. It was maintained that the draft resolution constituted a commendable alternative and was essential to progress in the international

observance of human rights. It was maintained further that the communications listed in the annex to the draft resolution identified situations which revealed a consistent pattern of violations of human rights, in accordance with the provisions of Economic and Social Council resolution 1235 (XLVI).

230. Mr. Daoudy submitted the following draft resolution (E/CN.4/Sub.2/L.537) for the consideration of the Sub-Commission:

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

"Having considered the relevant reports on the question of violation of human rights and fundamental freedoms (item 6 of the agenda),

"Having heard the statements made on this subject before the Commission,

"Bearing in mind that under the Charter of the United Nations all Member States have assumed obligation to take joint and separate actions in co-operation with the United Nations for the achievement of the purposes set forth in the Charter, which include the promotion of universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

"Mindful of the principles embodied in the Universal Declaration of Human Rights, recognizing the right of everyone to return to his country,

"Deeply concerned about the reported continuation of violation of human rights in southern Africa and the occupied territories in the Middle East.

"Recalling the four Geneva Conventions of 12 August 1949, and particularly the Convention Relative to the Protection of Civilian Persons in Time of War,

"Recalling (a) General Assembly resolutions 2145 (XXI) of 27 October 1966, 2248 (S-V) of 19 May 1967, and (b) General Assembly resolution 2252 (S-V) of 5 July 1967,

"Recalling further (a) resolutions 3 of 11 May 1968, 4 of 11 May 1968, 6 of 11 May 1968, 8 of 11 May 1968, 14 of 12 May 1968 and 23 of 12 May 1968, and (b) resolution 1 of 7 May 1968, of the International Conference on Human Rights held in Teheran in 1968,

"Recalling also (a) Security Council resolutions 134 (1960) of 7 April 1960, 245 (1968) and 246 (1968), and (b) Security Council resolutions 237 (1967) of 14 June 1967 and 259 (1968) of 27 September 1968,

"Recalling in particular (a) resolution 5 (XXV), and (b) resolutions 6 (XXIV) and 6 (XXV) of the Commission on Human Rights,

"Reaffirms that the practice of (a) apartheid; and (b) the mass destruction of homes and properties, thus depriving large segments of the

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population of their inalienable rights, and the mass expulsion of people from their homes and lands in the occupied territories in the Middle East in contravention with the Geneva Conventions, are situations which the Sub-Commission has reasonable cause to believe reveal a consistent pattern of violation of human rights and fundamental freedoms,

"Invites the Commission on Human Rights to request the Secretary-General to furnish the Sub-Commission, at its next session, with (a) a report dealing with the violations of human rights in southern Africa; and (b) the report of the Ad Hoc Working Group of Experts established under resolution 6 (XXV) of the Commission on Human Rights to investigate violations of human rights in occupied territories in the Middle East."

231. Some members of the Sub-Commission opposed the draft resolution emphasizing that it singled out only two areas of the world where serious violations were charged and thereby suggested that there were no other places where serious violations existed. Others supported the draft resolution, referring to the fact that the Sub-Commission should contribute to the efforts undertaken by other United Nations organs to compel the Government of Israel to guarantee the observance of human rights in occupied territories.

232. The representative of the Secretary-General drew the attention of the Sub-Commission to a statement of financial implications (E/CN.4/Sub.2/L.531) relating to the draft resolution submitted by Mr. Carey.

233. Because of lack of time, the draft resolutions submitted by Mr. Carey (E/CN.4/Sub.2/L.527 and Add.1/Rev.1) and Mr. Daoudy (E/CN.4/Sub.2/L.537) were not put to a vote. On the proposal of the Chairman, it was decided that they would be transmitted to the Commission on Human Rights.

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

(agenda item 8)

234. The Sub-Commission considered item 8 of its agenda at its 558th to 561st meetings.

235. The Sub-Commission had before it a memorandum (E/CN.4/Sub.2/297) by the Secretary-General reviewing developments between 16 June 1968 and 15 June 1969, relating to the following matters: the International Covenants on Human Rights, the status of the International Convention on the Elimination of All Forms of Racial Discrimination, commemoration of the International Day for the Elimination of Racial Discrimination, measures to be taken against nazism and racial intolerance, co-ordination of United Nations activities with regard to policies of apartheid and racial discrimination in southern Africa, periodic reports on human rights and the previous reports and studies of the Sub-Commission.

236. The Sub-Commission also had before it a memorandum (E/CN.4/Sub.2/298) submitted by the International Labour Office relating to discrimination in respect of employment and occupation. The memorandum contained information on the major developments concerning discrimination within the areas of competence of the ILO from the date of the previous memorandum, submitted to the Sub-Commission at its twenty-first session (E/CN.4/Sub.2/293), up to 25 May 1969. The memorandum dealt with the question of ratification of ILO conventions concerning equality of opportunity in employment and the status of particular categories of the population, as well as the question of the implementation of such conventions. It also described a number of recent ILO publications on equality of opportunity in employment and occupation and surveyed ILO technical co-operation programmes designed to ensure non-discrimination in employment. ILO programmes concerning apartheid in South Africa were also described.

