

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1040
E/CN.4/Sub.2/316
14 October 1970

ORIGINAL: ENGLISH

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

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

New York, 10 to 28 August 1970

Rapporteur: Mr. Antonio Martínez Báez

CONTENTS

<u>Chapter</u>	<u>Paragraphs</u>	<u>Page</u>
I. ORGANIZATION OF THE SESSION	1 - 14	4
Opening and duration of the session	1 - 3	4
Attendance	4 - 5	4
Election of officers	6	4
Agenda	7 - 8	5
Organization of work	9	6
Meetings, resolutions and documentation	10 - 14	6
II. QUESTION OF SLAVERY AND THE SLAVE TRADE IN ALL THEIR PRACTICES AND MANIFESTATIONS, INCLUDING THE SLAVERY-LIKE PRACTICES OF <u>APARTHEID</u> AND COLONIALISM .	15 - 42	8
III. STUDY OF EQUALITY IN THE ADMINISTRATION OF JUSTICE .	43 - 126	14
IV. ELIMINATION OF RACIAL DISCRIMINATION	127 - 181	30
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	182 - 197	75
VI. CONSIDERATION OF THE FUTURE WORK OF THE SUB-COMMISSION	198 - 207	91
VII. ADOPTION OF THE REPORT	208	93
VIII. RESOLUTIONS ADOPTED BY THE SUB-COMMISSION AT ITS TWENTY-THIRD SESSION		94
Resolutions:		
1 (XXIII) - Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of <u>apartheid</u> and colonialism		
2 (XXIII) - Elimination of racial discrimination: special study of racial discrimination in the political, economic, social and cultural spheres		
3 (XXIII) - Study of equality in the administration of justice		

/...

CONTENTS (continued)

- 4 (XXIII) - Elimination of racial discrimination
- 5 (XXIII) - Elimination of racial discrimination: International Year for Action to Combat Racism and Racial Discrimination
- 6 (XXIII) - 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
- 7 (XXIII) - Consideration of future work of the Sub-Commission

ANNEXES

- I. Attendance
- II. Financial implications of resolutions adopted by the Sub-Commission at its twenty-third session
- III. List of documents before the Sub-Commission at its twenty-third session

/...

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-third session at United Nations Headquarters from 10 to 28 August 1970.
2. The session was opened (582nd meeting) by Mr. Mohammed A. Abu Rannat (Sudan), Chairman of the Sub-Commission at its twenty-second session, who made a statement.
3. Mr. Marc Schreiber, Director of the Division of Human Rights, made a statement on behalf of the Secretary-General.

Attendance

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

Election of officers

6. At its 582nd meeting, the Sub-Commission unanimously elected the following officers:

<u>Chairman:</u>	Mr. John P. Humphrey (Canada)
<u>Vice-Chairmen:</u>	Mr. Branimir Jankovic (Yugoslavia)
	Mr. Ahmed Kettani (Morocco)
<u>Rapporteur:</u>	Mr. Antonio Martínez Báez (Mexico)

/...

Agenda

7. At its 582nd meeting, the Sub-Commission adopted unanimously the following agendas:

1. Election of officers.
2. Adoption of the agenda.
3. Elimination of racial discrimination:
 - (a) Special study of racial discrimination in the political, economic, social and cultural spheres.
 - (b) Measures to be taken against nazism and racial intolerance.
 - (c) International Year for Action to Combat Racism and Racial Discrimination:
 - (i) Programme for the observance in 1971 of the International Year for Action to Combat Racism and Racial Discrimination;
 - (ii) Review of measures and decisions taken to eliminate racial discrimination.
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:
 - (a) Procedures for dealing with communications relating to violations of human rights and fundamental freedoms under resolution 1503 (XLVIII) of the Economic and Social Council.
 - (b) Report of the Sub-Commission under resolution 8 (XXIII) of the Commission on Human Rights.
7. Communications concerning human rights.
8. Review of further developments in the fields with which the Sub-Commission has been concerned.
9. Protection of minorities.
10. Genocide.
11. Consideration of the future work of the Sub-Commission.

/...

12. Report of the twenty-third session of the Sub-Commission to the Commission on Human Rights.

8. At its 583rd meeting, the Sub-Commission decided unanimously to consider the agenda items in the following order: 4, 6 (to the extent of appointing a working group), 5, 3, 6, 7, 9, 10, 8, 11 and 12.

Organization of work

9. The consideration of items 4, 5, 3 and 6 occupied the entire session of the Sub-Commission. At its 609th meeting, the Sub-Commission deferred consideration of items 7, 8, 9 and 10 until its twenty-fourth session. In connexion with item 7 (Communications concerning human rights), it had before it (a) a confidential list of communications, together with replies of Governments; (b) a non-confidential list of communications (E/CN.4/Sub.2/CRP.15). In connexion with item 8 (Review of further developments in the fields with which the Sub-Commission has been concerned), it had before it a note by the Secretary-General (E/CN.4/Sub.2/311 and Corr.1), a memorandum submitted by the International Labour Office (E/CN.4/Sub.2/309), a memorandum submitted by the United Nations Educational, Scientific and Cultural Organization (E/CN.4/Sub.2/315 and Add.1), and a résumé of periodic reports prepared by the Secretary-General in accordance with resolution 1 (XXII) of the Sub-Commission (E/CN.4/Sub.2/314). In connexion with item 10 (Genocide), the Sub-Commission had before it 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.1-8).

Meetings, resolutions and documentation

10. The Sub-Commission held thirty meetings. The views expressed at those meetings are summarized in the records of the 582nd to the 611th meetings (E/CN.4/Sub.2/SR.582-611).

11. The Sub-Commission heard statements by the observers for India and for Pakistan at its 596th and 598th meetings, and statements by the representative of the International Labour Organisation (ILO) at its 603rd and 611th meetings.

12. The Sub-Commission adopted resolutions 1 (XXIII)-7 (XXIII). The texts of those resolutions appear in chapter VIII.
13. Statements of the financial implications of resolutions 1 (XXIII), 2 (XXIII), 3 (XXIII), 4 (XXIII), 5 (XXIII) and 7 (XXIII), prepared by the Secretary-General, are reproduced in annex II.
14. Annex III contains a list of the documents submitted for the Sub-Commission's consideration.

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

15. The Sub-Commission considered item 5 of its agenda at its 585th, 586th, 587th, 589th and 592nd meetings.

16. The Sub-Commission had before it (a) the progress report (E/CN.4/Sub.2/312) submitted by the Special Rapporteur, Mr. Mohamed Awad, in pursuance of Sub-Commission resolution 4 (XXII) of 10 September 1969; and (b) a note by the Secretary-General (E/CN.4/Sub.2/308 and Add.1) containing (i) additional information received by the Secretary-General in reply to the questionnaire on slavery (paragraph 7 (a) of resolution 4 (XXII) of the Sub-Commission); (ii) information received by the Secretary-General in accordance with article 8 (2) of the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery (paragraph 7 (b) of resolution 4 (XXII) of the Sub-Commission); and (iii) additional 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 resolution 1331 (XLIV) of the Economic and Social Council).

17. At the 585th meeting, the Special Rapporteur introduced his progress report.

Consideration of the report

18. Members of the Sub-Commission complimented Mr. Awad on his progress report, which represented a further step forward in the field covered by it. It was noted that the three topics of slavery, apartheid and colonialism were related, but it was claimed that the precise relationship between them was still insufficiently defined. It was also said that the role of racism in the context of the three phenomena should be studied further. It was observed that the three problems could not be effectively solved by application of the same methods.

19. The view was expressed that the subject of slavery would receive insufficient attention in a combined study. The eradication of apartheid and colonialism had been the concern of many organs of the United Nations, whereas slavery was directly within the Sub-Commission's competence, and the Sub-Commission had a special duty in relation to it. Certain members considered that lengthy analysis of apartheid

/...

and colonialism did not seem appropriate in the report of Mr. Awad, as those questions had already been dealt with in separate studies, for example the special study of racial discrimination in the political, economic, social and cultural spheres prepared by Mr. Hernán Santa Cruz and the study of apartheid and racial discrimination in southern Africa prepared by Mr. Ganji. Those members therefore maintained that undue emphasis should not be placed on apartheid and colonialism, which were already the subject of separate studies.

20. There was a difference of opinion as to whether the Special Rapporteur should try to find measures which might be taken to implement the resolutions already adopted by the General Assembly, the Economic and Social Council and the Commission on Human Rights relating to apartheid and colonialism.

21. It was recognized that the consultations carried out by the Special Rapporteur with specialized agencies and other organizations in accordance with Sub-Commission resolution 4 (XXII) had been valuable. Particular attention was drawn, in connexion with the ILO, to the international machinery for supervising the application of international labour conventions and to the Andean programme, whose goal was to improve the living conditions of millions of indigenous people in Latin America. UNESCO had assured the Special Rapporteur that it would do everything possible in the intellectual and cultural spheres to eradicate the conditions which made slavery possible. The offer of assistance by ICPO/INTERPOL was noted with interest.

22. The Special Rapporteur indicated that his discussions with officials of the Division of Narcotic Drugs had included the possibility of the ultimate preparation by the United Nations of a consolidated convention on the elimination of all forms of servile status and the establishment of an international supervisory body with functions comparable to those of the International Narcotics Control Board. The single convention envisaged by the Special Rapporteur in paragraphs 132-136 of his report might, he said, replace the following international instruments: the International Slavery Convention of 1926; the Protocol Amending the Slavery Convention; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

/...

23. Several speakers supported the proposed single convention, or at least regarded the proposal as an interesting one, worth pursuing further. Attention was drawn to the legal problems involved in combining separate instruments having different terms. One speaker saw no need to prepare a new convention to replace five existing instruments and considered that the aim sought could be achieved by ensuring that all States ratified the existing Conventions. Moreover, a permanent body of experts to secure the suppression of slavery could be established without resort to a new convention.

24. Some speakers pointed out that certain institutions existing in parts of Latin America, due to prevailing social and economic conditions, should not be equated with slavery.

25. It was maintained that every effort should be made with a view to convincing the States which have not yet ratified the Supplementary Convention of 1956 - and, in particular African States, which had suffered so much from slavery and the slave trade - to ratify it. It was said, on the other hand, that, since various African countries had achieved their independence, they had been wondering whether it was right that they should be bound by a body of law in whose making they had had no part. They had also been preoccupied by difficult economic conditions and sweeping social change. In that connexion, it was suggested that the first step to be taken was to find out from the States themselves to what extent they considered themselves bound by the ratification of a colonial Power. It would also be useful to ascertain to what extent certain States, which had not ratified the Conventions on slavery, considered themselves bound by them as part of their observance of the principles of international law. In that connexion, one speaker expressed the view that neither ratification nor non-ratification of the Convention of 1956 by a State should be considered to mean that slavery existed in that State's territory.

26. One speaker emphasized that economic and social conditions were often the source of a system of class exploitation, and accordingly hoped that the report would analyse the social and economic causes of slavery-like practices.

27. 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 slavery-like practices still exist. It was also maintained that the Special Rapporteur

/...

should elaborate the practical steps to be taken in order to complete the eradication of slavery in all its manifestations. In that connexion, it was proposed that the final report of the Special Rapporteur should contain an analysis of what had already been done toward the solution of this problem (including anti-slavery legislation in force), and an analysis of what had not been done but could usefully be undertaken.

28. Several speakers stated that the policy of apartheid was the worst form of racial discrimination. The policy of separateness had developed into one of despotism, and the Government of South Africa had instituted a police State. As the white minority could not carry out such a policy without the support of the large foreign monopolies, the links between those monopolies and racist régimes should be studied. The South African white minority régime had become an object of horror throughout the world. Some members noted with interest the map attached to the progress report of the Special Rapporteur which showed that only four Governments in Africa, Asia and Latin America maintained diplomatic relations with the Government of South Africa.

29. Some members maintained that racial discrimination always accompanied colonialism, and the colonialist approach taken towards Namibia by the Government of South Africa was referred to. On the other hand, some members claimed that, in America, Spanish colonialism had not been racist.

30. Several members suggested further improvements in the Special Rapporteur's progress report. The Special Rapporteur assured the members that he would take those suggestions into account in drafting his final report.

Adoption of resolution

31. At the 589th meeting of the Sub-Commission, a draft resolution was submitted by Messrs. Daoudy, Ingles and Santa Cruz (E/CN.4/Sub.2/CRP.11), which read as follows:

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

"Having considered the progress report on the question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism, submitted by the Special Rapporteur, Mr. Mohamed Awad (E/CN.4/Sub.2/312),

/...

"Having noted the information on the same question presented by the Secretary-General in accordance with resolution 4 (XXII) of the Sub-Commission and resolution 1331 (XLIV) of the Economic and Social Council (E/CN.4/Sub.2/308 and Add.1),

"1. Expresses its warm appreciation to the Special Rapporteur for his valuable report, which represents a further step forward for the Sub-Commission in its work in this field;

"2. Also expresses its appreciation to the Secretary-General, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the International Criminal Police Organization and the Anti-Slavery Society for placing relevant information at the disposal of the Special Rapporteur; and invites them to continue to co-operate with him in the preparation of the study;

"3. Invites the Special Rapporteur to continue his task, taking into account the exchange of views on the report during the twenty-third session of the Sub-Commission, and to submit his final report to the twenty-fourth session of the Sub-Commission;

"4. Requests the Secretary-General to continue to provide the Special Rapporteur with all the assistance necessary for the completion of his tasks;

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

'The Economic and Social Council:

'Having noted resolution _____ of the Commission on Human Rights,

'Requests the Secretary-General to extend his assistance to the States Parties for the purpose of arranging for the exchange of information called for by article 3 (3) of the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery,

'Authorizes the Secretary-General to supplement the information received from States Parties to that Convention by information which may be available from other official sources, including States that have not yet adhered to the Convention and the appropriate international organizations, such as the International Criminal Police Organization; and to present such information to the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

'Requests the International Criminal Police Organization to extend appropriate assistance for this purpose, in particular by supplying details of specific cases of slavery, the slave trade and other forms

/...

of servitude; and to take other measures within its competence to stimulate the action of Governments, as well as international action, to eradicate slavery, the slave trade, and other forms of human servitude.'"

32. A statement (E/CN.4/Sub.2/CRP.13) on the financial implications of the draft resolution was circulated by the Secretary-General.

33. At the same meeting, Mr. Ruhashyankiko introduced an amendment (E/CN.4/Sub.2/CRP.12), which would insert the following before the last operative paragraph of the draft resolution:

"Requests the Secretary-General once again to urge those States which have not yet ratified the Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery to expedite their ratification procedures;"

34. A revised draft resolution (E/CN.4/Sub.2/CRP.11/Rev.1) was submitted by Messrs. Daoudy, Ingles, Ruhashyankiko and Santa Cruz at the 592nd meeting.

35. Mr. Federov presented the following oral amendments to the revised draft resolution (E/CN.4/Sub.2/CRP.11/Rev.1): paragraph 5 would be replaced by the first operative paragraph of the draft resolution proposed for adoption by the Economic and Social Council, and paragraph 6 would be replaced by the text of the amendment proposed by Mr. Ruhashyankiko (E/CN.4/Sub.2/CRP.12).

36. The amendment of Mr. Federov was rejected by 6 votes to 4, with 10 abstentions.

37. Mr. Federov requested a separate vote on operative paragraph 2 of the draft resolution, and on the second and third operative paragraphs (together) of the draft resolution proposed for adoption by the Economic and Social Council.

38. Paragraph 2 was adopted by 14 votes to 2, with 4 abstentions.

39. The second and third operative paragraphs of the resolution proposed for adoption by the Economic and Social Council were adopted by 15 votes to 2, with 3 abstentions.

40. The provisions of the draft resolution on which there had not been a separate vote were adopted by 17 votes to none, with 3 abstentions.

41. The draft resolution as a whole was adopted by 16 votes to none, with 4 abstentions.

42. The resolution adopted by the Sub-Commission appears in chapter VIII as resolution 1 (XXIII).

/...

III. STUDY OF EQUALITY IN THE ADMINISTRATION OF JUSTICE

43. The Sub-Commission considered agenda item 4 at its 583rd, 584th, 587th, 588th, 590th, 591st, 592nd, 601st and 603rd meetings.

44. The Sub-Commission had before it a note submitted by the Secretary-General (E/CN.4/Sub.2/310) indicating, inter alia, that the following matters were still before the Sub-Commission relating to 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, at the twenty-second session of the Sub-Commission: (a) further consideration of the draft principles contained in paragraph 596 of the final report, and (b) further action regarding the printing and circulation of the study.

Consideration of the draft principles

45. At its twenty-second session, the Sub-Commission had discussed the draft principles without taking a final decision on their wording.^{1/} After this discussion, the Special Rapporteur had circulated a revised version of the draft principles and proposed that they be adopted by the Sub-Commission.^{2/} The Special Rapporteur had introduced the revised draft principles,^{3/} but the Sub-Commission had not had at its disposal sufficient time to discuss and vote upon them.^{4/}

46. In introducing agenda item 4 at the twenty-third session, the Special Rapporteur recalled the above-mentioned events.

47. Speakers warmly congratulated the Special Rapporteur on the high quality of the work done in the preparation of the revised draft principles, and expressed their appreciation for the labour and reflection that had gone into that task.

^{1/} Report of the twenty-second session of the Sub-Commission, E/CN.4/1008, paras. 62-141. Record of debate is found in documents E/CN.4/Sub.2/SR.562-564, 573 and 574.

^{2/} These revised draft principles appear in paragraph 142 of document E/CN.4/1008, the revisions being indicated either by underlining or by foot-notes.

^{3/} E/CN.4/1008, paras. 143-190.

^{4/} E/CN.4/1008, para. 194.

/...

48. Amendments relating to the draft principles and the action taken with respect thereto are set forth below, together with some references to the relevant discussion.

Draft preamble

49. At the 588th meeting, an amendment (E/CN.4/Sub.2/CRP.9) was proposed by Mr. Santa Cruz to insert a paragraph after the fourth preambular paragraph. Following discussion, this amendment was orally revised on the proposal of Mr. Ferguson and was adopted by the Sub-Commission, as follows:

"Recalling that the United Nations has already dealt with some aspects of the administration of justice in provisions of other international instruments, including articles 9, 10, 11, 14 and 15 of the International Covenant on Civil and Political Rights;"

The objective of the amendment was said to be to expand the references in the preamble to international texts having a bearing on the administration of justice.