237. The Sub-Commission also had before it a memorandum (E/CN.4/Sub.2/299), submitted by the United Nations Educational, Scientific and Cultural Organization, summarizing recent activities of UNESCO in the field of combating discrimination in education and in race relations, covering the period 30 September 1968 to 30 May 1969. The Sub-Commission was informed of the steps being taken to implement

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the Convention and Recommendation against Discrimination in Education, including the reports by States parties to the Convention and by other Member States on the Application of the Recommendation. In connexion with the question of race relations, the memorandum described publications that have been, or are to be, issued on the eradication of racial discrimination. Attention was drawn to the resolutions adopted by the General Conference of UNESCO at its fifteenth session in October-November 1968 covering UNESCO's tasks with respect to the elimination of colonialism and racialism.

238. Supplementary oral statements were made by the representatives of the ILO and of UNESCO (558th meeting).

239. During the general debate, many members expressed their satisfaction at the action being taken by the ILO and UNESCO to implement the provisions of the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the UNESCO Convention and Recommendation against Discrimination in Education, 1960. Some members felt, however, that more information was needed by the Sub-Commission on the application of these conventions, since it was difficult to evaluate the effectiveness of such conventions in eradicating discrimination on the national level. These members felt that the system embodied in many human rights conventions, of reporting by States parties on action taken by them to implement the conventions, was inadequate and that independent bodies receiving such information, with broad investigatory and conciliatory powers, might ensure fuller implementation.

240. The Sub-Commission welcomed the coming into effect on 4 January 1969 of the International Convention on the Elimination of All Forms of Racial Discrimination and the steps undertaken to establish, under the terms of the Convention, the Committee on the Elimination of Racial Discrimination. It was urged that the greatest possible number of States should become parties to the Convention. Reference was made to articles 17 and 18 of the Convention which provide that any State Member of the United Nations or member of any of its specialized agencies, or any State party to the Statute of the International Court of Justice, or any other State which has been invited to do so by the General Assembly of the United Nations may become a party to the Convention. Some members were of the opinion that, in accordance with article 17 of the International Convention on the Elimination of All Forms of Racial Discrimination, all States should be eligible

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to become parties to the Convention. Emphasis was placed on the positive significance of the establishment of the Committee on the Elimination of Racial Discrimination. On the other hand, the view was expressed that the election of a representative of one German State - the Federal Republic of Germany - to membership of the Committee, while the other German State - the German Democratic Republic - was artificially deprived of the possibility of becoming a party to the Convention, was creating a situation which was having a seriously detrimental effect on the purposes of the Convention and on the work of the Committee itself. It was pointed out, on the other hand, that the membership of the Government of the Federal Republic of Germany should provide assurance of protection against any resurgence there of racial discrimination comparable to that of the Nazi period.

241. Mention was made of the proposal (General Assembly resolution 2446 (XXIII) of 19 December 1968) concerning the celebration in 1971 of the International Year for Action to Combat Racism and Racial Discrimination, which will be considered by the General Assembly at its twenty-fourth session. It was felt that such a proposal, if adopted, would provide an opportunity for renewed efforts in the struggle against nazism, apartheid, and neo-nazism.

242. During the discussion of the studies of the Sub-Commission which have not yet been considered by the Commission on Human Rights, namely, the study of discrimination in the matter of political rights, the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, and the study of discrimination against persons born out of wedlock, reference was made to Commission resolution 19 (XXV) of 18 March 1969; that resolution, inter alia, drew up a time-table for consideration of the studies by the Commission. Some members drew attention to the fact that under the Commission's schedule some studies would be considered ten or more years after their completion and that some of the information, as well as certain conclusions and recommendations made in those studies, might thus become obsolete.

243. Concerning periodic reports on human rights, the Sub-Commission was informed that, in accordance with its request in resolution 1 (XXI) of 9 October 1968, the Secretary-General had, in his outline of headings sent to Governments for contributions to the periodic reports, included matters with which the

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Sub-Commission had been concerned. Some members expressed their disappointment that the Commission and its Ad Hoc Committee on Periodic Reports on Human Rights had not acted on the recommendation, made in the same resolution, the Secretary-General should be requested to prepare for each session of the Sub-Commission a résumé of those parts of the periodic reports relating to matters falling within the terms of reference of the Sub-Commission; they suggested that the Commission should be requested to reconsider its decision.

244. At the 559th meeting, Messrs. Capotorti and Juvigny submitted a draft resolution (E/CN.4/Sub.2/L.513) which read as follows:

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

"Having received the note submitted by the Secretary-General on further developments in fields with which the Sub-Commission has been concerned (E/CN.4/Sub.2/297), the memorandum submitted by the United Nations Educational, Scientific and Cultural Organization on its recent activities in the field of combating discrimination in education and in race relations (E/CN.4/Sub.2/299), and the memorandum submitted by the International Labour Office on the major developments in the situation within the areas of competence of the ILO (E/CN.4/Sub.2/298),

"Noting resolution 19 (XXV) of the Commission on Human Rights, by which the Commission decided to continue and conclude its discussion and consideration of the study of discrimination in the matter of political rights and the draft principles on freedom and non-discrimination in the matter of political rights at the twenty-sixth session, and to consider and give priority at the twenty-seventh session to the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, and at the twenty-eighth session to the study of discrimination against persons born out of wedlock,

"Noting also resolution 22 (XXV) of the Commission on Human Rights, in which the Secretary-General is requested, inter alia, to include in his outline of headings prepared for the submission of periodic reports on human rights matters with which the Sub-Commission has been concerned,

"1. Takes note of the memoranda submitted by the Secretary-General, the Director-General of the United Nations Educational, Scientific and Cultural Organization and the Director-General of the International Labour Office, whose content demonstrates the continuous progress of the international action for the protection of human rights;

"2. Expresses its satisfaction that the International Convention on the Elimination of All Forms of Racial Discrimination has come into force and that the Committee on Racial Discrimination has been elected and will soon begin its work;

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"3. Expresses the hope that all States which have signed the International covenants on Human Rights and the Optional Protocol to the International Covenant on Civil and Political Rights will ratify these instruments as soon as possible and that other States will sign, ratify or adhere to them, in order that these basic instruments for the protection of human rights and fundamental freedoms shall come into force without any further delay;

"4. Draws the attention of the Commission on Human Rights to the importance of completing its work on the studies already made by the Sub-Commission at the earliest possible date, in order that the measures recommended in those studies may be considered and adopted before the information on which they are based becomes obsolete;

"5. Reiterates its previous recommendation that the Commission on Human Rights request the Secretary-General to prepare for each session of the Sub-Commission a résumé of those parts of the periodic reports which relate to matters falling within the terms of reference of the Sub-Commission and particularly to matters with which the Sub-Commission has been concerned."

245. In commenting on operative paragraph 4 of the draft resolution, some members pointed out that it might be useful for the Commission on Human Rights to have up-to-date information when it examined the studies prepared by the Sub-Commission. They were of the view that it was important to determine whether there were any new trends and developments in the fields covered by the studies since the issuance of the studies; new information might affect the conclusions and the recommendations made by the special rapporteurs in their studies. These members felt that the text, as presented by the sponsors in operative paragraph 4, merely reiterated the decision already taken by the Commission to complete work on the studies. They suggested that Member States be requested to furnish information on new developments which had occurred since the studies had been completed. Some members opposed that proposal because they felt that it might delay consideration of the studies. Those members felt that Governments should not be requested to furnish additional information on subjects which had already been examined.

246. At the 559th meeting, Mr. Humphrey introduced an amendment (E/CN.4/Sub.2/L.514) to the draft resolution which read as follows:

"Add, after paragraph 4 of the draft resolution, the following:

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"4a. Requests the Secretary-General to obtain from the Governments of Member States information on new developments in fields covered by the studies already made by the Sub-Commission and which have not yet been considered by the Commission on Human Rights and to present the relevant information to the Commission at the session at which a particular study is to be considered".

247. It was pointed out that, if the Convention on the Elimination of All Forms of Racial Discrimination were to achieve its stated goal, it was important that the largest possible number of States become parties to it; and it was suggested that operative paragraph 2 of the draft resolution should be amended accordingly. Some members opposed the inclusion, in operative paragraph 3, of the reference to "the Optional Protocol to the International Covenant on Civil and Political Rights". In their view the Protocol dealt with procedural matters and was separate and independent of the Covenants on Human Rights. Moreover, the term "optional", as used in the Protocol, meant that it was left to each Government to determine whether it should participate in the Protocol. That view was opposed by several members who expressed the opinion that, in the case of the two Covenants, as well as of the Protocol, States were free to decide as they thought fit. They stated that the word "optional" merely meant that the Protocol was separate from the Covenant. To speak of the Covenants without mentioning the Protocol would in their view be tantamount to discriminating between the instruments.

248. It was stated that there was a need for the Sub-Commission to be informed about the programme of activities for the International Year for Action to Combat Racism and Racial Discrimination in 1971, in order that it could consider the question of its participation in the measures to be taken in connexion with the year. In that regard, the Sub-Commission was reminded that the General Assembly would consider proposals regarding the programme for the year at its forthcoming twenty-fourth session.

249. At the 560th meeting, Mr. Rybakov introduced amendments (E/CN.4/Sub.2/L.515) to the draft resolution which read as follows:

"1. Add the following to the end of operative paragraph 2:

'and also considers that the widest possible participation of States in the Convention on the Elimination of All Forms of Racial Discrimination is important to the earliest possible attainment of its goals.'