50. An amendment (E/CN.4/Sub.2/CRP.10) proposing to reword the sixth and seventh preambular paragraphs was introduced by Mr. Federov. The purpose of the amendment was said to be to emphasize that the need to adopt an international instrument or instruments arose not from the fact that sufficient relevant national experience existed but rather from the fact that discrimination existed. The amendment, as orally revised on the proposal of Mr. Ingles and Mr. Gros Espiell and adopted by the Sub-Commission, read as follows:

"WHEREAS sufficient national experience has been gained in various parts of the world concerning the methods and forms of combating the types of discrimination condemned by the Universal Declaration of Human Rights,

"WHEREAS the types of discrimination in the administration of justice under consideration which still exist make it necessary to adopt an international instrument or instruments with a view to the elimination of discrimination in the administration of justice,".

51. The Sub-Commission adopted an amendment (E/CN.4/Sub.2/CRP.3) proposed by Mr. Khalifa, which was said to be designed to reflect the social awareness of the members of the Sub-Commission. It was pointed out that justice in the courts and social justice were inseparable. The amendment added the following text as the last paragraph of the preamble:

/...

"WHEREAS the attainment of the goal of equal rights in the administration of justice requires not only the recognition of the civil and political rights of the individual but also the establishment of the social, economic, educational and cultural conditions which are essential to the full development of the human potential and dignity."

Draft Principle 1

52. In an amendment contained in document E/CN.4/Sub.2/CRP.9, Mr. Santa Cruz proposed to add, after the words "in the determination of any criminal charge against him" in the opening words of principle 1, the following: "whether it relates to a crime falling within normal jurisdiction or within a military or special jurisdiction,". This proposal was adopted, and as a result principle 21 became redundant.

53. Discussion of a substitution for the opening words of principle 1 proposed by Mr. Federov (E/CN.4/Sub.2/CRP.10) was deferred. This proposed text read as follows:

"Everyone, 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, shall be guaranteed in the examination of any criminal charge against him or in the determination of his rights and responsibilities through civil, administrative or other judicial proceedings, the following rights:"

54. The Sub-Commission adopted an amendment proposed by Mr. Federov (E/CN.4/Sub.2/CRP.10, as orally modified on the proposal of Mr. Humphrey and Mr. Nettel) which would reword sub-paragraph (v) of draft principle 1 as follows: "The rights to a prompt and speedy hearing, subject to his being given adequate time to prepare his case."

55. By a vote of 6 in favour, 7 against and 6 abstentions, the Sub-Commission rejected an amendment by Mr. Federov (E/CN.4/Sub.2/CRP.10) to reword sub-paragraph (vi) of draft principle 1 as follows: "The right, either in person or through counsel, to take part in the judicial proceedings and to examine all evidence".

56. The original text of sub-paragraph (vi) of principle 1 was adopted by 16 votes to none, with 2 abstentions.

57. The Sub-Commission had before it amendments proposed by Mr. Federov to sub-paragraph (vii) (E/CN.4/Sub.2/CRP.10) involving the deletion of (a) the reference to "public order" and (b) the reference to "special circumstances where publicity would prejudice the interests of justice".

/...

58. It was pointed out that the words "public order" could give rise to discrimination which was contrary to the Sub-Commission's purpose. It was further stated that the phrase "in special circumstances where publicity would prejudice the interests of justice" could lead to abuses since it was very easy to invoke the interests of justice. Furthermore, the original text of the paragraph had itself made provisions for a great many exceptions. On the other hand, it was stated that the expression "public order", which had been the result of compromises achieved after long years of discussions, had been used in international legal texts and in national legislation and should not be abandoned lightly. Several speakers emphasized that the expression "public order" was intended to be a translation of the French term "ordre public" and was meant to have the same meaning as that term possessed in civil law systems.

59. At its 590th meeting, the Sub-Commission rejected both amendments by votes of 5 in favour, 5 against and 2 abstentions and by 4 in favour, 7 against and 3 abstentions, respectively.

60. Some members of the Sub-Commission requested separate votes on certain phrases contained in sub-paragraph (vii). Some members suggested the deletion of the phrase "in a democratic society". All States claimed to be democratic and there was no established definition of a democratic society. It was argued that the fact that the phrase had been used in other international instruments did not make it less vague. It was maintained that the inclusion of the words "to the extent strictly necessary in the opinion of the court" would allow too much latitude to judges.

61. The Sub-Commission voted on the various phrases as follows:

(a) The words "in a democratic society" were retained by a vote of 12 in favour, 4 against and 7 abstentions.

(b) The words "or national security" were retained by a vote of 12 in favour, 3 against and 9 abstentions.

(c) The words "to the extent strictly necessary in the opinion of the court" were retained by a vote of 8 in favour, 2 against and 11 abstentions.

62. The rest of the sub-paragraph (vii) was adopted by a vote of 19 in favour, none against and 3 abstentions.

/...

63. Sub-paragraph (vii) as a whole was adopted by a vote of 17 in favour, none against and 4 abstentions.

64. The Sub-Commission, by a vote of 2 in favour, 8 against and 9 abstentions, rejected an amendment proposed by Mr. Federov (E/CN.4/Sub.2/CRP.10) whereby sub-paragraph (viii) would be replaced by the following text:

"the right to have the decision of the court based solely on the evidence, including testimony, which was placed before the court, and which is known to all the parties and was examined by the court with their participation."

65. The original text of sub-paragraph (viii) was adopted by a vote of 18 in favour, none against and 2 abstentions.

66. The Sub-Commission, by a vote of 14 in favour, none against and 5 abstentions, adopted an amendment proposed by Mr. Nettel (E/CN.4/Sub.2/CRP.4), which would add the words "to a higher court" at the end of sub-paragraph (x).

67. The Sub-Commission adopted sub-paragraph (x) as amended by a vote of 17 in favour, none against and 1 abstention.

68. The Sub-Commission unanimously adopted an amendment proposed by Mr. Federov (E/CN.4/Sub.2/CRP.10) that the substance of sub-paragraph (xi) of draft principle 1 be made into a new principle, to improve the balance of the text and make it more readable.

69. The Sub-Commission then adopted by a vote of 16 in favour, none against and 1 abstention an amendment proposed by Mr. Federov (E/CN.4/Sub.2/CRP.10) to reword the opening clause of the new principle 2 to read as follows:

"Everyone against whom a criminal charge is preferred shall be guaranteed, in addition to the above rights:"

70. The Sub-Commission, by a vote of 2 in favour, 8 against and 6 abstentions, rejected an amendment proposed by Mr. Federov (E/CN.4/Sub.2/CRP.10), to reword sub-paragraph (a) of new principle 2 to read as follows:

"the right to be presumed innocent until such time as his guilt is proved in open legal proceedings;"

71. By a vote of 16 in favour, none against and 1 abstention, the Sub-Commission adopted the original text of sub-paragraph (xi) (a) of the original principle 1.

72. The Sub-Commission, by 17 votes to none, adopted sub-paragraph (xi) (b) of the original principle 1.

/...

73. It was agreed, by 15 votes to none, to adopt an amendment proposed by Mr. Federov (E/CN.4/Sub.2/CRP.10) to delete from the text of sub-paragraph (xi) (c) of principle 1 the phrase "if he does not have legal assistance,". It was felt that these words constituted an unnecessary restriction.

74. An amendment was proposed by Mr. Federov (E/CN.4/Sub.2/CRP.10) to reword sub-paragraph (xi) (d) to read as follows:

"the right to have legal assistance assigned to him in any case, if the interests of justice and of the person involved in the judicial proceedings so require, without payment if he does not have sufficient means to pay for it".

The amendment was adopted by 9 votes to none, with 6 abstentions.

75. The Sub-Commission had before it an amendment proposed by Mr. Federov (E/CN.4/Sub.2/CRP.10) to add a new sub-paragraph (xi) (e) to read as follows:

"the right to compulsory representation by counsel in proceedings for crimes for which the death penalty may be imposed".

76. The proposal was represented as having a humanitarian as well as a legal aspect, in that in the case of capital crimes it was particularly important that the rights of the individual should be protected. Some members were of the opinion that mention of the death penalty should be avoided as being unduly restrictive. An oral sub-amendment was therefore presented by Mr. Nettel proposing to replace the words "for which the death penalty may be imposed" by the words "of a grave nature". The sub-amendment was adopted by 10 votes to 3, with 4 abstentions. The amendment proposing to add a new sub-paragraph (xi) (e), as amended, was adopted by 17 votes to none with 1 abstention.

77. At its 591st meeting, the Sub-Commission, by a vote of 1 in favour, 4 against and 15 abstentions, rejected an amendment proposed by Mr. Federov (E/CN.4/Sub.2/CRP.10) to replace sub-paragraph (xi) (e) of the original draft principle 1 by the following text:

"The right to adduce evidence on the same footing as the representatives of the prosecution."

/...

78. The Sub-Commission by a vote of 12 in favour, none against and 6 abstentions adopted an amendment proposed by Mr. Ingles (E/CN.4/Sub.2/CRP.6) to amend the text of sub-paragraph (xi) (e) as follows:

"the right to examine, or have examined, the witnesses and documentary evidence against him and to obtain documentary evidence and the attendance and examination of witnesses on his behalf."

79. The amendment proposed to add the reference to documentary evidence in the second part of the draft principle to take into consideration the accused's right to examine the documentary evidence in his favour. It was also felt that the obtaining of such documentary evidence should not be subject to any conditions and that therefore the words "under the same conditions as witnesses against him" appearing in the original text should be deleted.

Draft principle 3

80. By a vote of 2 in favour, 10 against and 9 abstentions, the Sub-Commission rejected an amendment proposed by Mr. Federov (E/CN.4/Sub.2/CRP.10) to add a new principle 3 to read as follows:

"A State [Government] may not invoke the principle of the independence of the courts to justify a violation of the principles of judicial proceedings recognized in international legal instruments and in the domestic law of a State. States which have subscribed to the said 'principles' are bound to ensure that they are observed in judicial proceedings."

81. While members agreed that States must not evade obligations which they had entered into, it was nevertheless felt that the proposal raised questions of international law and other questions of a more general nature which the Sub-Commission ought not to broach.

Draft principle 4

82. The Sub-Commission, by a vote of 17 in favour, none against and 3 abstentions, adopted an amendment proposed by Mr. Ferguson (E/CN.4/Sub.2/CRP.5) which would add a new principle 4 to read as follows:

"The State shall have the exclusive power and obligation to administer justice to persons within its jurisdiction."

/...

83. It was pointed out that the principle would not prevent the State from delegating powers of adjudication, or exclude the possibility of arbitration. It was intended to place ultimate responsibility for equality in the administration of justice on the State. The words "within the jurisdiction" were used to make the principle broad enough to include not only those States in which the jurisdiction of the State rested on the territorial concept but also those legal systems in which the power of the State rested on its relationship with the individual no matter where he might be.

Draft principle 5

84. The Sub-Commission had before it an amendment submitted by Mr. Ingles (E/CN.4/Sub.2/CRP.6) proposing to delete draft principle 5. It was argued that the right contained in that draft principle was already covered by principle 1 (i) concerning the right of access to tribunals. On the other hand, it was pointed out that principle 5 was derived from resolution 587 D III (XX) of the Economic and Social Council.

85. The amendment proposing to delete draft principle 5 was rejected by 10 votes to 4 with 4 abstentions.

86. The Sub-Commission considered an amendment proposed by Mr. Ferguson (E/CN.4/Sub.2/CRP.5) to add a new principle 5 reading as follows:

"In the allocation of jurisdiction and determination of competence of tribunals of whatever characterization, no such allocation or determination shall be made upon the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

87. It was stated that the proposed principle was not intended in any way to deal with how the State structures its procedure. Neither did the amendment concern itself with the arrangements which a particular State might make to deal with the allocation of cases to particular judges, for example in a bilingual country. It would however prevent the setting up of special courts based on the racial characteristics or sex of persons before them.

/...

88. Some members had reservations concerning the use of the allegedly vague term "or other status". They noted that, while these words were used in certain international instruments, they were excluded in others as being too wide in scope. On the other hand, it was argued that retention of the words in question could conceivably operate to prevent certain types of discrimination.

89. The Sub-Commission decided by 12 votes to 8, with 4 abstentions, to retain the words "or other status" in the proposed amendment.

90. The rest of the amendment was adopted by 21 votes to none, with 2 abstentions.

91. The amendment to add a new paragraph 5 was adopted by 20 votes to none, with 2 abstentions.

Draft principle 9

92. The Sub-Commission by a vote of 11 in favour, 2 against and 7 abstentions, adopted an amendment proposed by Mr. Calvocoressi (E/CN.4/Sub.2/CRP.2) to delete the words "to service as juror or assessor" from draft principle 9. It was said that it should not be possible for aliens, perhaps even tourists, to claim the right to be jurors or assessors.

93. The principle as revised was adopted by 19 in favour, none against and 2 abstentions.

Draft principle 10

94. It was felt by some speakers that draft principle 10 should be concerned with discrimination in legal training rather than with the subsidizing of such training. There was no reason why the State should provide special facilities for the training of lawyers in preference to other professional categories. There were countries where education was not subsidized by the State. An amendment (E/CN.4/Sub.2/CRP.2) was presented by Mr. Calvocoressi. The amendment as modified by a sub-amendment proposed by Mr. Ilako and accepted by Mr. Calvocoressi, (E/CN.4/Sub.2/CRP.8) which was aimed at preventing discrimination in training subsidized not only by the State but also by other bodies, proposed to delete the words "In view ... and shall" and substitute the words "Where the State or any other body subsidizes the training of judges, lawyers and court interpreters, they shall ...". The text as amended was adopted by 20 votes to none, with 3 abstentions, and the preamble as amended reads as follows:

/...

"Where the State or any other body subsidize the training of judges, lawyers and court interpreters, they 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."

Draft principle 12

95. In view of the difficulty in establishing whether a judicial procedure is unnecessarily rigid or complex, and taking into consideration the provision of principle 1 (v), concerning a speedy hearing, and of principle 1 (xi) (d), concerning the right to legal assistance, it was proposed by Mr. Nettel and Mr. Ingles in amendments E/CN.4/Sub.2/CRP.4 and E/CN.4/Sub.2/CRP.6, respectively, that draft principle 12 be deleted. The proposal was adopted by 14 votes to none with 8 abstentions.

Draft principle 14

96. In the amendment contained in document E/CN.4/Sub.2/CRP.4, Mr. Nettel proposed to delete the words "Except in time of national emergency" from draft principle 14.

97. In the amendment set forth in document E/CN.4/Sub.2/CRP.6, Mr. Ingles proposed that principle 14 read as follows:

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

98. It was pointed out that the composition and procedures of military tribunals were not the same in all countries and it would therefore be extremely difficult to formulate a general principle acceptable to every country. The need to include such a draft principle in a text concerned with equality in the administration of justice was questioned.

99. An oral proposal by Mr. Rybakov that no decision should be taken on draft principle 14 was rejected by 10 votes to 3, with 8 abstentions.

100. The Sub-Commission by a vote of 12 to 7 and 2 abstentions, rejected the amendment contained in document E/CN.4/Sub.2/CRP.4.

101. The Sub-Commission rejected by a vote of 12 to 4, with 5 abstentions the amendment contained in document E/CN.4/Sub.2/CRP.6.

/...

102. The original draft principle was rejected by 13 votes to 8, with 4 abstentions.

Draft principle 15

103. It was stated that draft principle 15 was in derogation of paragraph 3 (d) of article 14 of the International Covenant on Civil and Political Rights. While the principle was meant to apply to persons outside the territory under State's jurisdiction, the draft principle was still inappropriate since the International Covenant made no distinction in that regard.

104. An amendment proposed by Mr. Ingles to delete draft principle 15 was adopted by 11 votes to 3, with 6 abstentions by the Sub-Commission at its 592nd meeting.

Draft principle 16

105. An amendment proposed by Mr. Khalifa (E/CN.4/Sub.2/CRP.7) to delete draft principle 16 was adopted by 11 to none and 10 abstentions. It was observed that prosecution was the privilege of the judiciary in some legal systems, and it was essential to permit judicial discretion. On the other hand, attention was drawn to the discrimination which might be shown by prosecuting authorities, who might be more energetic in bringing to court suspected criminals of a certain race, colour or group.

Draft principle 17

106. The Sub-Commission by a vote of 13 to none and 8 abstentions adopted two amendments proposed by Mr. Calvocoressi and Mr. Khalifa (E/CN.4/Sub.2/CRP.2 and E/CN.4/Sub.2/CRP.7) to delete draft principle 17. It was pointed out that certain judges may be recognized as being more expert than others in certain types of cases, and that to inconvenience litigants by ignoring this fact might cause them to settle their differences out of court rather than avail themselves of the judicial process.

Draft principle 18

107. The Sub-Commission, by a vote of 16 to none and 3 abstentions, adopted amendments proposed by Mr. Calvocoressi and Mr. Khalifa (E/CN.4/Sub.2/CRP.2 and

/...

E/CN.4/Sub.2/CRP.7) to delete draft principle 18. It was claimed that the principle had no direct bearing on discrimination.

Draft principle 19

108. For the purpose of facilitating the translation of the English text into other languages, the Sub-Commission, by a vote of 20 in favour, none against and 1 abstention, adopted an amendment proposed by Mr. Ferguson (E/CN.4/Sub.2/CRP.5) to substitute draft principle 19 by the following:

"National laws relating to the place of hearing or trial shall provide for the change of place of hearing or trial whenever such change is necessary to ensure a fair hearing or trial;"

Draft principle 22

109. An amendment orally proposed by Mr. Ingles to insert the words "for poor persons" after the words "legal aid" in draft principle 22 was adopted by 15 votes to 1, with 2 abstentions.

110. An amendment (E/CN.4/Sub.2/CRP.2) was proposed by Mr. Calvocoressi, to avoid excessive and frivolous resort to legal proceedings. It was also felt to be unfair that the ordinary taxpayer should finance legal actions between large enterprises and that the application of the principle might turn all jurists into governmental officials. The amendment proposed, to delete all the words after "country concerned", was adopted by 14 votes to 1, with 3 abstentions.