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"2. Delete the following words from operative paragraph 3:

'and the Optional Protocol to the International Covenant on Civil and Political Rights.'

"3. Insert the following new paragraph after operative paragraph 3:

Requests the Secretary-General to submit to the Sub-Commission at its twenty-third session a programme of activities for the International Year for Action to Combat Racism in 1971, bearing in mind the fact that the Sub-Commission should be able, on the basis of the programme, to consider the question of its participation in the appropriate measures to be taken in connexion with the International Year.

"4. Renumber the remaining paragraphs accordingly."

250. He subsequently withdrew the third amendment.

251. It was noted that the second preambular paragraph of the draft resolution referred to Commission on Human Rights resolution 19 (XXV) and, in particular, to the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country. It was suggested that reference also should be made to Commission on Human Rights resolution 6 (XXV) concerning the right of inhabitants to return to their country.

252. At the 560th meeting, Mr. Daoudy proposed the following amendment (E/CN.4/Sub.2/L.516) to the draft resolution:

"At the beginning of the second preambular paragraph, replace the words 'Noting resolution 19 (XXV)' by the following text:

"'Noting the following resolutions of the Commission on Human Rights: (a) resolution 6 (XXV) in which the Commission reaffirmed the inalienable right of all the inhabitants who had left since the outbreak of hostilities in the Middle East to return, together with the decision of the Commission to include this question in the agenda of its twenty-sixth session; (b) resolution 19 (XXV)...'."

253. Mr. Jankovic, in commenting on operative paragraph 3, orally suggested that the word "Requests" replace the words "Expresses the hope".

254. Mr. Humphrey pointed out that operative paragraph 5 of the draft resolution amounted to an appeal to the Commission to reconsider a decision already taken. He was of the view that the Sub-Commission had the authority to request the Secretary-General to prepare a résumé of certain relevant parts of the periodic

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reports on human rights. The co-sponsors of the draft resolution agreed to his suggestion to delete, in operative paragraph 5, the words "Reiterates its previous recommendation that the Commission on Human Rights".

255. Mr. Calvo-Cossio noted that the Committee on the Elimination of Racial Discrimination had not yet been elected, since only seventeen of the eighteen persons necessary to constitute the Committee had so far been elected. He suggested, and the co-sponsors agreed, to delete the word "elected" and substitute the words "has been set up".

256. The co-sponsors of the draft resolution submitted a revised text (E/CN.4/Sub.2/L.513/Rev.1), taking into account some of the proposals made by various members of the Sub-Commission which read as follows:

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

"Having received the note submitted by the Secretary-General on further developments in fields with which the Sub-Commission has been concerned (E/CN.4/Sub.2/297), the memorandum submitted by the United Nations Educational, Scientific and Cultural Organization on its recent activities in the field of combating discrimination in education and in race relations (E/CN.4/Sub.2/299), and the memorandum submitted by the International Labour Office on the major developments in the situation within the areas of competence of the ILO (E/CN.4/Sub.2/298),

"Noting resolution 19 (XXV) of the Commission on Human Rights by which the Commission decided to continue and conclude its discussion and consideration of the study of discrimination in the matter of political rights and the draft principles on freedom and non-discrimination in the matter of political rights at the twenty-sixth session, and to consider and give priority at the twenty-seventh session to the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, and at the twenty-eighth session to the study of discrimination against persons born out of wedlock,

"Noting also resolution 22 (XXV) of the Commission on Human Rights, in which the Secretary-General is requested, inter alia, to include in his outline of headings prepared for the submission of periodic reports on human rights matters with which the Sub-Commission has been concerned,

"1. Takes note of the memoranda submitted by the Secretary-General, the Director-General of the United Nations Educational, Scientific and Cultural Organization and the Director-General of the International Labour Office, whose content demonstrates the continuous progress of the international action for the protection of human rights;

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"2. Expresses its satisfaction that the International Convention on the Elimination of All Forms of Racial Discrimination has come into force and that the Committee on Racial Discrimination has been set up and will soon begin its work, and considers that, in order to achieve as rapidly as possible the objectives of the International Convention on the Elimination of All Forms of Racial Discrimination, it is essential that the greatest possible number of States should become parties to it and give it practical effect;

"3. Urges that all States which have signed the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights should ratify these instruments as soon as possible and that other States should sign and ratify or adhere to them, in order that these basic instruments for the protection of human rights and fundamental freedoms shall come into force without any further delay, and expresses the hope that the Optional Protocol to the International Covenant on Civil and Political Rights will come into force as soon as possible;

"4. Draws the attention of the Commission on Human Rights to the importance of completing its work on the studies already made by the Sub-Commission at the earliest possible date, in order that the measures recommended in those studies may be considered and adopted before the information on which they are based becomes wholly or partly obsolete;

"5. Requests the Secretary-General to prepare for each session of the Sub-Commission a resume of those parts of the periodic reports which relate to matters falling within the terms of reference of the Sub-Commission and particularly to matters with which the Sub-Commission has been concerned."

257. Mr. Ingles pointed out that the revised text should be corrected, in the second operative paragraph, to read "Committee on the Elimination of Racial Discrimination". Mr. Carey suggested that in operative paragraph 2, the word "full" be substituted for "practical". The co-sponsors accepted these amendments. Mr. Rybakov withdrew his first and second amendments.

Adoption of resolution

258. At its 561st meeting, the Sub-Commission voted on the revised draft resolution (E/CN.4/Sub.2/L.513/Rev.1) submitted by Messrs. Capotorti and Juvigny, as orally revised, and the amendments submitted by Mr. Humphrey (E/CN.4/Sub.2/L.514) and Mr. Daoudy (E/CN.4/Sub.2/L.516). At the request of Mr. Daoudy, a roll-call vote was taken on his amendment to the second preambular paragraph of the draft resolution. At the request of Mr. Humphrey, a separate vote was taken on the third operative paragraph. The voting was as follows:

(a) The first preambular paragraph was adopted unanimously.

(b) The amendment submitted by Mr. Daoudy (E/CN.4/Sub.2/L.516) was rejected by 9 votes to 8, with 6 abstentions, as follows:

In favour: Messrs. Jankovic, Kettani, Khalifa, Rahman, Rybakov,
Bolintineanu, Daoudy, Ingles.

Against: Messrs. Juvigny, Martínez Báez, Nettel, Ruhashyankiko,
Calvocoressi, Capotorti, Carey, Gros Espiell, Humphrey.

Abstentions: Messrs. Martínez Cobo, Nikiema, Abu Rannat, Díaz Samayoa,
Durlong, Miss Gichuru.

(c) The second preambular paragraph was adopted by 21 votes to none, with 4 abstentions.

(d) The third preambular paragraph was adopted unanimously.

(e) Operative paragraphs 1 and 2 were adopted by 22 votes to none, with 1 abstention.

(f) Operative paragraph 3 was adopted by 20 votes to 2, with 1 abstention.

(g) Operative paragraph 4 was adopted unanimously.

(h) The amendment of Mr. Humphrey (E/CN.4/Sub.2/L.514) was adopted by 15 votes to 3, with 5 abstentions.

(i) Operative paragraph 5 was adopted unanimously.

(j) The draft resolution as a whole, as amended, was adopted by 21 votes to none, with 2 abstentions.

259. The text of the resolution 1 (XXII), as adopted by the Sub-Commission at its 561st meeting on 28 August 1969, reads as follows:

Resolution 1 (XXII)

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

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

Having received the note submitted by the Secretary-General on further developments in fields with which the Sub-Commission has been concerned (E/CN.4/Sub.2/297), the memorandum submitted by the United Nations Educational, Scientific and Cultural Organization on its recent activities in the field of

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combating discrimination in education and in race relations (E/CN.4/Sub.2/299), and the memorandum submitted by the International Labour Office on the major developments in the situation within the areas of competence of the ILO (E/CN.4/Sub.2/298).

Noting resolution 19 (XXV) of the Commission on Human Rights, by which the Commission decided to continue and conclude its discussion and consideration of the study of discrimination in the matter of political rights and the draft principles on freedom and non-discrimination in the matter of political rights at the twenty-sixth session, and to consider and give priority at the twenty-seventh session to the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, and at the twenty-eighth session to the study of discrimination against persons born out of wedlock,

Noting also resolution 22 (XXV) of the Commission on Human Rights, in which the Secretary-General is requested, inter alia, to include in his outline of headings prepared for the submission of periodic reports on human rights matters with which the Sub-Commission has been concerned,

1. Takes note of the memorandum submitted by the Secretary-General, the Director-General of the United Nations Educational, Scientific and Cultural Organization and the Director-General of the International Labour Office, whose content demonstrates the continuous progress of the international action for the protection of human rights;

2. Expresses its satisfaction that the International Convention on the Elimination of All Forms of Racial Discrimination has come into force and that the Committee on the Elimination of Racial Discrimination has been set up and will soon begin its work, and considers that, in order to achieve as rapidly as possible the objectives of the International Convention on the Elimination of All Forms of Racial Discrimination, it is important that the greatest possible number of States should become parties to it and give it full effect;

3. Urges that all States which have signed the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights should ratify these instruments as soon as possible and that other States should sign and ratify or adhere to them in order that these basic instruments for the protection of human rights and fundamental freedoms shall come

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into force without any further delay, and expresses the hope that the Optional Protocol to the International Covenant on Civil and Political Rights will come into force as soon as possible;

4. Draws the attention of the Commission on Human Rights to the importance of completing its work on the studies already made by the Sub-Commission at the earliest possible date, in order that the measures recommended in those studies may be considered and adopted before the information on which they are based becomes wholly or partly obsolete;

5. Requests the Secretary-General to obtain from the Governments of Member States information on new developments in fields covered by the studies already made by the Sub-Commission and which have not yet been considered by the Commission on Human Rights and to present the relevant information to the Commission at the session at which a particular study is to be considered;

6. Requests the Secretary-General to prepare for each session of the Sub-Commission a résumé of those parts of the periodic reports which relate to matters falling within the terms of reference of the Sub-Commission and particularly to matters with which the Sub-Commission has been concerned.