111. In an amendment (E/CN.4/Sub.2/CRP.9), Mr. Santa Cruz proposed adding the following sentence to the draft principle: "Needy persons shall be entitled to be relieved of all charges or expenses in judicial proceedings and to free aid for their defence". The amendment was adopted by 13 votes to none, with 3 abstentions.

Draft principle 25

112. An amendment, orally proposed by Mr. Rybakov, to delete draft principle 25 was rejected by 16 votes to 3, with 3 abstentions.

Draft principle 28

113. The Sub-Commission, by 13 votes to none with 9 abstentions, adopted an amendment proposed by Mr. Khalifa (E/CN.4/Sub.2/CRP.7) to delete the words "and to

/...

limit to the extent possible any discriminatory exercise of the power to grant provisional release". It was felt that the retention of these words would limit the power to grant provisional release, and would be contrary to the interests of accused persons by reducing the incidence of provisional release. The draft principle as amended was adopted by a vote of 17 in favour, none against and 5 abstentions.

Draft principle 29

114. The Sub-Commission considered an amendment proposed by Mr. Khalifa (E/CN.4/Sub.2/CRP.3) as orally revised in the light of proposals by Mr. Calvocoressi, Mr. Ingles and Mr. Santa Cruz, which would substitute the following for draft principle 29:

"No one should be compelled to incriminate himself. No accused person or witness should be subject to physical or psychic pressure, including anything calculated to impair his will or violate his dignity. Evidence obtained in breach of his right ought not to be admissible and the extraction of purported confessions by means of such influences shall be an offence. No one shall be compelled to testify against his spouse, ascendants or descendants."

115. It was argued that the principle should deal not only with confessions but with everything said in the course of the examination of the accused person or even of a witness.

116. A vote was requested by Mr. Nettel to retain the words "Evidence obtained in breach of this right ought not to be admissible". The Sub-Commission, by 14 votes to 4, with 3 abstentions, decided to retain these words. The remainder of the amendment was adopted by a vote of 18 in favour, none against and 3 abstentions. The amendment as a whole was adopted by 20 votes to none, with 2 abstentions.

Draft principle 31

117. An amendment (E/CN.4/Sub.2/CRP.4) was proposed by Mr. Nettel to delete draft principle 31, on the ground that it did not refer to discrimination as usually understood. The amendment was rejected by 9 votes to 3, with 7 abstentions.

/...

Draft principle 32

118. The Sub-Commission, by 15 votes to 1, with 3 abstentions, adopted an amendment proposed by Mr. Calvocoressi (E/CN.4/Sub.2/CRP.2) which would replace the words "National laws relating to publicity of judicial proceedings shall be framed in such a manner" by the words "The right to a public hearing may be restricted by laws framed". The purpose of this amendment was to recast the principle so as to place more emphasis on the right to public hearing, in accordance with sub-paragraph (vii) of principle 1.

Committee on style and arrangement of the principles

119. At its 592nd meeting, the Sub-Commission set up a drafting committee, consisting of its officers, together with Mr. Abu Rannat, Mr. Ferguson and Mr. Khalifa, to make recommendations to the Sub-Commission concerning the style of the principles adopted, and their arrangement under headings. Proposals concerning the arrangement of the principles had been made by Mr. Ferguson and Mr. Khalifa in E/CN.4/Sub.2/CRP.5 and 7 respectively. The proposal of Mr. Khalifa had also included possible headings under which the principles could be arranged.

120. The Committee's report (E/CN.4/Sub.2/CRP.23) was discussed at the 601st and 603rd meetings of the Sub-Commission. The text recommended by the Committee, as amended by the Sub-Commission, appears in the annex to resolution 3 (XXII) (see chapter VIII of the present report).

Adoption of resolution

121. At its 603rd meeting, the Sub-Commission had before it a draft resolution submitted by Mr. Calvocoressi, Mr. Durlong and Mr. Ferguson (E/CN.4/Sub.2/CRP.14), reading as follows:

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

"Recalling its resolution 3 (XXII), by which the Sub-Commission transmitted the study of equality in the administration of justice, prepared by its Special Rapporteur, Mr. Mohammed Abu Rannat, to the Commission on Human Rights for its earliest possible consideration; resolution 1 (XXVI) of the Commission on Human Rights, by which the Commission recommended a draft resolution concerning the study to the

/...

Economic and Social Council for adoption; and resolution 1499 (XLVIII) of the Economic and Social Council, by which the Council requested the Special Rapporteur to attend the meetings of the Commission when it considers his report,

"Having completed its consideration of the draft principles contained in the study,

1. Decides to adopt the general principles on equality in the administration of justice annexed to the present resolution and to transmit them to the Commission on Human Rights for examination and decision as to subsequent action;

2. 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,

'Recalling its resolution 1499 (XLVIII), on the study of equality in the administration of justice,

'Noting resolution _____ (XXIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and resolution _____ (XXVII) of the Commission on Human Rights,

'Noting also that the Sub-Commission has completed its consideration of the draft principles contained in the study, and has adopted certain general principles relating to equality in the administration of justice,

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

'2. Requests the Secretary-General to print the Special Rapporteur's study, together with the general principles adopted by the Sub-Commission, and to circulate them as widely as possible."

122. The Secretary-General circulated a statement of financial implications (E/CN.4/Sub.2/CRP.16) relating to the draft resolution.

123. Certain speakers drew attention to paragraph 37 of the report of the Commission on Human Rights at its twenty-sixth session,^{5/} which reads:

"Several representatives expressed the view that it would be premature to print the study of equality in the administration of justice at this

^{5/} Economic and Social Council, Official Records: Forty-eighth Session Supplement No. 5 (E/4816).

stage. Noting the great importance of that study, they observed that the Commission had not considered it or heard the Special Rapporteur. Furthermore, the draft principles had not yet been reviewed by the Sub-Commission itself."

It was pointed out in the Sub-Commission that, while it was usual for the printed versions of reports on discrimination prepared by Special Rapporteurs of the Sub-Commission to include principles as adopted by the Sub-Commission, it was without precedent for the printing of such a report to be made dependent on the Commission's having considered the report. If such an approach were to be applied to the Study of Equality in the Administration of Justice, the Study could well be out of date before its printing took place.

124. An amendment (E/CN.4/Sub.2/CRP.15) to the draft resolution was proposed by Mr. Ruhashyankiko, to amend the end of operative paragraph 1 to read as follows:

"... for examination with regard to the advisability of preparing a convention or a declaration, or both, on equality in the administration of justice or several instruments dealing with various aspects of the problem and for decision as to subsequent action;"

125. The amendment proposed was adopted by 16 votes to 1 with 1 abstention.

126. The draft resolution as amended was adopted by 17 votes to none, with 1 abstention, and appears in chapter VIII as resolution 3 (XXIII).

IV. ELIMINATION OF RACIAL DISCRIMINATION

127. The Sub-Commission considered item 3 of its agenda at its 591st, and 593rd to 607th meetings. In connexion with sub-item (a), "Special study of racial discrimination in the political, economic, social and cultural spheres", the Sub-Commission had before it the final report of its Special Rapporteur, Mr. Hernán Santa Cruz (E/CN.4/Sub.2/307 and Corr.1 and 2, and Add.1 and Add.1/Corr.1 and Add.2 and Add.2/Corr.1 and Add.3 and Add.4 and Add.4/Corr.1 and 2 and Add.5 and Add.5/Corr.1, 3-4 and Add.6). Sub-item (b) was entitled "Measures to be taken against nazism and racial intolerance". The Commission on Human Rights, in resolution 4 (XXVI), had requested the Sub-Commission to continue its study of this question in the light of the report of the Secretary-General (A/7683) and of the resolutions on the subject adopted by the General Assembly at its twenty-fourth session, placing special emphasis on the measures to be taken to detect and effectively to prevent contemporary activities that might be inspired by nazism or any other totalitarian ideology based on incitement to hatred and racial intolerance, and to submit its recommendations to the Commission at its twenty-seventh session. Sub-item (c), on the International Year for Action to Combat Racism and Racial Discrimination, consisted of two parts. The first dealt with the programme for the observance in 1971 of the International Year. The Sub-Commission had before it the programme which had been approved by the General Assembly in paragraph 3 of resolution 2544 (XXIV), as set out in document A/7649. In paragraph 5 of resolution 2544 (XXIV), organs of the United Nations had been invited to co-operate and participate in the preparatory work and in the observance of the Year; the Sub-Commission was mentioned in suggestion B of the programme. Regarding the second part of the sub-item, "Review of measures and decisions taken to eliminate racial discrimination", the attention of the Sub-Commission was drawn to resolution 3 A (XXVI) of the Commission on Human Rights, in which the Commission decided to undertake, at its twenty-seventh session in 1971, a comprehensive review of measures and decisions taken to eliminate racial discrimination in order to evaluate their effectiveness and the stages reached in their implementation, to identify the obstacles encountered and to determine the necessity of taking further measures and decisions with a view to achieving rapid and total elimination of racial discrimination, including the policy of apartheid

/...

and manifestations of nazism and racial intolerance. The Commission had requested the Sub-Commission to consider these matters at its twenty-third session, and to transmit to the Commission such conclusions and recommendations as it considered appropriate.

Special study of racial discrimination in the political, economic,
social and cultural spheres

128. The special study on racial discrimination in the political, economic, social and cultural spheres was prepared under the authority of Economic and Social Council resolution 1076 (XXXIX) of 28 July 1965, the final version of the study consisting of thirteen chapters and two annexes. It was based on studies relating to eighty-four countries and various Non-Self-Governing Territories. In introducing his report on the study, the Special Rapporteur emphasized the differences between the final version and the interim report (E/CN.4/Sub.2/301), which had been before the Sub-Commission at its twenty-second session. He drew attention to chapter XIII of the report, which contained conclusions and proposals, and suggested that certain of these recommendations (E/CN.4/Sub.2/CRP.18) could serve as a basis for action by the Sub-Commission.

General debate on chapters I-XII of the report of the Special Rapporteur

129. The Sub-Commission held a general debate on the body of the report, namely, chapters I-XII, and a separate discussion on the conclusions and recommendations contained in chapter XIII. During the general debate on the report, the Sub-Commission unanimously expressed its appreciation for the excellent work done by the Special Rapporteur, and various members stated that the report was objective, accurate, detailed and erudite.

130. While taking into account the statement of the Special Rapporteur that the final report was his responsibility and that substantive changes could not be introduced owing, inter alia, to material difficulties, members of the Sub-Commission made general comments on the text before them. A number of members noted that the Special Rapporteur had been hampered by the fact that some Governments had not furnished him the requested information concerning the situation in their respective countries. The Special Rapporteur stated that any supplementary information furnished to him would be included in the report, if it

was subsequently reprinted. Several members drew attention to operative paragraph 3 of resolution 2 (XXII), adopted by the Sub-Commission at its previous session, in which the Special Rapporteur had been requested to include in the final report "consideration of all similar ideologies that are based on racial discrimination"; these members stated that the report should have taken into account certain Zionist practices presently being carried out in the occupied territories in the Middle East because, in their view, such practices should be considered "similar ideologies" under the terms of the resolution.

131. Some members stated that chapter XII, which dealt with the question of the danger of the revival of nazism and racial intolerance, should not have been included in a general study dealing with the question of racial discrimination. Others noted that the Special Rapporteur had properly fulfilled the mandates given to him by the Sub-Commission and Commission on Human Rights. Some members drew attention to the inclusion in chapter XII, part E, of the report of the statements made by the Government of Poland concerning the existence of nazism in the Federal Republic of Germany and the comments on those statements by the Government of the Federal Republic of Germany. Several members felt that it was inappropriate for the Special Rapporteur to have reproduced, without comment, these documents. Some members, however, supported the inclusion of these documents and expressed their dissatisfaction that statements of a similar nature, regarding the resurgence of nazism in other countries, which had appeared in the interim report, had not been retained in the final version.

132. Mr. Santa Cruz, replying to some of these comments, pointed out inter alia that the Sub-Commission had not defined what is meant by "similar ideologies"; that the suggestions made by members of the Sub-Commission during its discussion of his interim report in 1969 had frequently been contradictory; that, in view of the purposes of the study as defined by the Sub-Commission and higher bodies, he had consistently endeavoured to separate the study from the context of contemporary politics; that, in connexion with the historical section on nazism, owing to the absence of instructions from the Sub-Commission and in view of the conflicting opinions held by various members, he had preferred to continue to use an official document issued by the representatives of the four great Powers, namely the Judgement of the Nuremberg Tribunal; and that the exclusion of several countries which had appeared in the interim report, as a result of allegations, was sufficiently explained in the conclusions of the study (paragraph 1128).

/...

133. In the light of some of the comments made by various members of the Sub-Commission, the Special Rapporteur made the following written amendments to the final report:

- (a) In order to take account of the statements of several members of the Sub-Commission, who stated that paragraphs 3 and 4 implied that all 16th-century Spanish philosophers and theologians had justified the enslavement of the indigenous "Indians", paragraphs 3 and 4 were replaced by the following:

"3. At the beginning of the sixteenth century some writers justified the enslavement of the indigenous Indians of the New World on the grounds that they were 'infidels' and even that they were of a different race.

"4. Some decades later, when the concept of racial equality gained acceptance and slavery was no longer permitted, thanks to the activities of thinkers and theologians such as Father Bartolomé de las Casas, the servitude of the indigenous inhabitants was justified on the grounds that it was necessary to 'civilize' and to protect a status comparable with that of a 'minor' " (E/CN.4/Sub.2/307/Corr.2).

- (b) Some members had expressed the view that paragraph 133 seemed to criticize the work done by missionary groups, particularly on the continent of Africa. A new sentence was therefore added at the end of paragraph 133, which reads as follows:

"No reflection is intended, however, on the valuable work done by missionaries" (E/CN.4/Sub.2/307/Corr.2).

- (c) In connexion with paragraph 190, which dealt with the right of persons to seek judicial relief against discrimination by trade unions, the following phrase was added to the penultimate sentence in the introductory part of the paragraph:

"redress in the courts and even claim damages" (E/CN.4/Sub.2/307/Add.1/Corr.1).

- (d) In the view of one member, the first sentence in paragraph 959 implied that nazism began in Austria and spread from there to other countries. In that sentence, the Special Rapporteur deleted "had its roots in Austria and" and replaced it by "had its immediate roots in some" (E/CN.4/Sub.2/307/Add.4/Corr.2). One member disputed that the ideological

/...

roots of nazism were in Austria, taking account of the fact that present-day Austria is different from the Austro-Hungarian Empire, which disappeared at the end of the First World War.

- (e) In order to correct the misstatement in the first sentence of paragraph 472, concerning the status of Canadian Indians, that sentence was re-drafted so that the words "by virtue of" were replaced by the words "as a result of the laws enacted under" (E/CN.4/Sub.2/307/Add.2/Corr.1).

General debate on chapter XIII of the report

134. In the general debate on chapter XIII of the report, the Sub-Commission examined each set of conclusions and proposals separately.

135. There was general support for the conclusions and proposals contained in part A of chapter XIII, which dealt with racial discrimination in the political, economic, social and cultural spheres. However, it was pointed out that the last sentence of paragraph 1079, which stated that neither the United Nations Declaration or Convention on the Elimination of All Forms of Racial Discrimination was "fully effective", was inaccurate and misleading, since the Declaration was a standard of achievement and the Convention had already come into force. The Special Rapporteur agreed to delete the last sentence of paragraph 1079.

136. There was some discussion on paragraph 1080, which proposed that the General Assembly set a target date for the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, namely, 31 December 1971, the final day of the International Year for Action to Combat Racism and Racial Discrimination. In the view of some members, this recommendation could be interpreted as discouraging ratification after 1971, and might conflict with the provisions of the Convention itself. It was also pointed out that the Convention provided that States Parties report to the Committee on the Elimination of Racial Discrimination; therefore, the recommendation that some States should report to the Assembly might contradict the terms of the Convention. With regard to the same paragraph several members stated that although States not eligible to ratify the Convention could be requested to comply with its principles, they should not be requested to report to the Assembly on the measures they had taken. In the light of some of these

/...

comments, the Special Rapporteur proposed the last sentence be replaced by the following (E/CN.4/Sub.2/307/Add.5/Corr.1):

"States not eligible to ratify the Convention should nevertheless also be invited to comply strictly with the same principle".

He subsequently withdrew this amendment and accepted the amendment proposed by Mr. Cristescu (E/CN.4/Sub.2/CRP.24), to replace paragraph 1080 by the following:

"1080. It is therefore proposed that the General Assembly urge all States which have not ratified or are not parties to the International Convention on the Elimination of All Forms of Racial Discrimination to accelerate the process of ratifying that Convention, to ratify or to accede to it as soon as possible, and before 31 December 1971, the final day of the International Year for Action to Combat Racism and Racial Discrimination, and request them to report to the General Assembly ..."

137. With regard to paragraph 1081, which concluded that there was no scientific basis for racism, one member suggested that scientists had a special responsibility to take action to combat racial discrimination. The Special Rapporteur added the following sentence at the end of paragraph 1081 (E/CN.4/Sub.2/307/Add.5/Corr.4):

"Scientists should continue to take positive action against racial discrimination in their respective fields of activity".

138. One member stated that paragraph 1086 was unclear. In his opinion, the phrase "of a different ethnic origin" needed further amplification. The Special Rapporteur orally agreed to change that phrase to "of various ethnic origins". He also substituted for the word "minorities", in the second sentence of the same paragraph, the words "sectors which are a minority in the country".

139. With regard to part B, which dealt with "Racial discrimination against indigenous populations", many members supported the recommendation of the Special Rapporteur that further study of the question of the treatment of indigenous persons should be undertaken by the United Nations. Several members stated that, while they endorsed the Special Rapporteur's position that integration was the most appropriate way of eliminating discrimination against indigenous persons, special attention must be paid to ensuring that the institutions and traditions of these groups were respected. It was stated that the integration envisaged in paragraph 1089 should not be considered "racial integration", but integration into the body politic. The view was taken by several members that the discrimination endured by indigenous persons was not merely racial, but in many

/...

instances social and cultural, and they expressed disagreement with the title of that part of the chapter as formulated by the Special Rapporteur. The Special Rapporteur agreed to change the title of part B to "Problems of indigenous populations".