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

(agenda item 12)

260. The Sub-Commission considered the draft report of its twenty-second session (E/CN.4/Sub.2/L.519 and Add.1-7) at its 580th and 581st meetings on 12 September 1969, and adopted the report, as amended, unanimously.

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VIII. DRAFT RESOLUTION RECOMMENDED FOR ADOPTION BY THE COMMISSION
ON HUMAN RIGHTS

Study of equality in the administration of justice

The Commission on Human Rights,

Having considered resolution 3 (XXII) of the Sub-Commission on Prevention
of Discrimination and Protection of Minorities,

Recommends the adoption of the following draft resolution by the Economic
and Social Council:

"The Economic and Social Council,

"Noting resolution ... (XXVI) of the Commission on Human Rights,

"Taking into account the unique contribution made by the study of
equality in the administration of justice (E/CN.4/Sub.2/296) submitted to
the Sub-Commission on Prevention of Discrimination and Protection of
Minorities at its twenty-second session by its Special Rapporteur,
Mr. Mohammed Ahmed Abu Rannat,

"1. Expresses its appreciation to Mr. Abu Rannat for his valuable
study;

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

"3. Requests the Secretary-General to make arrangements for
Mr. Abu Rannat to attend the meetings of the Commission on Human Rights
when it considers his report."

Annex I

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

1. In the course of its twenty-second session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted four resolutions, three 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 estimates of their financial implications. In some cases, the draft resolutions on the basis of which the estimates were submitted were amended before their adoption. These amendments did not affect the estimates submitted to the Sub-Commission.
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 1970, the Secretary-General would need to seek the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) to meet these expenses. Requests for additional credits would thereafter be included, as appropriate, in the supplementary estimates for 1970 which the Secretary-General will submit to the General Assembly at its twenty-fifth session.

Resolution 2 (XXII). Special study of racial discrimination in the political, economic, social and cultural fields

3. In paragraph 6 of this resolution the Sub-Commission requests "the Special Rapporteur to continue the completion of his task, taking into account the exchange of views on the report during the twenty-second session of the Sub-Commission, and to prepare and submit a final report in time for priority consideration by the Sub-Commission at its twenty-third session".
4. In paragraph 5 the Secretary-General is, inter alia, again requested "to provide the Special Rapporteur with all the necessary assistance to enable him to complete his report".
5. The Special Rapporteur indicated that the preparation of his final report would entail two visits to Headquarters prior to June 1970, in order to complete

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consultations on the contents of the report to be submitted to the Sub-Commission at its forthcoming twenty-third session in August-September 1970. As the Special Rapporteur is also a member of the Sub-Commission, the presentation of his final report to the twenty-third session would not entail additional expenditures.

6. The costs of travel (first class) and subsistence for two one-week periods at current rates would be of the order of \$2,400. In this connexion the Secretary-General drew the attention of the Sub-Commission to paragraph 10 of Economic and Social Council resolution 1367 (XLV), in which the Council "reminds the functional commissions and other subsidiary bodies of the Council that their terms of reference require that the Council consider, in advance of their implementation, all proposals relating to their work programmes". Accordingly, funds to cover the two visits to Headquarters would not be available until the Council had endorsed the proposal contained in the draft resolution, which could not take place until the Council's resumed forty-eighth session in May 1970.

Resolution 3 (XXII). Study of equality in the administration of justice

7. In paragraph 6 of resolution 3 (XXII) the Sub-Commission requests the Commission on Human Rights to recommend to the Economic and Social Council that the Council (a) request the Secretary-General to print the Special Rapporteur's study and circulate it as widely as possible and (b) request the Secretary-General to make arrangements for Mr. Abu Rannat to attend the meetings of the Commission on Human Rights when it considers his report.

8. In so far as the printing and circulation of the Special Rapporteur's study is concerned, the estimated cost of production of such a publication, not exceeding 275 standard manuscript pages in three languages (English, French, Spanish), with a total press run for the three languages of not more than 3,400 copies, would be approximately \$8,500.

9. With respect to arrangements for the Special Rapporteur to attend the meetings of the Commission on Human Rights when his report is being considered, the costs of travel (first class) and subsistence, for one week, at current rates would be of the order of \$1,800.