140. As suggested by one member, he agreed to delete the word "even" before the word "FAO" in paragraph 1102.

141. Part C of the conclusions and recommendations was entitled "Apartheid and Segregation" and covered the situation in South Africa, Namibia, Rhodesia and the African Territories under Portuguese administration. The Sub-Commission placed emphasis on the urgency of effective and immediate implementation of the resolution concerning apartheid adopted by the General Assembly and the Security Council of the United Nations. Some members drew attention to the first sentence in paragraph 1123, which dealt with the policy of apartheid being applied in Southern Rhodesia; they stated that as was evidenced by the report of the Special Rapporteur, the situation in Southern Rhodesia was essentially the same as that prevailing in South Africa and that the sentence might be interpreted to mean that the situation was less serious. The Special Rapporteur replaced the first sentence by the following (E/CN.4/Sub.2/Add.5/Corr.4):

"The situation described is very similar to that which exists in the Republic of South Africa and is tending to become increasingly acute and to become more explosive every day".

142. The Sub-Commission discussed part D of chapter XIII, which dealt with the question of "The danger of a revival of nazism and racial intolerance". Some members endorsed the position taken by the Special Rapporteur in paragraph 1133, that genuine political, economic and social democracy is "an effective vaccine and the equally effective antidote against the formation of Nazi movements". Some members questioned the meaning of the last sentence in paragraph 1133, which read as follows: "This does not, of course, apply to situations in which, as has happened in history, totalitarian régimes have been imposed from outside by stronger neighbours". The Special Rapporteur thereafter agreed to delete that sentence, but stated that its sole purpose was to recognize that in history democratic Governments had been eliminated by more aggressive neighbouring countries.

/...

143. Some members questioned the validity of the statement made in paragraph 1129, to the effect that there is a clear danger of the revival of nazism, and in this connexion asserted that chapter XIII of the report did not substantiate this contention. Those who held the contrary view noted that the Sub-Commission was not in a position to challenge the assumption and conclusions of its superior bodies, including the Commission on Human Rights and the General Assembly, which had expressed concern over the revival of this dangerous ideology. The Special Rapporteur deleted the words "a clear" before the word "danger" in paragraph 1129 (E/CN.4/Sub.2/307/Add.5/Corr.4).

144. Several members stated that the second sentence in paragraph 1132 did not take account of the affirmative action being undertaken by the Federal Republic of Germany to combat nazi activities and to prevent the revival of nazism; these members also objected to the linking of the Government of the Federal Republic of Germany and that of South Africa in paragraphs 1131 and 1132. Other members noted that the fight against nazism was a main task of the United Nations, that it was necessary to bear in mind that contemporary manifestations of nazism and racial discrimination in certain countries represented a serious danger, and that an unrelenting struggle should be waged against them. In paragraph 1131, the Special Rapporteur, after explaining that the two countries had been linked in the text because they were the only ones which had been the subject of allegations considered by him, deleted the final words "in the Federal Republic of Germany and in South Africa" and after the words "a revival of nazism", added the following: "in various countries, including the Republic of South Africa, whose situation has been exhaustively dealt with in chapter X of the report and in section C of these conclusions" (E/CN.4/Sub.2/307/Add.5/Corr.4). With regard to paragraph 1132, he deleted the first sentence. In the second sentence, he inserted the word "positive" before the word "measures", explaining that he did so in order to obviate erroneous interpretations, although the original text clearly reflected the positive measures taken by the Federal Republic of Germany.

145. In order to clarify the statement in paragraph 1136 as to those cases where racism has been raised to the level of State policy, the Special Rapporteur amended the first sentence of that paragraph by replacing the full stop by the comma and adding the phrase "as in the Republic of South Africa" (E/CN.4/Sub.2/307/Add.5/Corr.4).

146. In view of the questions raised about the desirability of non-eligible States reporting to the General Assembly on measures they had taken to comply with the

provisions of the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, the Special Rapporteur deleted the last sentence in sub-paragraph (a) of paragraph 1136. He replaced it by the following sentence: "States not eligible to ratify the Convention should nevertheless also be invited to comply strictly with the same principles". He also changed the order of the sub-paragraphs in paragraph 1136; sub-paragraph (d) became sub-paragraph (b) and sub-paragraphs (b) and (c) became (c) and (d) respectively (E/CN.4/Sub.2/307/Add.5/Corr.4).

147. Several members referred to the consideration and the adoption by the General Assembly of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, and noted that it had received relatively few affirmative votes. They pointed out that many States would not be in a position to sign or to become parties to it because retroactive provisions conflicted with the constitutional or penal provisions of many countries. These members stated they could not therefore endorse the position taken by the Special Rapporteur in sub-paragraph (a) of paragraph 1136 that the General Assembly should be recommended to urge all eligible States to ratify the Convention. Other members noted the very great importance of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, an extremely important document in international law, which will come into force on 11 November 1970.

148. Some members expressed reservations concerning the wisdom of the Special Rapporteur's recommendation, as set forth in sub-paragraph (b) of paragraph 1136, that the Sub-Commission undertake a further study of ideologies similar to nazism "with a view to determining the connexion between nazism in its present-day forms and racist forces in various regions of the world". A few members expressed doubt about the recommendation contained in sub-paragraph (c), which proposed that study be made of the question of the international criminal jurisdiction and the question of the draft code of offences against the peace and security of mankind. They noted that the General Assembly had postponed discussion of this question until decisions had been taken regarding the question of defining aggression.

149. Several members felt that the recommendations contained in sub-paragraphs of paragraph 1137 raised serious constitutional problems because, in their view, these recommendations infringed upon the rights to free association, assembly and thought. They said further that States which were unable to ratify "for serious constitutional

or other reasons" the International Convention on the Elimination of All Forms of Racial Discrimination a fortiori would be unable to implement recommendations which went beyond those of the Convention.

Adoption of resolutions

150. In connexion with agenda item 3 (a), the Sub-Commission had before it two draft resolutions: the first submitted by Mr. Santa Cruz (E/CN.4/Sub.2/CRP.19/Add.1), the second by Messrs. Ilako, Ingles and Martínez Báez (E/CN.4/Sub.2/CRP.21). The Sub-Commission decided to consider the latter resolution first.

151. The joint draft resolution (E/CN.4/Sub.2/CRP.21), inter alia, proposed that the Sub-Commission express its deep appreciation to the Special Rapporteur for his valuable work on the study and congratulate him warmly on his final report. The Sub-Commission would also express 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. The draft resolution transmitted the report to the Commission on Human Rights. It also contained a draft resolution, addressed to the Commission on Human Rights, for adoption by the Economic and Social Council. The draft resolution for the Council, among other things, proposed that the Secretary-General be requested to print the Special Rapporteur's study and circulate it as widely as possible.

152. During the discussion of the joint draft resolution, several members expressed doubts about the statement made in operative paragraph 5, which took note of the general endorsement expressed by members of the Sub-Commission of the conclusions contained in chapter XII of the study. The sponsors agreed to delete that paragraph. Mr. Rybakov stated that he was unable to support the expression of gratitude to the non-governmental organizations, as set out in paragraph 2 of the resolution, because he did not know which organizations had collaborated in the preparation of the report. He orally proposed that the words "and to the non-governmental organizations concerned" be deleted from operative paragraph 2.

153. A statement (E/CN.4/Sub.2/CRP.27) on the financial implications of the draft resolution contained in document E/CN.4/Sub.2/CRP.21 was circulated by the Secretary-General.

154. At its 601st meeting, on 24 August 1970, the Sub-Commission voted on the joint draft resolution. It rejected the proposal by Mr. Rybakov by 13 votes

against, 5 in favour with 5 abstentions. The Sub-Commission adopted the joint draft resolution, as orally revised, by 22 votes in favour, none against with 1 abstention. The text of the resolution will be found in chapter VIII as resolution 2 (XXIII).

155. The Sub-Commission then considered the draft resolution proposed by Mr. Santa Cruz (E/CN.4/Sub.2/CRP.19 and Add.1), which requested the Commission on Human Rights to recommend to the Economic and Social Council the adoption of four draft resolutions. The draft resolution was based on the proposals contained in chapter XIII of Mr. Santa Cruz' report and took into account the discussion which had taken place in the Sub-Commission.

(a) Draft resolution submitted by Mr. Santa Cruz (E/CN.4/Sub.2/CRP.19)

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

Having considered the conclusions and proposals set out in chapter XIII of the special study of racial discrimination in the political, economic, social and cultural spheres (E/CN.4/Sub.2/307/Add.5),

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

A

"Racial discrimination in the political, economic,
social and cultural spheres

"The Economic and Social Council,

"Considering it necessary that immediate, effective and decisive steps should be taken to eradicate racial discrimination in the political, economic, social and cultural fields,

"Endorsing in general the conclusions concerning such discrimination set out in the special study of racial discrimination in the political, economic, social and cultural spheres (E/CN.4/Sub.2/307 and Add.1-6, chapter XIII, section A,

"1. Recommends that the General Assembly request every competent United Nations organ, specialized agency, regional intergovernmental organization and non-governmental organizations in consultative status to consider, as a matter of highest priority, at sessions to be held in 1971, the International Year for Action to Combat Racism and Racial Discrimination:

"(a) The further action which it might itself take with a view to speedily eliminating racial discrimination throughout the world;

"(b) The action which it might recommend to its subsidiary organs, to States, and to international and national bodies for this purpose;

"(c) The follow-up measures required to ensure the full and effective implementation of its decision in this matter;

"2. Recommends further that the General Assembly, while continuing to recommend and to encourage all eligible States to ratify the International Convention on the Elimination of All Forms of Racial Discrimination, should set 31 December 1971 - the final day of the International Year for Action to Combat Racism and Racial Discrimination - as the target date for ratification of that Convention by all eligible States; request those States to report to the twenty-seventh session of the General Assembly on the measures taken by them to this effect, on any obstacles which may have been encountered, and on any interim measures taken to comply strictly with the principles set out in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and the Convention on this subject;

"3. Recommends further that the General Assembly should launch immediately, as a major feature of the programme for the observance in 1971 of the International Year for Action to Combat Racism and Racial Discrimination, and with the co-operation and assistance of every competent United Nations organ, specialized agency and affiliated national and international organization, a world-wide programme to ensure the greatest possible distribution throughout the world of the Statement on Race and Racial Discrimination adopted by a conference of experts on the subject convened by the United Nations Educational, Scientific and Cultural Organization in Paris in 1967, with a view to eradicating once and for all false racial beliefs based upon a lack of scientific knowledge;

"4. Invites the International Labour Organisation to provide the Sub-Commission on Prevention of Discrimination and Protection of Minorities with substantive reports, at five-year intervals, on the nature and effect of any continuing racial discrimination in the field of employment and labour relations to serve as a basis for its further study of this problem;

"5. Invites the United Nations Educational, Scientific and Cultural Organization to provide the Sub-Commission on Prevention of Discrimination and Protection of Minorities, at five-year intervals, with substantive reports on the nature and extent of any continuing racial discrimination in the field of education, to serve as a basis for its further study of this problem;

B

"The problem of indigenous populations

"The Economic and Social Council,

"Noting that indigenous populations encounter racial prejudice and discrimination because they constitute a group which differs in race, colour or ethnic origin from the predominant population group, and that sometimes

the 'special measures' taken by the authorities to protect their unique culture and identity - which they themselves earnestly wish to maintain - may, with the passage of time, become unnecessary or excessive and therefore may also be discriminatory in character,

"Considering that the international community must therefore devote particular attention to the problems of indigenous populations if it is to succeed in its endeavour to eliminate all forms of racial discrimination,

"Convinced that the policy of racial integration is the most appropriate way of eliminating discrimination against indigenous populations,

"Convinced further that no integration policy for indigenous races and populations, whether they represent minority groups or a majority of a country's population, can proceed unless it is accompanied by a policy of economic and social development aimed at achieving a rapid and substantial rise in the living standards of those populations.

"1. Recommends that the Governments of all States having indigenous populations take into account, in their policies of economic and social development, the special problems of indigenous populations with a view to eliminating racial prejudice and discrimination against such populations;

"2. Invites all competent organs of the United Nations, and especially the regional economic commissions and specialized agencies concerned, to co-operate with Governments in any actions which they may undertake in compliance with the present resolution;

"3. Recommends to all States having legislation for the protection of indigenous populations that they review that legislation with a view to determining whether in practice it has not already resulted, or might not result, in discrimination, or whether its effect has been to place unjust and unnecessary restrictions on certain civil and political rights;

"4. Invites the Organization of American States and its subsidiary bodies, including the Inter-American Commission on Human Rights, to recommend that the resolutions, declarations and recommendations relating to indigenous populations, adopted by the Conferences of American States, the Inter-American Indian Conferences, should be implemented;

"5. Authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to make, as part of its study on the protection of minorities, a complete and comprehensive study of the nature and extent of the problem of discrimination against indigenous populations and of the national and international measures necessary to eliminate such discrimination, in co-operation with the specialized agencies concerned and other competent international, regional and national organizations."

/...

C

"Policies of apartheid and racial discrimination

"The Economic and Social Council,

"Strongly condemning the discriminatory policies of the South African Government and recognizing that the doctrine of apartheid is scientifically false, and that its application constitutes a crime against humanity and threatens international peace and security,

"Welcoming the recommendations concerning the policies of apartheid made in General Assembly resolutions of recent years, particularly resolutions 2396 (XXIII), 2397 (XXIII), 2544 (XXIV) and 2547 (XXIV),

"Convinced of the urgent need for Member States, in particular the major trading partners of South Africa, to apply fully the resolutions concerning apartheid adopted by the General Assembly, the Security Council and other organs of the United Nations,

"1. Expresses the hope that the Security Council will find appropriate methods and means of rigidly enforcing its own resolution in which all Member States are called upon not to supply arms to South Africa, and of effectively implementing the above-mentioned resolutions of the General Assembly;

"2. Invites the specialized agencies, and especially the financial institutions, to follow towards South Africa a policy in conformity with those resolutions;

"3. Invites all States to strengthen and expand their programmes of assistance to the victims of apartheid, and to respond as promptly as possible to the General Assembly's appeal for substantial contributions to the United Nations Trust Fund;

"4. Invites all States to undertake, with the assistance of non-governmental organizations, including churches, universities and civic groups where appropriate, an educational programme designed to acquaint the public of each country and Territory with the evil consequences of the policy of apartheid;

"5. Appeals to all humanitarian organizations, and to the International Committee of the Red Cross in particular, to take an active role in assisting the victims of apartheid, especially those who are detained or imprisoned;

"6. Urges the General Assembly to provide funds on the scale required to combat effectively the propaganda undertaken by the Government of South Africa in its effort to extol the virtues of the policy of apartheid;

/...

"7. Invites the Secretary-General to make special efforts, utilizing the existing information services available to the United Nations, to alert public opinion in the countries trading with South Africa to the recommendations made by various United Nations bodies on the subject of apartheid in order to facilitate compliance by Governments with those recommendations."

D

"The danger of a revival of nazism and racial intolerance

"The Economic and Social Council,

"Noting resolution (XXIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and resolution (XXVII) of the Commission on Human Rights, on the danger of a revival of nazism and racial discrimination,

"Having considered the special study of racial discrimination in the political, economic, social and cultural spheres (E/CN.4/Sub.2/307 and Add.1-6) prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and in particular chapter XII of that study, on the danger of a revival of nazism and racial discrimination,

"1. Urges the General Assembly to resume, as soon as possible, its study of the question of the international criminal jurisdiction and the question of the draft code of offences against the peace and security of mankind with a view to the preparation of effective measures to eliminate any possibility of a revival of nazism;

"2. Recommends to the General Assembly the adoption of the following draft resolution:

'The General Assembly,

'Recognizing that vestiges of nazism and racial intolerance persist in some parts of the world, although clearly incompatible with the purposes and principles of the United Nations Charter, the United Nations Declaration and the International Convention on the Elimination of All Forms of Racial Discrimination; and that there is a danger of a revival, or a development of new forms, of nazism and of racial discrimination combined with terrorism,

'Considering that contemporary manifestation of resurgent nazism, like the earlier ones, combine racial prejudice and discrimination with terrorism, and that in some cases racism has been raised to the level of State policy,

/...

'Believing it essential, in order to remove this threat to the peace and security of peoples and to the realization of basic human rights and fundamental freedoms, to elaborate a series of urgent and effective measures which might be adopted by States with a view to suppressing the revival of nazism and preventing its revival, in any form or manifestation, in the future,

'Firmly convinced that the best bulwark against nazism and racial discrimination is the establishment and maintenance of democratic institutions; that the existence of genuine political, social and economic democracy is an effective vaccine and an equally effective antidote against the formation or development of nazi movements; and that a political system which is based on freedom and effective participation by the people in the conduct of public affairs, and under which economic and social conditions are such as to ensure a decent standard of living for the population, makes it impossible for fascism and nazism to succeed,

'1. Invites all eligible States which have not yet done so to ratify the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity as soon as possible, and requests them to report to the session of the General Assembly on the measures taken by them to this effect, on any obstacles which may have been encountered, and on any interim measures taken to comply strictly with the provisions of those Conventions;

'2. Invites all States Members of the United Nations and of the specialized agencies to review their legislation, in the light of the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, with a view to determining whether, in the light of their circumstances, further legal measures are required to eradicate for all time the danger of a revival of nazism and racial intolerance;

'3. Urges those States which are unable, for serious constitutional or other reasons, to implement immediately and fully the provisions of article 9 of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and article 4 of the International Convention on the Elimination of all Forms of Racial Discrimination - both of which call for the prohibition of organizations which promote and incite racial discrimination - to take measures designed to ensure the speedy disbandment and disappearance of such organizations; these measures should provide, inter alia, that:

'(a) Such organizations should not be allowed to receive financial subsidies from organs of the State, private companies or individuals;

/...

'(b) Such organizations should not be allowed the use of public premises in which to establish their headquarters or conduct meetings of their members, the use of streets and squares in populated areas for holding demonstrations, or the use of public media of information for disseminating propaganda;

'(c) Such organizations should not be allowed to form militarized detachments on any pretext, and offenders should be subject to prosecution in the courts;

'(d) Persons employed by the State, particularly in the armed forces should not be permitted to belong to such organizations;

'5. Calls upon all competent organs, specialized agencies and international and national organizations to increase public awareness of the danger of a revival of nazism and racial intolerance, especially among young people, by the preparation and dissemination of information on this subject, by participation in ceremonies commemorating the victims of nazism and similar ideologies and practices based on terror and racial intolerance, and by any other means at their disposal;

'6. Decides to keep the question of measures to be taken against nazism and racial intolerance on its agenda and under continuing review. and urges other competent organs of the United Nations to do likewise. so that appropriate measures can be taken promptly as required;

'7. Confirms the principles of international law with regard to the eradication of nazism, and appeals to all States to act in conformity with those principles.'