10. Thus, the total costs to which resolution 3 (XXII) gives rise are estimated at \$10,300.

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Resolution 4 (XXII). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism

11. Paragraph 5 of resolution 4 (XXII) requests the Secretary-General to arrange for the Special Rapporteur on slavery "to consult with the appropriate authorities of the Commission on Narcotic Drugs, the International Criminal Police Organization (INTERPOL), the International Labour Organisation (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and other competent international and regional organizations, with a view to obtaining the information required for the preparation of his study and their further co-operation in the elimination of the abuses under consideration. The Special Rapporteur is also requested, in paragraph 1 of the resolution, to present a progress report to the Sub-Commission at its twenty-third session (1970) session.

12. In connexion with the consultations envisaged in paragraph 5, the attention of the Sub-Commission was drawn to the financial implications presented at the time of its consideration of resolution 7 (XXI), where the 1970 element of the work of the Special Rapporteur had been set forth in the following terms: "The preparation of the report in 1970 would entail for the special rapporteur travel to the headquarters of various competent specialized agencies, regional intergovernmental organizations and non-governmental organizations as well as travel to New York Headquarters and a stay of approximately two weeks working with the Secretariat. The round-trip transportation and subsistence for the special rapporteur are estimated at \$2,200".^{a/}

13. Following the adoption by the Commission on Human Rights of its resolution 12 (XXV) on the same subject, these financial implications were again presented to the Economic and Social Council at its forty-sixth session, with appropriate adjustments for increased costs in view of the fact that the Special Rapporteur was not a member of the Sub-Commission. The amount envisaged for 1970 was of the order of \$2,900, to cover both the cost of travel in connexion with the preparation of the Special Rapporteur's report and the presentation of his progress report to the Sub-Commission at its twenty-third session, which was then scheduled

^{a/} See E/CN.4/976, annex I, p. 6.

to meet in Geneva.^{b/} As the calendar of conferences and meetings for 1970, as adopted by the Council at its 1657th meeting, listed the Sub-Commission's twenty-third session as meeting in New York, the costs of travel, round-trip Cairo/New York (first class), and subsistence for approximately one week in connexion with the preparation of the Special Rapporteur's progress report would be of the order of \$1,600. The total costs for the work of the Special Rapporteur on slavery in 1970 were therefore estimated at \$3,800 and, as noted in connexion with the Council's previous consideration of this item,^{c/} the Secretary-General is requesting appropriation by the General Assembly at its twenty-fourth session of the credits required for this purpose in the revised estimates for 1970.

^{b/} See E/4621/Add.1, p. 16.

^{c/} Ibid., para. 5.

Annex II

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

1. Documents issued in the general series

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| E/CN.2/Sub.2/295 | Provisional agenda and annotations to the provisional agenda: note by the Secretary-General |
| E/CN.4/Sub.2/296 | Study of equality in the administration of justice: report submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannet |
| E/CN.4/Sub.2/297 | Review of further developments in fields with which the Sub-Commission has been concerned: note by the Secretary-General |
| E/CN.4/Sub.2/298 | 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.2/299 | Review of further developments in fields with which the Sub-Commission has been concerned: memorandum submitted by UNESCO |
| E/CN.4/Sub.2/300 and
Corr.1 and Add.1-3 | Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of <u>apartheid</u> and colonialism: note by the |
| E/CN.4/Sub.2/301 | Special study of racial discrimination in the political, economic, social and cultural spheres: interim report submitted by the Special Rapporteur, Mr. Hernán Santa Cruz |
| E/CN.4/Sub.2/302 | Genocide - Status of the Convention on the Prevention and Punishment of the Crime of Genocide: note by the Secretary-General |
| E/CN.4/Sub.2/303
and Add.1-6 | Genocide: note by the Secretary-General |
| E/CN.4/Sub.2/304 | Question of slavery and the slave-trade in all their practices and manifestations, including the slavery-like practices of <u>apartheid</u> and colonialism: preliminary report submitted by the Special Rapporteur, Mr. Mohammed Awad |
| E/CN.4/Sub.2/CR.14 | Non-confidential list of communications concerning discrimination and minorities |