(b) Addendum submitted by Mr. Santa Cruz to the draft resolution (E/CN.4/Sub.2/CRP.19/Add.1):

1. Draft resolution C

Add the following after the words "United Nations" in the third preambular paragraph:

"and to comply fully with the obligations they have assumed for preserving peace and increasing peaceful relations among nations, by observing the provisions of the Charter, including those concerning the promotion of complete respect for fundamental human rights and individual liberties through individual and collective measures;"

2. Draft resolution A

Add a third preambular paragraph reading as follows:

"Bearing in mind that racial discrimination in the economic sphere is being perpetuated in many countries, especially in southern Africa, as a device for maintaining a steady supply of cheap labour. and in many developing countries as a result of the low levels of living of certain ethnic groups;"

/...

3. Draft resolution D

Replace the words "Calls upon all competent organs" by the following:

"Calls upon Governments, particularly those which control mass information media of world or continental scope, the United Nations and its subsidiary bodies,".

156. The following proposals and amendments were submitted to the draft resolution:

(a) Proposals for inclusion in the draft resolution submitted by Mr. Rybakov (E/CN.4/Sub.2/CRP.22):

1. Calls upon all States to take legislative, administrative and judicial measures to prohibit propaganda of any kind in favour of nazism, the concept of racial superiority, chauvinism, hatred of other peoples, militarism and revanchism;

2. Appeals to all States to prohibit activity by organizations or groups propagating concepts of nazism, racial superiority, chauvinism, hatred of other peoples, militarism and revanchism, regardless of whether such organizations or groups openly call themselves Nazi or Fascist or masquerade as unions of servicemen, veterans, displaced persons, lobbies, etc.;

3. Calls upon all States to take steps to prevent the granting to organizations and groups of a Nazi or Fascist character of financial subsidies by State bodies, private companies or individuals and the establishment by such organizations, under whatever pretext, of paramilitary detachments;

4. Vigorously condemns the Governments of those countries which, in violation of the Charter of the United Nations and other international agreements, pursue a policy of indiscriminate punishment and destruction of the populations of whole villages and areas in territories seized by them and subject indigenous populations and the populations of occupied territories to racial discrimination and police terrorism;

5. Deems it essential that the question of measures to be taken to combat nazism and racial intolerance should be kept under constant review by the appropriate United Nations bodies with a view to the timely and immediate adoption of the necessary measures for the complete eradication of nazism from the life of society;

/...

6. Requests the United Nations Educational, Scientific and Cultural Organization, the International Labour Organisation and other United Nations specialized agencies to consider the question of measures to combat nazism and racial intolerance;

7. Appeals to regional inter-governmental organizations to consider the question of measures which could be taken at the regional level to combat nazism and other manifestations of racial intolerance.

In introducing these amendments, Mr. Rybakov stated that the action to be undertaken by States in his resolution was consistent with and supplementary to the provisions of article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, as well as various resolutions of the General Assembly on the question of nazism. He stated that the time had come for the Sub-Commission to examine contemporary manifestations of nazism and that policies of punishment and destruction in occupied territories amounted to a form of neo-nazism.

(b) An amendment submitted by Mr. Nettel to draft resolution B proposed for adoption by the Economic and Social Council (E/CN.4/Sub.2/CRP.25):

In draft resolution B, add a fifth preambular paragraph, reading as follows:

"Further convinced that every precaution must be taken to ensure that the process of integration is not carried out to the detriment of the institutions and traditions of the indigenous population and that its cultural and historical values are respected."

In support of his amendment, Mr. Nettel stated that the draft resolution proposed by Mr. Santa Cruz did not take account of the need to preserve the institutions and traditions of indigenous persons and that this important feature should not be overlooked in the process of integrating these persons into the body politic.

(c) An amendment submitted by Mr. Ingles to draft resolution A proposed for adoption by the Economic and Social Council (E/CN.4/Sub.2/CRP.26):

Add, after paragraph 3 of draft resolution A, the following new paragraph 4, and renumber the following paragraphs accordingly:

"4. Recommends further that the General Assembly urge all States concerned to accelerate economic and social development of their minority groups with a view to eliminating de facto discrimination occasioned by their low standard of living; and urge also competent organs of the United Nations and specialized agencies to extend their full co-operation, including technical and financial assistance where appropriate, to enable the States concerned to achieve the foregoing objective."

/...

In introducing his amendment, Mr. Ingles said that it was important for States to accelerate the economic and social development of their minority groups and that the technical assistance programme of the United Nations would be useful in this regard.

(d) Amendments submitted by Mr. Ferrari Bravo to draft resolutions A and B proposed for adoption by the Economic and Social Council (E/CN.4/Sub.2/CRP.28):

Draft resolution A

1. In paragraph 2, delete the words "set 31 December 1971 - all eligible States".

2. In paragraph 3, substitute the words "to ensure the greatest possible distribution throughout the world of" with the words "intended to build up the public opinion, specially through radio and television broadcasts, as well as through the distribution of appropriate literature as".

3. Redraft paragraphs 4 and 5 as follows:

"4. Invites the International Labour **Organisation** and the United Nations Educational, Scientific and Cultural Organization to provide the Sub-Commission on Prevention of Discrimination and Protection of Minorities with substantial reports, at five-year intervals, on the nature and effect of any continuing racial discrimination in their respective fields of competence to serve as a basis for its further study of this problem...".

Draft resolution B

4. In the first paragraph of the preamble after the words "indigenous populations", added the word "often".

5. In the second and in the third paragraph of the preamble, delete the word "racial" before the word "discrimination".

6. In paragraph 1 of the operative part, substitute the words "racial prejudice and discrimination" with the words "all kinds of prejudices and discriminations".

7. In paragraph 5 of the operative part, substitute the words "as part of its study on the protection of minorities, a complete and comprehensive study" with the words "either as part of its study on the protection of minorities or as a separate study, a complete and comprehensive review".

In introducing his amendments, Mr. Ferrari-Bravo said that he disagreed with the establishment of the target date for the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination. He emphasized

/...

the need for utilizing radio and television broadcasts as an effective means of publicizing the evils and fallacies of racism in connexion with the second amendment to paragraph 3 of draft resolution A. He suggested also that paragraphs 4 and 5 of draft resolution A be combined, since they were both addressed to the specialized agencies. In connexion with draft resolution B, he proposed the addition of the word "often" in the first paragraph of the preamble, before the words "encountering racial prejudice", because in his view this more accurately reflected the situation described by the Special Rapporteur in chapter IX of the report. He disagreed with the use of the word "racial" in the second and third preambular paragraphs and disagreed with the directives set out regarding the study in operative paragraph 5 of the draft resolution.

(e) Amendments submitted by Mr. Sevilla-Borja to draft resolution B proposed for adoption by the Economic and Social Council (E/CN.4/Sub.2/CRP.29):

1. Replace the fourth preambular paragraph by the following:

"Convinced further that no integration policy for indigenous races and populations, whether they represent minority groups or a majority of a country's population, can proceed unless it is accompanied by a policy of economic, social and educational development aimed at achieving a rapid and substantial rise in the living standards of those populations;"

2. Amend operative paragraph 2 as follows:

"2. Invites all competent organs of the United Nations, and especially the regional economic commissions and specialized agencies concerned, to co-operate with Governments in any actions which they may undertake in compliance with the present resolution, particularly by strengthening the Andean Indian Programme of the United Nations;"

In regard to the first amendment, he stated that the purpose was to emphasize educational programmes in helping to achieve a rise in the living standards of the indigenous populations. His second amendment was designed to draw attention to the importance of the Andean Indian Programme of the United Nations.

(f) Amendments submitted by Mr. Jankovic and Mr. Nikiema to draft resolution C proposed for adoption by the Economic and Social Council (E/CN.4/Sub.2/CRP.31):

/...

Preamble

"1. Strongly condemning the policies of racial discrimination pursued in South Africa, Namibia, Southern Rhodesia and the Territories under Portuguese domination, more particularly the doctrine of apartheid, which is scientifically false and whose application constitutes a crime against humanity and a threat to international peace and security,

"3. Convinced that, in order to ensure the complete effectiveness of the struggle being carried on against apartheid, it is essential for Member States, in particular the trading partners of South Africa, to apply as a matter of the utmost urgency and without reservation the resolutions concerning apartheid adopted by the General Assembly, the Security Council and other organs of the United Nations,"

Operative part of the resolution

"4. Invites all States to undertake, with the assistance of non-governmental organizations, including universities and all civic groups, an educational programme designed to acquaint the public of each country and Territory with the evil consequences of the policy of apartheid;

"7. Invites the Secretary-General to make special efforts, utilizing the existing information services available to the United Nations, to alert world public opinion, and particularly that of the countries trading with South Africa, to the recommendations made by various United Nations bodies on the subject of apartheid in order to facilitate compliance by Governments with those recommendations."

In introducing the amendments on behalf of himself and the co-sponsor, Mr. Nikiema stated that the first amendment, which was addressed to the first preambular paragraph, would "condemn" the doctrine of apartheid as scientifically false rather than recognizing that it was false as stated by the Special Rapporteur in his draft resolution. With regard to the second amendment, he stated that all trading partners of South Africa, rather than only the major trading partners, should be enlisted to implement the resolutions of the General Assembly, the Security Council and other organs of the United Nations. The third amendment was addressed to the fourth operative paragraph of the draft resolution and deleted the word "churches" as a group to be invited to undertake educational programmes to publicize the evil consequences of the policy of apartheid. The fourth amendment, which related to paragraph 7 of the draft resolution, emphasized the need to alert "world public opinion" rather than "public opinion" as formulated by the Special Rapporteur.

/...

(g) Amendments submitted by Mr. Ruhashyankiko and Mr. Nikiema to draft resolution D proposed for adoption by the Economic and Social Council

(E/CN.4/Sub.2/CRP.32):

In the draft resolution proposed for adoption by the General Assembly:

1. Replace the first preambular paragraph by the following:

"Recognizing that there still exist in the world convinced adherents of nazism and racial intolerance whose activities - if they are not opposed in sufficient time - could bring about a resurgence of those ideologies, which are clearly incompatible with the purposes and principles of the United Nations Charter, the United Nations Declaration and the International Convention on the Elimination of All Forms of Racial Discrimination, and that, accordingly, the danger of a revival, or a development of new forms, of nazism and racial discrimination combined with **terrorism** cannot be disregarded,".

2. Delete the second preambular paragraph.

3. Replace the third preambular paragraph by the following:

"Believing it essential, in order to remove this threat to the peace and security of peoples and to the realization of basic human rights and fundamental freedoms, to elaborate a series of urgent and effective measures which might be adopted by States with a view to preventing the revival of nazism, in any form of manifestation, in the future,".

In introducing the amendments, Mr. Nikiema on behalf of himself and the co-sponsor said that they disagreed with the use of the words "vestiges of nazism" as used in the first preambular paragraph of the proposed draft resolution because in their opinion "convinced adherents of nazism" rather than "vestiges" constituted a danger of revival of nazism. With regard to the third amendment, he stated that it was important for the international community to prevent the revival of nazism rather than suppress its revival as formulated in the draft resolution of the Special Rapporteur.

(h) Amendments submitted by Mr. Rybakov to draft resolutions A, B, C and D proposed for adoption by the Economic and Social Council (E/CN.4/Sub.2/CRP.33):

Draft resolution A

Insert new paragraphs 4 and 5:

"4. Stresses the significance of social and economic reforms and the acceleration of the social and economic development of countries as the basis for the practical realization of human rights and freedoms and the elimination of all forms of racial discrimination;

/...

"5. Requests the Committee on the Elimination of Racial Discrimination, acting within the limits of its competence, to give the most careful attention to consideration of the question of the elimination of racial discrimination in the economic and social spheres."

Draft resolution B

Insert new paragraph 2:

"2. Appeals to the States concerned, if they have not yet done so, to take the appropriate legislative, administrative and other measures to protect the indigenous population and to prevent any discrimination against it."

Draft resolution C

Insert new paragraphs 2, 3 and 4:

"2. Appeals to those States which have not yet done so to abolish any legislative, administrative or other measures having a clearly discriminatory and repressive character and to put an end to all forms of racial discrimination;

"3. Reaffirms that the policy and practice of apartheid and racism, wherever they are applied, constitute a serious threat to the maintenance of international peace and that the situation in South Africa may eventually lead to armed conflict;

"4. Appeals to South Africa's major trading partners to discontinue all economic, commercial, military and other relations with South Africa."

Draft resolution D

Insert new paragraphs 2, 3, 4, 5, 6, 7 and 8 in the draft resolution recommended for adoption by the General Assembly:

"2. Condemns all manifestations of the ideology and practice of nazism and racial intolerance, wherever they may occur;

"3. Calls upon States to take steps to bring to light any evidence of the manifestation and dissemination of the ideology and practice of nazism and racial intolerance and to ensure that they are rigorously suppressed and prohibited;

"4. Expresses serious concern at the fact that, twenty-five years after the establishment of the United Nations, manifestations of nazism and racial intolerance are still occurring in various parts of the world, in violation of the United Nations Charter and despite the wishes of all peace-loving peoples;

"5. Calls upon all States to intensify their efforts to bring about the eradication everywhere of the policy and practice of apartheid, nazism, its present-day manifestations, and racial intolerance;

/...

"6. Confirms the urgent need for all States to take legislative, administrative and other measures to ban and dissolve all organizations and groups having a Nazi or racist character;

"7. Confirms that apartheid, nazism and other forms of racial intolerance constitute the most serious threat to the realization everywhere of human rights and freedoms and the maintenance of international peace and security;

"8. Notes that the danger to mankind arising from nazism, racism and racial intolerance is increasing in our time inasmuch as these shameful phenomena are closely linked with the ideas of militarism, world domination and the policy of aggression and economic enslavement of other countries and peoples."

With regard to the two amendments addressed to draft resolution A, Mr. Rybakov stated that he wanted to emphasize the importance of the elimination of discrimination in the economic and social spheres. With regard to the amendment to draft resolution B, he stated that it was designed to include both the idea of protecting the indigenous persons and the population of territories under military occupation and that of preventing discrimination against them. The three amendments to draft resolution C, inter alia, emphasized the serious consequences of the failure to take action against apartheid and racial discrimination. With regard to the seven amendments to draft resolution D, Mr. Rybakov explained that they were dictated by the serious concern and alarm of all peace-loving peoples at the revival of nazism in certain parts of the world and at the criminal policy of apartheid and racial discrimination being pursued in southern Africa, and were intended to reinforce the principles enunciated in various resolutions of the General Assembly and the Commission on Human Rights dealing with measures to be taken against nazism and racial intolerance.

(i) Amendments submitted by Mr. Ferguson to draft resolutions C and D proposed for adoption by the Economic and Social Council (E/CN.4/Sub.2/CRP.34):

1. Amend last phrase of first preambular paragraph found in draft resolution C, page 6, to read as follows:

" , and that its application constitutes a gross violation of human rights as enunciated in the Universal Declaration of Human Rights."

2. Amend operative paragraph 1 found in draft resolution D, page 8, to contain the following additional words at the end of the paragraph:

" , or other totalitarian ideologies and practices based on terror or racial intolerance."

3. Amend operative paragraph 2 in draft resolution D, page 8, by amending the paragraph beginning with the word "Recognizing" by changing the last two lines of that paragraph to read as follows:

"or a development of new forms of nazism, or other totalitarian ideologies and practices based on terror or racial intolerance."

4. Amend operative paragraph 2 in draft resolution D, page 9, by amending the paragraph beginning with the words "Firmly convinced" by changing the last line of the paragraph to read as follows:

"fascism, nazism or other forms of totalitarianism based on terror to succeed".

5. Amend operative paragraph 2 in draft resolution D, page 9, by amending the paragraph numbered 2 beginning with the word "Incites" by changing the last line of that paragraph to read as follows:

"danger of a revival of nazism, racial intolerance or other forms of totalitarianism based on terror."

6. Replace operative paragraph 6 on page 10 with the following:

"Decides to put the question of measures to be taken against totalitarian ideologies and practices based on terror or on incitement to racial discrimination or any other form of group hatred on its agenda and under continuing review, and urges other competent organs of the United Nations to do likewise, so that appropriate measures can be taken promptly as required;"

In connexion with the first amendment which was addressed to the first preambular paragraph of draft resolution C, it was stated that the Sub-Commission would exceed its terms of reference if it declared that apartheid was a crime against humanity and a threat to international peace and security, since questions of peace and security fell within the jurisdiction of the Security Council. Therefore it was proposed that the Sub-Commission designate apartheid as a gross violation of human rights. With regard to the remaining amendments which were directed towards draft resolution D, it was stated that the use of the words "totalitarian ideology and practices based on terror or racial intolerance" conformed to previous resolutions adopted by the United Nations organs as well as the International Conference on Human Rights held in Teheran. In further support of these amendments, it was pointed out that these ideologies represented contemporary forms of nazism

/...

and that it was important for the Sub-Commission to turn away from questions such as Hitlerite nazism and deal with current threats to international security. The Special Rapporteur said that he was unwilling to accept Mr. Ferguson's amendment to the first preambular paragraph of draft resolution C because, in his view, the policy of apartheid constituted a threat to international peace and security. Mr. Ferguson then submitted a revised version of his amendments (E/CN.4/Sub.2/CRP.34/Rev.1) which read as follows:

1. Amend operative paragraph 2 in draft resolution D, page 9, by amending the paragraph beginning with the words "Firmly convinced" by changing the last line of the paragraph to read as follows:

"fascism, nazism or other ideologies based on terror to succeed".

2. Amend operative paragraph 2 in draft resolution D, page 9, by amending the paragraph numbered 2 beginning with the word "Invites" by changing the last line of that paragraph to read as follows:

"danger of a revival of nazism, racial intolerance or other ideologies based on terror."

3. Replace operative paragraph 6 on page 10 with the following:

"Decides to put the question of measures to be taken against ideologies and practices based on terror or on incitement to racial discrimination or any other form of group hatred on its agenda and under continuing review, and urges other competent organs of the United Nations to do likewise, so that appropriate measures can be taken promptly as required;"

(j) Amendments submitted by Mr. Daoudy to draft resolution C proposed for adoption by the Economic and Social Council (E/CN.4/Sub.2/CRP.35):

1. Delete the third preambular paragraph and add a new operative paragraph 2 worded as follows:

"2. Urges Member States, and in particular the major trading partners of South Africa, to apply fully the resolutions concerning apartheid adopted by the General Assembly, the Security Council and other organs of the United Nations".

2. Amend the wording of operative paragraph 1 as follows:

"1. Requests the Security Council to find means of rigidly enforcing its own resolution in which all Member States are called upon not to supply arms to South Africa, and of effectively implementing the above-mentioned resolutions of the General Assembly;"

3. Renumber operative paragraph 2 as operative paragraph 3.
4. In operative paragraph 4, replace the phrase "... including churches..." by the following phrase:
"... religious and social organizations...".
5. Reword operative paragraph 6 as follows:
"6. Urges the General Assembly to provide funds on the scale required to combat effectively the propaganda undertaken by the Government of South Africa, by which that Government seeks to defend and justify the policy of apartheid;"
6. Amend the second part of operative paragraph 7, after the words "the countries", to read as follows:
"maintaining diplomatic or trade relations with South Africa to the recommendations and resolutions adopted by various United Nations bodies on the subject of apartheid in order to facilitate compliance by Governments with those recommendations and resolutions."

Mr. Daoudy said that his amendments to draft resolution C emphasized the importance of an effective implementation of the resolutions of the United Nations on the question of apartheid. He also suggested the deletion of the phrase in operative paragraph 4 of the draft resolution "... excluding churches ..." and the replacement of it by the words "... religious and social organizations...". He stated that churches implied Christian churches and that all religious denominations should be called upon to aid the struggle against apartheid.

157. The Sub-Commission decided to deal with each part of the draft resolution separately.

158. In discussing draft resolution A, which dealt with racial discrimination in the political, economic, social and cultural spheres, the Special Rapporteur stated that he had accepted the amendment to paragraph 1080 proposed by Mr. Cristescu (E/CN.4/Sub.2/CRP.24) and had agreed to accept the wording in that amendment as a substitute for operative paragraph 2 of his draft resolution. He accepted the oral sub-amendment by Mr. Cristescu to that paragraph, to delete the words "and before 31 December 1971, the final day of the International Year for Action to Combat Racism and Racial Discrimination" and to insert the following words: "especially during the International Year...". He also accepted the amendment of Mr. Ingles (E/CN.4/Sub.2/CRP.26). He also agreed to adopt the first amendment of Mr. Rybakov to this draft resolution (E/CN.4/Sub.2/CRP.33), which he redrafted as follows:

"Stresses the significance of social and economic reform which lead to the acceleration of the social and economic development of countries and also to the full participation of people in the process of such development and in its benefits."

Mr. Ferrari-Bravo withdrew his first amendment (E/CN.4/Sub.2/CRP.28).

159. In connexion with draft resolution B proposed for adoption by the Economic and Social Council, which dealt with the problem of indigenous populations, the Special Rapporteur accepted the following amendments proposed by Mr. Martínez Báez: to delete, in the first preambular paragraph, the following words: "because they constitute a group which differs in race, colour or ethnic origin from the predominant population group"; and to delete the words "races and" in the fourth preambular paragraph. He also accepted the fourth amendment proposed by

Mr. Ferrari-Bravo (E/CN.4/Sub.2/CRP.28) to add the word "often" after the words "indigenous populations", in the first preambular paragraph. He also accepted the amendment (E/CN.4/Sub.2/CRP.25) proposed by Mr. Nettel, to add a fifth preambular paragraph to the draft resolution. He accepted the first amendment

(E/CN.4/Sub.2/CRP.29) proposed by Mr. Sevilla-Borja, to add the word "educational" before the word "development", in the fourth preambular paragraph. He did not accept the suggestion proposed in the same amendment to add the words "particularly by strengthening the Andean Indian Programme of the United Nations," because, in his view, no specific current United Nations programmes should be included in a draft resolution of broad scope. Mr. Sevilla-Borja, thereafter, withdrew his second amendment (E/CN.4/Sub.2/CRP.29). He also accepted the fifth amendment proposed by Mr. Ferrari-Bravo (E/CN.4/Sub.2/CRP.28), to delete the words "racial" in the second and third preambular paragraphs; he did not, however, accept the sixth amendment by the same sponsor. Mr. Ferrari-Bravo thereafter withdrew that amendment. In the light of oral amendments proposed by Messrs. Calvocoressi and Ruhashyankiko, the Special Rapporteur redrafted the third preambular paragraph to read as follows:

"Convinced that the policy of integration of indigenous populations in the national community - and not segregation or assimilation - is the most appropriate means of eliminating discrimination against those populations;".

He also agreed to add the amendment of Mr. Rybakov (E/CN.4/Sub.2/CRP.23) as a new operative paragraph 2.

160. With regard to draft resolution C proposed for adoption by the Economic and Social Council, the Special Rapporteur accepted the amendments proposed by Mr. Daoudy (E/CN.4/Sub.2/CRP.35).

/...

161. The Special Rapporteur thereafter submitted a revised version of this draft resolution (E/CN.4/Sub.2/CRP.19/Rev.1) incorporating all of the amendments that he had accepted. The Sub-Commission decided to consider each part of the draft resolution separately.

Revised draft resolution submitted by Mr. Santa Cruz (E/CN.4/Sub.2/CRP.19/Rev.1):

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

Having considered the conclusions and proposals set out in chapter XIII of the special study of racial discrimination in the political, economic, social and cultural spheres (E/CN.4/Sub.2/307/Add.5),

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

A

"Racial discrimination in the political, economic, social and cultural spheres

"The Economic and Social Council,

"Considering it necessary that immediate, effective and decisive steps should be taken to eradicate racial discrimination in the political, economic, social and cultural fields,

"Endorsing in general the conclusions concerning such discrimination set out in the special study of racial discrimination in the political, economic, social and cultural spheres (E/CN.4/Sub.2/307 and Add.1-6, chapter XIII, section (A)),

"Bearing in mind that racial discrimination in the economic sphere is being perpetuated in many countries, especially in southern Africa, as a device for maintaining a steady supply of cheap labour, and in many developing countries as a result of the low levels of living of certain ethnic groups,

"1. Recommends that the General Assembly request every competent United Nations organ, specialized agency, regional intergovernmental organization and non-governmental organization in consultative status to consider, as a matter of the highest priority, at sessions to be held in 1971, the International Year for Action to Combat Racism and Racial Discrimination:

"(a) The further action which it might itself take with a view to speedily eliminating racial discrimination throughout the world;

"(b) The action which it might recommend to its subsidiary organs, to States, and to international and national bodies for this purpose;

"(c) The follow-up measures required to ensure the full and effective implementation of its decisions in this matter;

"2. Recommends further that the General Assembly urge all States which have not ratified or are not parties to the International Convention on the Elimination of All Forms of Racial Discrimination to accelerate the process of ratifying that Convention, to ratify or to accede to it as soon as possible, especially during the International Year for Action to Combat Racism and Racial Discrimination, and request them to report to the General Assembly;

"3. Recommends further that the General Assembly should launch immediately, as a major feature of the programme for the observance in 1971 of the International Year for Action to Combat Racism and Racial Discrimination, and with the co-operation and assistance of every competent United Nations organ, specialized agency and affiliated national and international organization, a world-wide programme to ensure the greatest possible distribution throughout the world of the Statement on Race and Racial Discrimination adopted by a conference of experts on the subject convened by United Nations Educational, Scientific and Cultural Organization in Paris in 1967, with a view to eradicating once and for all false racial beliefs based upon a lack of scientific knowledge;

"4. Recommends further that the General Assembly urge all States concerned to accelerate economic and social development of their minority groups with a view to eliminating de facto discrimination occasioned by their low standard of living; and urge also competent organs of the United Nations and specialized agencies to extend their full co-operation, including technical and financial assistance where appropriate, to enable the States concerned to achieve the foregoing objective;

"5. Stresses the significance of social and economic reforms which lead to the acceleration of the social and economic development of countries and also to the full participation of people in the process of such development and in its benefits;

"6. Invites the International Labour Organisation (ILO) to provide the Sub-Commission on Prevention of Discrimination and Protection of Minorities with substantive reports, at five-year intervals, on the nature and effect of any continuing racial discrimination in the field of employment and labour relations to serve as a basis for its further study of this problem;

"7. Invites the United Nations Educational, Scientific and Cultural Organization to provide the Sub-Commission on Prevention of Discrimination and Protection of Minorities, at five-year intervals, with substantive reports on the nature and extent of any continuing racial discrimination in the field of education, to serve as a basis for its further study of this problem."

/...

B

"The problem of indigenous populations

"The Economic and Social Council,

"Noting that indigenous populations often encounter racial prejudice and discrimination and that sometimes the 'special measures' taken by the authorities to protect their unique culture and identity - which they themselves earnestly wish to maintain - may, with the passage of time, become unnecessary or excessive and therefore may also be discriminatory in character,

"Considering that the international community must therefore devote particular attention to the problems of indigenous populations if it is to succeed in its endeavour to eliminate all forms of discrimination,

"Convinced that the policy of integration of indigenous populations in the national community - and not segregation or assimilation - is the most appropriate means of eliminating discrimination against those populations,

"Convinced further that no integration policy for indigenous populations, whether they represent minority groups or a majority of a country's population, can proceed unless it is **accompanied** by a policy of economic, social and educational development aimed at achieving a rapid and substantial rise in the living standards of those populations,

"Further convinced that every precaution must be taken to ensure that the process of integration is not carried out to the detriment of the institutions and traditions of the indigenous population and that its cultural and historical values are respected,

"1. Recommends that the Governments of all States having indigenous populations take into account, in their policies of economic and social development, the special problems of indigenous populations with a view to eliminating racial prejudice and discrimination against such populations;

"2. Appeals to the States concerned, if they have not yet done so, to take the appropriate legislative, administrative and other measures to protect the indigenous population and to prevent any discrimination against it;

"3. Invites all competent organs of the United Nations, and especially the regional economic commissions and specialized agencies concerned, to co-operate with Governments in any actions which they may undertake in compliance with the present resolution;

"4. Recommends to all States having legislation for the protection of indigenous populations that they review that legislation with a view to determining whether in practice it has not already resulted, or might not result, in discrimination, or whether its effect has been to place unjust and unnecessary restrictions on certain civil and political rights;

"5. Invites the Organization of American States and its subsidiary bodies, including the Inter-American Commission on Human Rights, to recommend that the resolutions, declarations and recommendations relating to indigenous populations, adopted by the Conference of American States, the Inter-American Indian Conferences, should be implemented;

"6. Authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to make, as part of its study on the protection of minorities, a complete and comprehensive study of the nature and extent of the problem of discrimination against indigenous populations and of the national and international measures necessary to eliminate such discrimination, in co-operation with the specialized agencies concerned and other competent international, regional and national organizations."

C

"Policies of apartheid and racial discrimination

"The Economic and Social Council,

"Strongly condemning the discriminatory policies of the South African Government and recognizing that the doctrine of apartheid is scientifically false, and that its application constitutes a crime against humanity and threatens international peace and security;

"Welcoming the recommendations concerning the policies of apartheid made in General Assembly resolutions of recent years, particularly resolutions 2396 (XXIII), 2397 (XXIII), 2544 (XXIV) and 2547 (XXIV);

"1. Requests the Security Council to find means of rigidly enforcing its own resolution in which all Member States are called upon not to supply arms to South Africa, and of effectively implementing the above-mentioned resolutions of the General Assembly;

"2. Urges Member States and in particular the major trading partners of South Africa to apply fully the resolutions concerning apartheid adopted by the General Assembly, the Security Council and other organs of the United Nations;

"3. Invites the specialized agencies, and especially the financial institutions, to follow towards South Africa a policy in conformity with those resolutions;

"4. Invites all States to strengthen and expand their programmes of assistance to the victims of apartheid, and to respond as promptly as possible to the General Assembly's appeal for substantial contributions to the United Nations Trust Fund;

/...

"5. Invites all States to undertake, with the assistance of non-governmental organizations, including religious and social organizations, universities and civic groups where appropriate, an educational programme designed to acquaint the public of each country and Territory with the evil consequences of the policy of apartheid;

"6. Appeals to all humanitarian organizations, and to the International Committee of the Red Cross in particular, to take an active role in assisting the victims of apartheid, especially those who are detained or imprisoned;

"7. Urges the General Assembly to provide funds on the scale required to combat effectively the propaganda undertaken by the Government of South Africa, by which that Government seeks to defend and justify the policy of apartheid;

"8. Invites the Secretary-General to make special efforts, utilizing the existing information services available to the United Nations, to alert public opinion in the countries maintaining diplomatic or trade relations with South Africa to the recommendations and resolutions adopted by various United Nations bodies on the subject of apartheid in order to facilitate compliance by their Governments with those recommendations and resolutions."

D

"The danger of a revival of nazism and racial intolerance

"The Economic and Social Council,

"Noting resolution (XXVIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and resolution (XXVII) of the Commission on Human Rights, on the danger of a revival of nazism and racial discrimination,

"Having considered the Special Study of Racial Discrimination in the Political, Economic, Social and Cultural Spheres (E/CN.4/Sub.2/307 and Add.1-6) prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and in particular chapter XII of that study on the danger of a revival of nazism and racial discrimination,

"1. Urges the General Assembly to resume, as soon as possible, its study of the question of the international criminal jurisdiction and the question of the draft code of offences against peace and security of mankind with a view to the preparation of effective measures to eliminate any possibility of a revival of nazism,

/...

"2. Recommends to the General Assembly the adoption of the following draft resolution:

'The General Assembly,

'Recognizing that vestiges of nazism and racial intolerance persist in some parts of the world, although clearly incompatible with the purposes and principles of the United Nations Charter, the United Nations Declaration and the International Convention on the Elimination of All Forms of Racial Discrimination; and that there is a danger of a revival or a development of new forms, of nazism and of racial discrimination combined with terrorism,

'Considering that contemporary manifestation of resurgent nazism, like the earlier ones, combine racial prejudice and discrimination with terrorism, and that in some cases racism has been raised to the level of State policy;

'Believing it essential, in order to remove this threat to the peace and security of peoples and to the realization of basic human rights and fundamental freedoms, to elaborate a series of urgent and effective measures which might be adopted by States with a view to suppressing the revival of nazism and preventing its revival, in any form of manifestation, in the future;

'Firmly convinced that the best bulwark against nazism and racial discrimination is the establishment and maintenance of democratic institutions; that the existence of genuine political, social and economic democracy is an effective vaccine and an equally effective antidote against the formation or development of Nazi movements; and that a political system which is based on freedom and effective participation by the people in the conduct of public affairs, and under which economic and social conditions are such as to ensure a decent standard of living for the population, makes it impossible for fascism and nazism to succeed;

'1. Invites all eligible States which have not yet done so to ratify the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity as soon as possible, and requests them to report to the session of the General Assembly on the measures taken by them to this effect, on any obstacles which may have been encountered, and on any interim measures taken to comply strictly with the provisions of those Conventions;

'2. Invites all States Members of the United Nations and of the specialized agencies to review their legislation, in the light of the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, with a view to determining whether, in the light of their circumstances, further legal measures are required to eradicate for all time the danger of a revival of nazism and racial intolerance;

'3. Urges those States which are unable, for serious constitutional or other reasons, to implement immediately and fully the provisions of article 9 of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination - both of which call for the prohibition of organizations which promote and incite racial discrimination - to take measures designed to ensure the speedy disbandment and disappearance of such organizations; these measures should provide, inter alia, that:

'(a) Such organizations should not be allowed to receive financial subsidies from organs of the State, private companies or individuals;

'(b) Such organizations should not be allowed the use of public premises in which to establish their headquarters or conduct meetings of their members, the use of streets and squares in populated areas for holding demonstrations, or the use of public media of information for disseminating propaganda;

'(c) Such organizations should not be allowed to form militarized detachments on any pretext, and offenders should be subject to **prosecution** in the courts;

'(d) Persons employed by the State, particularly in the armed forces should not be permitted to belong to such organizations;

'5. Calls upon Governments, particularly those which control mass information media of world or continental scope, the United Nations and its subsidiary bodies, specialized agencies and international and national organizations to increase public awareness of the danger of a revival of nazism and racial intolerance, especially among young people, by the preparation and dissemination of information on this subject, by participation in ceremonies commemorating the victims of nazism and similar ideologies and practices based on terror and racial intolerance, and by any other means at their disposal;

'6. Decides to keep the question of measures to be taken against nazism and racial intolerance on its agenda and under continuing review, and urges other competent organs of the United Nations to do likewise, so that appropriate measures can be taken promptly as required;

'7. Confirms the principles of international law with regard to the eradication of nazism, and appeals to all States to act in conformity with those principles.'"

162. Regarding draft resolution A, in the light of comments made by Mr. Sevilla Borja, the Special Rapporteur redrafted the third preambular paragraph as follows:

/...

- (i) Adding a colon after the word "country";
- (ii) Deleting the word "especially" and placing the same word after the words "southern Africa";
- (iii) Adding the word "also" before the words "in many developing".

At the suggestion of Mr. Ingles, he added the words "or acceding" before the words "that convention" in operative paragraph 2. He also accepted the oral amendment proposed by Mr. Nettel to delete the words "have not ratified or" in the same paragraph. He also agreed to add the following words to the same paragraph, as proposed by Mr. Cristescu: "on the measures taken by them to this effect, or any obstacles which may have been encountered and on any interim measures taken to comply strictly with the principles set out in the Declaration and the Convention;". He accepted the addition of the following words, orally proposed by Mr. Rybakov, to be added at the end of operative paragraph 5: "as the basis for the actual realization of human rights and freedoms and the elimination of all forms of racial discrimination". He accepted the second and third amendments (E/CN.4/Sub.2/CRP.28) proposed by Mr. Ferrari Bravo.

163. With regard to draft resolution B, the Special Rapporteur accepted the seventh amendment (E/CN.4/Sub.2/CRP.28) proposed by Mr. Ferrari Bravo to the sixth operative paragraph.

164. With regard to draft resolution C, the Special Rapporteur accepted the first, second and third amendments proposed by Mr. Jankovic and Mr. Nikiema (E/CN.4/Sub.2/CRP.31). With regard to operative paragraph 5, he added, on the oral suggestion of the representative of the ILO, the words "workers" and "professional".