2. Documents issued in the limited series

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| E/CN.4/Sub.2/L.512 | Adoption of the agenda |
| E/CN.4/Sub.2/L.513 | Review of further developments in fields with which the Sub-Commission has been concerned - Messrs. Capotorti and Juvigny: draft resolution |
| E/CN.4/Sub.2/L.513/
Rev.1 | Review of further developments in fields with which the Sub-Commission has been concerned - Messrs. Capotorti and Juvigny: revised draft resolution |
| E/CN.4/Sub.2/L.514 | Review of further developments in fields with which the Sub-Commission has been concerned - Mr. Humphrey: amendment to the draft resolution proposed by Messrs. Capotorti and Juvigny (E/CN.4/Sub.2/L.513) |
| E/CN.4/Sub.2/L.515 | Review of further developments in fields with which the Sub-Commission has been concerned - Mr. Rybakov: amendments to the draft resolution submitted by Messrs. Capotorti and Juvigny (E/CN.4/Sub.2/L.513) |
| E/CN.4/Sub.2/L.516 | Review of further developments in fields with which the Sub-Commission has been concerned - Mr. Daoudy: amendment to the draft resolution submitted by Mr. Capotorti and Mr. Juvigny (E/CN.4/Sub.2/L.513) |
| E/CN.4/Sub.2/L.517 | Review of further developments in fields with which the Sub-Commission has been concerned: resolution adopted by the Sub-Commission at its 561st meeting on 28 August 1969 |
| E/CN.4/Sub.2/L.518 | Study of equality in the administration of justice - Messrs. Capotorti, Carey and Nettel: draft resolution |
| E/CN.4/Sub.2/L.519
and Add.1-7 | Draft report of the twenty-second session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights - Rapporteur: Mr. Antonio Martínez Báez |
| E/CN.4/Sub.2/L.520 | Study of equality in the administration of justice: statement of financial implications by the Secretary-General relating to the draft resolution contained in document E/CN.4/Sub.2/L.518 |
| E/CN.4/Sub.2/L.521 | Special study of racial discrimination in the political, economic, social and cultural spheres - Messrs. Calvo-coressi, Martínez Báez and Waldron-Ramsey: draft resolution |

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- E/CN.4/Sub.2/L.522 Special study of racial discrimination in the political, economic, social and cultural spheres: statement of financial implications by the Secretary-General relating to the draft resolution contained in document E/CN.4/Sub.2/L.521
- E/CN.4/Sub.2/L.523 Special study of racial discrimination in the political, economic, social and cultural spheres - Mr. Rybakov: amendments to the draft resolution submitted by Messrs. Calvocoressi, Martínez Báez and Waldron-Ramsey (E/CN.4/Sub.2/L.521)
- E/CN.4/Sub.2/L.523/
Rev.1 Special study of racial discrimination in the political, economic, social and cultural spheres - Mr. Rybakov: revised amendments to the draft resolution submitted by Messrs. Calvocoressi, Martínez Báez and Waldron-Ramsey (E/CN.4/Sub.2/L.521)
- E/CN.4/Sub.2/L.524 Special study of racial discrimination in the political, economic, social and cultural spheres - Mr. Khalifa: amendment to the proposed amendments by Mr. Rybakov (E/CN.4/Sub.2/L.523/Rev.1) to the draft resolution submitted by Messrs. Calvocoressi, Martínez Báez and Waldron-Ramsey (E/CN.4/Sub.2/L.521)
- E/CN.4/Sub.2/L.525 Special study of racial discrimination in the political, economic, social and cultural spheres: resolution adopted by the Sub-Commission at its 572nd meeting on 5 September 1969
- E/CN.4/Sub.2/L.526 Study of equality in the administration of justice - Mr. Y.M. Rybakov: amendments to draft resolution submitted by Messrs. Capotorti, Carey and Nettel (E/CN.4/Sub.2/L.518)
- E/CN.4/Sub.2/L.527 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 - Mr. Carey: draft resolution
- E/CN.4/Sub.2/L.527/
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 - Mr. Carey: addendum to draft resolution

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- E/CN.4/Sub.2/L.527/
Add.1/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 - Mr. Carey: revised addendum to document E/CN.4/Sub.2/L.527
- E/CN.4/Sub.2/L.528
and Corr.1 Equality in the administration of justice: revised draft principles on equality in the administration of justice
- E/CN.4/Sub.2/L.529 Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism - Messrs. Calvocoressi, Capotorti, Carey, Gros Espiell, Juvigny, Martínez Cobo and Ruhashyankiko: draft resolution
- E/CN.4/Sub.2/L.529/
Rev.1 Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism - Messrs. Calvocoressi, Capotorti, Carey, Durlong, Gros Espiell, Juvigny, Martínez Cobo and Ruhashyankiko: draft resolution
- E/CN.4/Sub.2/L.530 Consideration of the future work of the Sub-Commission: note by the Secretary-General
- E/CN.4/Sub.2/L.531 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: statement of financial implications by the Secretary-General relating to the draft resolution contained in document E/CN.4/Sub.2/L.527
- E/CN.4/Sub.2/L.532 Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism: Mr. Waldron-Ramsey: amendment to the draft resolution submitted by Messrs. Calvocoressi, Capotorti, Carey, Gros Espiell, Juvigny, Martínez Cobo and Ruhashyankiko (E/CN.4/Sub.2/L.529)
- E/CN.4/Sub.2/L.533 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.529/Rev.1
- E/CN.4/Sub.2/L.534 Protection of minorities - Messrs. Kettani, Khalifa and Waldron-Ramsey: draft resolution

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- E/CN.4/Sub.2/L.535 Protection of minorities - Messrs. Díaz-Samayoa,
Gros Espiell: draft resolution
- E/CN.4/Sub.2/L.536 Communication concerning human rights - Mr. Y.M. Rybakov:
draft resolution
- E/CN.4/Sub.2/L.537 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 - Mr. Daoudy: draft resolution.

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