165. The Sub-Commission then turned to draft resolution D. The Special Rapporteur accepted the oral amendment of Mr. Ferrari Bravo to replace the words "Urges" by the word "Invites", in operative paragraph 1 of the draft resolution of the Economic and Social Council. He accepted the first and third amendments of Mr. Nikiema and Mr. Ruhashyankiko (E/CN.4/Sub.2/CRP.31) to replace his first and third preambular paragraphs in the draft resolution for the General Assembly by their new preambular paragraphs. He did not accept their second amendment to delete his second preambular paragraph in the draft resolution for the General Assembly; taking into account their comments and those of other members of the Sub-Commission, he amended the second preambular paragraph by adding the following

words to the end of that paragraph: "as in the case of the Republic of South Africa". He orally amended operative paragraph 1 of the draft resolution by deleting the words "to this effect, on any obstacles which may have been encountered, and on any interim measures taken". With regard to operative paragraph 3 of the draft resolution for the General Assembly, the Special Rapporteur orally proposed that the words "call for the prohibition of organizations which promote and incite racial discrimination" be deleted and substituted by the following: "condemn and outlaw all propaganda and all organizations based on ideas or theories of the superiority of **one** race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form". He stated that this amendment incorporated the language used in article 9 of the Declaration and in article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination.

166. The amendment (E/CN.4/Sub.2/CRP.34) proposed by Mr. Ferguson was withdrawn and a revised version containing three amendments was submitted (E/CN.4/Sub.2/CRP.34/Rev.1). The first amendment, which was addressed to the fourth preambular paragraph, suggested that the words "or other ideologies based on terror to succeed" be substituted for the words "to succeed". A similar amendment was proposed to the second operative paragraph. The third amendment was to replace operative paragraph 6 of the draft resolution for the General Assembly by the following:

"Decides to put the question of measures to be taken against ideologies and practices based on terror or on incitement to racial discrimination or any other form of group hatred on its agenda and under continuing review, and urges other competent organs of the United Nations to do likewise, so that appropriate measures can be taken promptly as required;"

167. The Special Rapporteur presented a further revised version of his draft resolution (E/CN.4/Sub.2/CRP.19/Rev.2), in which he incorporated all of the amendments he had accepted. The discussion centred on draft resolution D.

168. The Special Rapporteur accepted the oral amendment proposed by Mr. Ingles to add the words "and to accede to" after the words "to ratify" in the first operative paragraph of the draft resolution for the General Assembly. With regard to the same paragraph, the Special Rapporteur made an oral amendment to add the words "twenty-sixth" before the word "session". He did not accept the oral amendment proposed by Mr. Ferrari Bravo to insert the word "objectives" for the word "provisions" **in the same paragraph.**

169. Mr. Rybakov made the following statements regarding his first set of amendments (E/CN.4/Sub.2/CRP.22), all of which were addressed to draft resolution D; (i) the first amendment would become a new operative paragraph 6 of the draft resolution for the General Assembly; (ii) the second amendment would become a new operative paragraph 3; (iii) the fourth, sixth and seventh amendments would be placed after the fourth operative paragraph; (iv) the fifth amendment would be placed after the fifth preambular paragraph and the first word was orally revised to read "Deeming"; (v) the third amendment was withdrawn. Concerning the second set of amendments (E/CN.4/Sub.2/CRP.33), he withdrew those addressed to draft resolutions A, B and C and also the third, fourth and seventh amendments addressed to draft resolution D. He made the following statements regarding the remaining amendments; (i) the first and second amendments would become the first two operative paragraphs in the draft resolution for the General Assembly; (ii) the fifth amendment would be placed after the second operative paragraph and was orally revised to read as follows:

"2. Urgently calls upon those States concerned which have not yet done so to take immediate and effective measures, including legislative measures, with due regard to the principles contained in the Universal Declaration of Human Rights, for the complete prohibition of nazi and racist organizations and groups and for their prosecution in the courts;"

He stated that this amendment was taken from operative paragraph 2 of General Assembly resolution 2545 (XXIV); (iii) the sixth amendment was to be placed after the fourth preambular paragraph of the draft resolution. He orally revised the amendment as follows: "Confirming that nazism and other forms of racial intolerance constitute a serious threat to the realization everywhere of human rights and freedoms and the maintenance of international peace and security".

170. Several members expressed their strong reservations concerning the amendments of Mr. Rybakov to draft resolution D proposed for adoption by the Economic and Social Council, since, in their view, such amendments were repetitious and unclear. Reservations were also expressed concerning the amendments proposed by Mr. Ferguson which, in the view of some, were not based on the conclusions of the Special Study.

171. On the proposal of Miss Dubra, the Sub-Commission decided, without a vote, to add the words "prepared by Mr. Hernán Santa Cruz" at the end of the preambular paragraph of the draft resolution.

/...

172. At its 605th and 606th meetings, the Sub-Commission voted on the draft resolution of Mr. Santa Cruz (E/CN.4/Sub.2/CRP.19/Rev.2), as amended. The Sub-Commission voted separately on each draft resolution proposed for adoption by the Council and the amendments thereto.

173. The voting was as follows:

Draft resolution A

(a) At the request of Mr. Rybakov, who stated that sub-paragraph (b) of operative paragraph 1 might be interpreted to mean that non-governmental organizations could make recommendations to Governments, a separate vote was taken on that sub-paragraph. The sub-paragraph was retained by 18 votes in favour, with none against and 4 abstentions;

(b) Draft resolution A was adopted unanimously.

Draft resolution B

(a) At the request of Mr. Rybakov, who stated that he was not sure of the meaning of the term "integration" in the first three preambular paragraphs, a separate vote was taken on those paragraphs. The paragraphs were retained by 19 votes in favour, none against and 4 abstentions;

(b) At the request of Mr. Rybakov, who disagreed with the request to specific regional intergovernmental organizations, such as the Organization of American States, a separate vote was taken on operative paragraph 5. The paragraph was retained by 13 votes in favour, none against and 10 abstentions;

(c) At the request of Mr. Rybakov, who disagreed with the suggestion on the study of discrimination against the indigenous populations, a separate vote was taken on operative paragraph 6. The paragraph was retained by 19 votes in favour, none against and 4 abstentions;

(d) Draft resolution B was adopted unanimously.

Draft resolution C

(a) At the request of Mr. Rybakov, who disagreed with the invitation to non-governmental organizations in operative paragraph 5, a separate vote was taken on that paragraph. The paragraph was retained by 21 votes in favour, none against and 1 abstention;

(b) At the request of Mr. Rybakov, who stated that the source and the sizes of the funds mentioned in operative paragraph 7 were not specified, a separate vote was taken on that paragraph. The paragraph was retained by 20 votes in favour, none against and 3 abstentions.

(c) Part C of the draft resolution was adopted unanimously.

Draft resolution D

(a) The sixth amendment of Mr. Rybakov in document E/CN.4/Sub.2/CRP.33 was adopted by 16 votes in favour, 2 against and 4 abstentions;

(b) The fifth amendment of Mr. Rybakov, in document E/CN.4/Sub.2/CRP.22, was adopted by 6 votes in favour, 3 against and 13 abstentions;

(c) The first amendment of Mr. Rybakov, in document E/CN.4/Sub.2/CRP.33, was adopted unanimously by a roll-call vote; the voting was as follows:

In favour: Messrs. Rybakov, Santa Cruz, Sevilla Borja, Abu Rannat, Ferrari Bravo, Castillo, Cristescu, Cornelius, Daoudy, Miss Dubra, Mr. Durlong, Miss Gichuru, Messrs. Gowen, Humphrey, Ilako, Ingles, Jankovic, Kettani, Martínez Báez, Mokbel, Nettel, Paolini and Ruhashyankiko.

(d) The second amendment of Mr. Rybakov, in document E/CN.4/Sub.2/CRP.33, was adopted unanimously by a roll-call vote; the voting was as follows:

In favour: Messrs. Nettel, Paolini, Ruhashyankiko, Rybakov, Santa Cruz, Sevilla Borja, Abu Rannat, Ferrari Bravo, Castillo, Cristescu, Cornelius, Daoudy, Miss Dubra, Mr. Durlong, Miss Gichuru, Messrs. Gowen, Humphrey, Ilako, Ingles, Jankovic, Kettani, Martínez Báez and Mokbel.

(e) The first amendment of Mr. Ferguson, in document E/CN.4/Sub.2/CRP.34/Rev.1, was adopted by 13 votes in favour, 1 against and 7 abstentions;

(f) The second amendment of Mr. Ferguson was adopted by 12 votes in favour, 2 against and 7 abstentions;

(g) The second amendment of Mr. Rybakov, in document E/CN.4/Sub.2/CRP.22, was orally sub-amended, by its sponsor, at the request of Mr. Cornelius by deleting the word "lobbies". The amendment was adopted by 8 votes in favour, 6 against and 6 abstentions;

(h) The first amendment of Mr. Rybakov, in document E/CN.4/Sub.2/CRP.22, was orally revised by its sponsor at the request of Mr. Cornelius, by deleting the words "and judicial". The amendment was adopted by 8 votes in favour, 6 against and 6 abstentions;

(i) The fourth amendment of Mr. Rybakov, in document E/CN.4/Sub.2/CRP.22, was rejected by 11 votes against, 4 in favour and 6 abstentions;

(j) The sixth amendment of Mr. Rybakov, in document E/CN.4/Sub.2/CRP.22, was adopted by 14 votes in favour, 1 against and 5 abstentions;

(k) The seventh amendment of Mr. Rybakov, in document E/CN.4/Sub.2/CRP.22, was adopted by 17 votes in favour, none against and 3 abstentions;

(l) The Special Rapporteur stated that he was deleting operative paragraph 6 in his draft resolution in view of the adoption of the fifth amendment of Mr. Rybakov in document E/CN.4/Sub.2/CRP.22. The third amendment of Mr. Ferguson, in document E/CN.4/Sub.2/CRP.34/Rev.1, was adopted by 8 votes in favour, 4 against and 5 abstentions;

(m) At the request of Mr. Nettel, who stated that he could not endorse a recommendation for the ratification of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, a separate vote was taken on the title of the Convention. The words were retained by 9 votes in favour, 4 against and 3 abstentions;

(n) At the request of Mr. Ferrari Bravo, who stated that the inclusion of the words "private companies or individuals" in sub-paragraph (a) of operative paragraph 3 infringed on individual liberty, a separate vote was taken on those words. The words were retained by 10 votes in favour, 4 against and 3 abstentions;

(o) At the request of Mr. Ferrari Bravo, who stated that sub-paragraph (d) of the third operative paragraph also infringed on individual liberty, a separate vote was taken in that sub-paragraph. The paragraph was retained by 12 votes in favour, 3 against and 2 abstentions;

(p) Draft resolution D was adopted by a roll-call vote with 17 votes in favour, none against and 1 abstention. The voting was as follows:

In favour: Messrs. Santa Cruz, Abu Rannat, Ferrari Bravo, Cristescu, Daoudy, Miss Dubra, Miss Gichuru, Messrs. Humphrey, Ingles, Jankovic, Kettani, Martínez Báez, Mokbel, Nettel, Paolini, Sevilla Borja, Ruhashyankiko, Rybakov.

Abstentions: Mr. Gowen.

174. At its 606th meeting, held on 26 August 1970, the Sub-Commission adopted unanimously the draft resolution (E/CN.4/Sub.2/CRP.19/Rev.2) as a whole, as amended. The text of the resolution appears as resolution 4 (XXIII) in chapter VIII.

International Year for Action to Combat Racism and Racial Discrimination

175. At the 606th meeting of the Sub-Commission, a draft resolution was submitted by Mr. Daoudy, in document E/CN.4/Sub.2/CRP.40, reading as follows:

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

"Having considered the report of the Secretary-General (A/7649) submitted on 17 September 1969 to the General Assembly, at its twenty-fourth session, in which he proposed a programme for the celebration of an international year for action to combat racism and racial discrimination,

"Having noted General Assembly resolution 2544 (XXIV) of 11 December 1969 and resolution 3 (XXVI) of the Commission on Human Rights adopted on 26 February 1970,

"Referring to its resolution (XXIII) of 26 August 1970 transmitting to the Commission on Human Rights the final report (E/CN.4/Sub.2/307 and Add.1-6) on the special study of racial discrimination in the political, economic, social and cultural spheres prepared by its Special Rapporteur, Mr. Santa Cruz,

"Recalling operative paragraph 3 of the draft resolution contained in the above-mentioned resolution, in which the Sub-Commission requested the Secretary-General to make the necessary arrangements to enable Mr. Santa Cruz to attend the meetings of the Commission on Human Rights at which it considered his report,

"Desiring to co-operate fully in ensuring the success of the celebration of the International Year for Action to Combat Racism and Racial Discrimination, and to assist in the preparation of detailed plans for specific programmes for the International Year,

"1. Appoints the Special Rapporteur, Mr. Santa Cruz, whose presence in the Commission on Human Rights during the discussion of his special study has been proposed, to represent the Sub-Commission during the discussion of the plans for the celebration of the International Year;

"2. Requests the Commission on Human Rights to take the necessary steps to inform the competent organs of the United Nations of that appointment;

"3. Proposes that a meeting should take place in an African capital situated not far from South Africa, to be attended by the following persons:

The President of the General Assembly;

The Secretary-General of the United Nations;

The Chairman of the Commission on Human Rights;

The Secretary-General of the Organization of African Unity.

This meeting, which should be held at a date to be decided upon and within the context of the celebration of the International Year, would be an important occasion for bringing to the people of South Africa in particular and to other oppressed peoples and victims of discrimination in general the support of the international community in their struggle to regain their dignity and freedom and to enjoy with the other peoples of the world all the rights embodied in the Universal Declaration of Human Rights;

"4. Urges the Commission on Human Rights to study with the appropriate United Nations organs the possibility of implementing this proposal."

176. In considering the draft resolution, members of the Sub-Commission recalled General Assembly resolution 2544 (XXIV) and resolution 3 (XXVI) of the Commission on Human Rights, to which reference has been made in paragraph 175 above. There was general agreement that the initiatives contained in the draft resolution constituted a significant contribution to the implementation of these resolutions and that the appointment of Mr. Santa Cruz to represent the Sub-Commission in the Commission on Human Rights, during the discussions of plans for the celebration of the International Year, was highly desirable, since Mr. Santa Cruz was the best-qualified person so to represent the Sub-Commission. Speakers also supported the proposal to hold a meeting in an African capital situated not far from South Africa, which would be attended by world personalities. Some members expressed their conviction that such an event would have a decisive impact on world opinion since the genuine concern of the international community would thus be dramatized.

177. One member felt that the Sub-Commission had to a great extent complied with the request of the Commission on Human Rights and completed the specific programme requested of it by finishing the consideration of Mr. Santa Cruz's report on racial discrimination, because the publication of this important work would coincide opportunely with the celebration of the International Year.

178. At the 607th meeting, oral amendments to the draft resolution were presented by Messrs. Carey, Ingles and Piñera. Mr. Carey's amendment consisted of inserting in operative paragraph 3, between the words "South Africa" and "to be" the following text: "such as that of Namibia, Territory under the direct responsibility of the United Nations". Mr. Ingles' amendment consisted of inserting in operative paragraph 2, between the words "to" and "take", the following words "to endorse the proposal and". Mr. Piñera's amendment consisted of adding to the list of

/...

personalities enumerated in operative paragraph 3 the following persons:

"The Chairman of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa, the President of the United Nations Council for Namibia and the Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples".

These amendments were accepted by Mr. Daoudy, who suggested the addition to Mr. Carey's amendment, after the words "United Nations", of the words "or another capital", which was accepted by Mr. Carey.

179. The representative of the Secretary-General informed the Sub-Commission that an estimate of the financial and administrative implications of the draft resolution submitted could only be circulated at a later stage.

Adoption of resolution

180. At its 607th meeting, on 26 August 1970, the Sub-Commission adopted the draft resolution (E/CN.4/Sub.2/CRP.40) as a whole, as amended, by 20 votes in favour, none against and no abstentions.

181. The text of the resolution adopted by the Sub-Commission appears in chapter VIII as resolution 5 (XXIII).

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

182. The Sub-Commission considered item 6 of its agenda at its 607th, 608th and 609th meetings.

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

- (a) Draft resolution submitted by Mr. Ferguson, Miss Dubra and Mr. Juvigny (E/CN.4/Sub.2/CRP.30)

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

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

Considering that the Economic and Social Council, in paragraph 2 of resolution 1503 (XLVIII), decided that the Sub-Commission should, as the first stage in the implementation of that resolution, devise at its twenty-third session appropriate procedures for dealing with the question of admissibility of communications received by the Secretary-General under Council resolution 728 F (XXVIII) of 30 July 1959 and in accordance with Council resolution 1235 (XLII) of 6 June 1967,

Further considering to appoint the following members of the Sub-Commission as the working group referred to in paragraph 1 of Council resolution 1503 (XLVIII):

/...

1. Decides to appoint the following members of the Sub-Commission as the working group referred to in paragraph 1 of Council resolution 1503 (XLVIII):

- | | |
|---------------------|-----------------------|
| 1. (African) | 3. (Eastern European) |
| 2. (Asian) | 4. (Western) |
| 5. (Latin American) | |

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

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

(1) Standards and criteria

A communication shall be admissible only if, either alone or together with other evidence, it alleges severe violations of the Universal Declaration of Human Rights reported on a substantial number of occasions.

(2) Source of communications

Admissible communications may originate from one or more individuals or from non-governmental organizations. The names of the authors shall not be revealed except to the extent provided for by Economic and Social Council resolution 728 F (XXVIII). Anonymous communications shall be inadmissible. Communications shall not be inadmissible solely because the knowledge of the author is second hand. Communications from non-governmental organizations which are not in consultative status with Economic and Social Council shall be treated as inadmissible until information is provided through the Secretariat sufficient to authenticate their existence as established groups with substantial membership to which the leadership is responsible.

/...

(3) Nature of allegations

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

(4) Timeliness

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

(5) Duplication

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

(6) Exhaustion of other remedies

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

This text was later orally revised by Mr. Carey, with the assent of the co-sponsors (see para. 18 below);

(b) Draft resolution submitted by Mr. Ferguson (E/CN.4/Sub.2/CRF.37):

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

Considering that the Commission on Human Rights, in resolution 8 (XXIII), decided to give annual consideration to the item entitled "Questions of violations of human rights and fundamental freedoms, including policies of

/...

racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories"; requested the Sub-Commission to prepare, for the Commission's use, a report containing information on violations of human rights and fundamental freedoms from all available sources; and invited the Sub-Commission to bring to its attention 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, segregation and apartheid, with particular referenee to colonial and other dependent territories;

Further considering that the Economic and Social Council, in resolution 1235 (XLII), welcomed the decision of the Commission to give annual consideration to the item and authorized the Commission and the Sub-Commission to examine information relevant to gross violations of human rights and fundamental freedoms, as exemplified by the policy of apartheid as practised in the Republic of South Africa and the Territory of South West Africa under the direct responsibility of the United Nations and now illegally occupied by the Government of South Africa, and to 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).

1. Reports to the Commission on Human Rights concerning information on violations of human rights and fundamental freedoms from all available sources by calling the attention of the Commission to the references in the summary records of the Sub-Commission's twenty-third session wherein members cited such information as being relevant, in their opinion, to situations revealing consistent patterns of violations of human rights and fundamental freedoms, except where such situations have already been investigated by ad hoc bodies created by the Commission on Human Rights.

(c) Draft resolution submitted by Mr. Daoudy (E/CN.4/Sub.2/CRP.44):

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 (1) General Assembly resolutions 2145 (XXI) of 27 October 1966, 2248 (S-V) of 19 May 1967; and (2) General Assembly resolution 2252 (S-V) of 5 July 1967,

Recalling further (1) 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 (2) resolution 1 of 7 May 1968, of the International Conference on Human Rights held in Teheran in 1968,

Recalling also (1) Security Council resolutions 134 (1960) of 7 April 1960, 245 (1968) and 246 (1968); and (2) Security Council resolutions 237 (1967) of 14 June 1967 and 259 (1968) of 27 September 1968,

Recalling in particular (1) resolution 5 (XXV); and (2) resolutions 6 (XXIV) and 6 (XXV) of the Commission on Human Rights,

1. Reaffirms that the practice of (1) apartheid; and (2) the mass destruction of homes and properties, thus depriving large segments of the 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 (1) a report dealing with the violations of human rights in southern Africa; and (2) 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.

(d) Draft resolution submitted by Mr. Carey (E/CN.4/Sub.2/CRP.45):

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 are 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 may 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^{6/} of the working group composed of Messrs. Abu Rannat, Humphrey and Martinez-Baez, 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),

^{6/} Issued as a restricted document.

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:

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.

(e) Proposed amendments, submitted by Mr. Rybakov (E/CN.4/Sub.2/CRP.41) to the draft resolution contained in E/CN.4/Sub.2/CRP.30:

1. Replace the first, second and third preambular paragraphs by the following text:

"Referring to Economic and Social Council resolution 728 F (XXVIII) of 30 July 1959,".

2. Replace operative paragraph 1 by the following text:

"1. Considers that communications received by the Secretary-General under Council resolution 728 F (XXVIII) are admissible for consideration by United Nations organs provided that they do not fall in any of the following categories:

/...

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

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

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

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

(e) Anonymous complaints;

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

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

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

(f) Proposed amendments, submitted by Mr. Cornelius (E/CN.4/Sub.2/CRP.46), to the draft resolution contained in E/CN.4/Sub.2/CRP.30, reading as follows:

1. In operative paragraph 1, the following shall be substituted, viz:

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

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

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

"2. The working group shall scrutinize all communications placed before it by the Secretary-General, and shall prepare two lists (a) of those communications which do not qualify for being placed before the Sub-Commission and (b) those communications which do so qualify.

"3. In drawing up these lists, the working group shall, for the purpose of placement in the disqualified list, apply the undermentioned criteria, viz:

- (i) The communication is anonymous;
- (ii) The communication does not make out a case of a substantial nature, within the context of elimination of discrimination or the protection of minorities;
- (iii) The case presented in the communication has already been considered and pronounced upon by the Sub-Commission;
- (iv) The case presented in the communication is not pending before, and has not been pronounced upon by any other competent international body;
- (v) The case presented in the communication, if within the domestic jurisdiction of the country to which it relates, is one in which all domestic remedies have been exhausted, or are being inordinately delayed;
- (vi) If the case presented in the communication has been finally dealt with in the domestic jurisdiction, the communication has not been placed before the Secretary-General within a period of six months, following the date of such disposal;
- (vii) The communication is expressed in language that is provocative, defamatory or insulting to the State concerned;
- (viii) The communication is in language which is defamatory or derogatory to the United Nations, or any of its agencies or subordinate bodies, in particular of the Sub-Commission.

"4. The working group shall make a report of its work to the Sub-Commission not less than one month before the commencing date of its next session, to which the lists mentioned in operative paragraph 3 shall be attached.

"5. The consideration of the report of the working group and the aforesaid lists shall be accorded priority in the agenda of the Sub-Commission's session, and the Sub-Commission may direct that any communication included in one of these lists shall be transferred to the other list. The Sub-Commission may, in its discretion, direct that such consideration shall take place in camera."

/...

2. Operative paragraph 2 in the said resolution (E/CN.4/Sub.2/CRP.30) shall be renumbered 6.

3. Operative paragraph 3 in the said resolution (E/CN.4/Sub.2/CRP.30) shall be excluded.

(g) Proposed amendments, submitted by Mr. Rybakov (E/CN.4/Sub.2/CRP.42) to the draft resolution contained in E/CN.4/Sub.2/CRP.30:

Add the following new operative paragraphs:

"1. Strongly condemns the Governments of those countries which, in violation of the United Nations Charter and other international agreements, pursue a policy of subjecting to collective punishment and extermination the population of entire villages and regions in the territories seized by them, carry out mass bombings of the civilian population, use napalm and other types of chemical weapons and practise racial discrimination and police terror against the population of the occupied territories;

"2. Calls upon all States to intensify their efforts to eliminate the flagrant, systematic mass violations of human rights and freedoms resulting from the policy of aggression, annexation, apartheid and racial discrimination pursued by certain countries;

"3. Considers that the arbitrary and repressive acts being committed by the aggressors against the civilian population of the occupied territories constitute a flagrant violation of the 1949 Geneva Conventions for the Protection of War Victims;

"4. Strongly appeals to the Governments of those countries which are pursuing a policy of aggression and of suppression of the national liberation movement of peoples to comply strictly with the basic provisions of the United Nations Charter and other generally recognized international agreements."

(h) Proposed amendments, submitted by Mr. Rybakov (E/CN.4/Sub.2/CRP.43) to the draft resolution contained in E/CN.4/Sub.2/CRP.30:

1. Add the following paragraphs to the preamble:

"Considering that the Sub-Commission has not had an opportunity to consider in detail the question of the admissibility of communications for consideration in United Nations organs,

"Having regard to the fact that this question entails serious problems relating to the provisions of the United Nations Charter and to respect for the principle of non-intervention in the internal affairs of States,"

/...

2. Add new operative paragraphs 3 and 4:

"3. Call upon all States which have not done so to express their views on the new procedures for dealing with complaints by private individuals in United Nations organs;

"4. Requests the Secretary-General to submit a report on the question, taking into account the views of all States Members of the United Nations."

184. In addition to the above-mentioned proposals and amendments, the Sub-Commission had before it a note by the Secretary-General (E/CN.4/Sub.2/313) on the question of admissibility of communications, prepared in accordance with paragraph 3 of resolution 1503 (XLVIII) of the Economic and Social Council.

185. A statement submitted by the World Jewish Congress relating to item 6 (a) of the agenda was circulated as document E/CN.4/Sub.2/NGO/45 and Corr.1. One member expressed the view that the publication of such a document was illegal.

186. A statement of financial implications relating to the draft resolution contained in document E/CN.4/Sub.2/CRP.30, prepared by the Secretary-General, was circulated in document E/CN.4/Sub.2/CRP.38.

187. In introducing the draft resolution contained in E/CN.4/Sub.2/CRP.30, Mr. Carey deplored the fact that the discussion on the item had taken place so late in the session of the Sub-Commission, and stated that those who opposed the progress of international protection of human rights were trying to fight back the wave of the future. He regretted the setback sustained at the session on the question of communications relating to violations of human rights, but expressed the hope that it would be offset in future sessions of the Sub-Commission. He explained that the co-sponsors had studied the information contained in document E/CN.4/Sub.2/313, and on that basis had drafted the proposals in operative paragraph 3 of document E/CN.4/Sub.2/CRP.30. Written explanations of the derivations of the proposals had been distributed to all members of the Sub-Commission six days earlier.

188. In the name of the co-sponsors, he subsequently orally revised the draft resolution in document E/CN.4/Sub.2/CRP.30 by withdrawing operative paragraph 3; by inserting in operative paragraph 1, after the numbers 1, 2, 3, 4, 5, the following names: Mr. Kettani, Mr. Ingles, Mr. Jankovic, Mr. Humphrey and Mr. Martínez Báez, respectively; and adding, at the end of the same operative

/...

paragraph 1, the following words: "and requests them to consider appropriate procedures for dealing with such question of admissibility, including those proposed in document E/CN.4/Sub.2/CRP.30".

189. In the course of the debate on this item, one speaker made reference to a consistent pattern of violation of human rights and fundamental freedoms of the civilian population in territories under Israeli occupation, as reported by sources of information which, he stressed, were non-Arab, not pro-Arab and not socialist. He mentioned in this connexion resolution 10 (XXVI) of the Commission on Human Rights and drew attention to the fact that the Commission's appeal to the Government of Israel to desist from practices enumerated in the resolution, and to co-operate with the Special Working Group established under its resolution 6 (XXV), had not been heeded. Another speaker also made reference to the Middle East in this connexion and added that South-East Asia, South-East Africa and slum areas in certain cities in the United States of America were other areas where such patterns of violation of human rights existed. In the course of the general debate, several speakers dwelt on the flagrant mass violations of human rights occurring in connexion with the pursuit by certain countries of a policy of aggression, apartheid and racial segregation, with the arbitrary acts and outrages perpetrated by the aggressors in territories occupied as a result of military actions, and with colonialism. They observed that the Sub-Commission should consider the exceptionally important substantive question of the violation of human rights and freedoms, including the policy of racial discrimination, segregation and apartheid, and alleged that the question of procedures for dealing with complaints by private individuals had, for unknown reasons, been illegally included by the United Nations Secretariat as item 6 (a) in the provisional agenda and had nothing whatever to do with the substance of the question dealt with under item 6, being related rather to item 7. It was their view that the efforts to substitute consideration of the question of private complaints, and sordid insinuations by private individuals and questionable organizations, for consideration of the violation of human rights and fundamental freedoms were aimed at diverting the Sub-Commission from the discussion of the gross violations of human rights and freedoms connected with the policy of aggression, colonialism, genocide and racism pursued in South-East Asia, the Near East and

/...

other parts of the world. They stressed that the procedure for dealing in United Nations bodies with complaints from private individuals, imposed by a small group of States, was actually aimed at setting up illegal machinery for intervention in the domestic affairs of sovereign States and at replacing the national bodies having competence to examine such complaints. In their view, such a procedure would violate the United Nations Charter, international law and the whole system for ensuring the implementation of human rights worked out over the twenty-five years during which the United Nations had been in existence. They noted that this illegal procedure was aimed at diverting the attention of world public opinion from such flagrant mass violations of human rights as aggression, colonialism, apartheid, nazism and the arbitrary acts and outrages perpetrated by the invaders in territories occupied as the result of military action. They noted further that that procedure, being entirely illegal, had nothing to do with the purposes and principles of the United Nations Charter, could only do serious harm to the cause of developing friendly relations and effective co-operation between States Members of the United Nations, would inevitably complicate and worsen relations between them, and would thereby heighten international tension.

190. During the discussion of this item, some speakers pointed out that the Sub-Commission would not be able to give serious consideration to the question at the current session. They criticized the efforts of certain members to force through, in disregard of the views of a majority of States Members of the United Nations and by the use of the voting apparatus, an illegal procedure for dealing with complaints from private individuals, and said that those efforts were entirely without precedent in the practice of United Nations bodies and were illegal. Such efforts could only lead to the resurgence of the spirit of the cold war in the United Nations and seriously impair the prestige of the Sub-Commission. They protested at the conditions in which the discussion of item 6 had taken place and particularly at the fact that from the very outset, the time allowed each speaker in the general debate on all-important matter constituting agenda item 6 had been limited to fifteen minutes and the fact that, in violation of all the rules of procedure and positive traditions of the Sub-Commission, attempts had been made to cut off the general debate even before it had even begun.

/...

191. The Legal Counsel, Mr. C. Stavropoulos, made a statement confirming the legality of the appointment by the Sub-Commission of a working group as proposed in operative paragraph 1 of E/CN.4/Sub.2/CRP.30.

192. Several other speakers felt that despite the short time available for the discussion of the item and the serious limitations imposed on speakers, the item should be discussed, and some decision should be reached before the end of the session. It was pointed out that the question was indeed a serious one, but that - at the same time - it was an urgent matter on which at least general ideas should be agreed upon.

193. There was some discussion as to whether the question of procedures for dealing with communications relating to violations of human rights and fundamental freedoms should be included under agenda item 6 or agenda item 8; the latter dealt with communications concerning human rights.

194. Some speakers stated that the establishment of any working group, and any designation of members of the working group at the twenty-third session, would be illegal, since the terms of reference of such a group had not been determined and the great majority of States Members of the United Nations had no views on the matter. Mention was made in this connexion of Article 2, paragraph 7, of the Charter of the United Nations, and of article 29 of the Universal Declaration of Human Rights, as, in their view, the question of communications on violations of human rights and procedures to ascertain their receivability could lead to interference in the domestic affairs of States. One member considered that the Sub-Commission had already discussed the substance of the question at its twenty-first session. The Economic and Social Council had first, at its forty-sixth session, requested the Secretary-General to consult Member States; then, after being appraised of the results of this consultation, the Council had at its forty-eighth session requested the Sub-Commission to devise at its twenty-third session appropriate procedures for dealing with the question of admissibility of communications.

195. In the view of one speaker, since objections seemed to arise from the political undertones or overtones which this matter seemed to carry with it, and in order to avoid the political aspect of this particular function given to the Sub-Commission, the preferable procedure would be not to designate any member of the working group at the twenty-third session but to proceed as follows:

/...

two months before the Sub-Commission's twenty-fourth session was to commence, the names of five members of the Sub-Commission would be drawn by lot by the Secretary-General. These five members would constitute the screening committee which would be asked to meet in accordance with the Economic and Social Council resolutions on this point, and submit its report to the Sub-Commission one month before the session was due to start. The Sub-Commission would then debate the report of the committee and decide freely on the definite inclusion or exclusion of any item. The speaker proposed certain criteria for admissibility of communications which were later submitted in written form and included in document E/CN.4/Sub.2/CRP.46.

196. Several members supported this proposal. One of them pointed out that, although the choice by lot of the members of the working group seemed to be an eminently equitable one, it could hardly be expected to guarantee the adequate geographical distribution called for in Council resolution 1503 (XLVIII). An alternative method of attaining such geographical representation would be that suggested in draft resolution E/CN.4/Sub.2/CRP.30, subject to empowering the Chairman of the twenty-third session of the Sub-Commission to select a substitute member of the working group from members of the Sub-Commission coming from the same geographical region of the world, in strict alphabetical order in case of inability or lack of desire of a member of the working group to serve. If necessary, the substitute would be chosen from the entire list of the Sub-Commission in alphabetical order.

197. Mr. Ruhashyankiko was of the opinion that it was clear that the Sub-Commission had reached a deadlock in the matter. The Sub-Commission had not been able, at the twenty-third session, to discharge one of the tasks entrusted to it by higher bodies and its report should clearly indicate what had been done and what had not been done. He formally proposed to refer to the Commission on Human Rights for decision all relevant documents relating to the item. He subsequently revised his proposal in the light of the discussion. In the revised proposal, it was specified that, in any event, the Sub-Commission should give priority consideration to the matter at its next session. The text of the proposal, which was adopted by the Sub-Commission unanimously, appears as resolution 6 (XXIII) in chapter VIII.

/...

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

198. At its 609th meeting, the Sub-Commission examined item 11 of its agenda, "Consideration of the future work of the Sub-Commission". In connexion with this item, the Sub-Commission had before it a note by the Secretary-General (E/CN.4/Sub.2/L.538).

199. A draft resolution (E/CN.4/Sub.2/CRP.36) was submitted by Messrs. Ferrari Bravo and Nettel, which read as follows:

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

"Recalling that for many years its annual sessions were normally held during the month of January, and that this arrangement made it possible for the Sub-Commission's report to be considered expeditiously at sessions of the Commission on Human Rights and of the Economic and Social Council, which were held shortly thereafter,

"Regretting that this convenient and efficient arrangement was altered by decisions of the Economic and Social Council revising its programme of meetings,

"Recalling that the January sessions of the Sub-Commission proved to be more convenient for members of the Sub-Commission, who serve in their capacity as individual experts and have other responsibilities which make demands upon their time,

"Pointing out that the Council's decisions to schedule the 1969, 1970 and 1971 sessions of the Sub-Commission for the month of August, with a resultant serious delay in the consideration of its reports by the Commission and the Council, make it extremely difficult for the Sub-Commission to carry out expeditiously the tasks which it has undertaken under the authority of the Commission and the Council,

"Considering further that the holding of occasional sessions of the Sub-Commission away from Headquarters would have the effect of promoting a more widespread understanding of the problems relating to the prevention of discrimination and the protection of minorities,

"1. Requests the Commission on Human Rights to recommend to the Economic and Social Council that, in principle, future annual sessions of the Sub-Commission should be held during the month of January, if possible at Headquarters and in Geneva in alternate years, and that such sessions should in no case be held at the same time as the session of the General Assembly,

"2. Invites the Secretary-General to explore the possibility of holding sessions of the Sub-Commission in future years in Addis Ababa, Bangkok and Santiago - headquarters of regional economic commissions, and to report to the Sub-Commission on this matter at its twenty-fourth session."

/...

200. A statement of financial implications relating to the draft resolution (E/CN.4/Sub.2/CRP.39) was circulated by the Secretary-General.

201. Some members of the Sub-Commission felt that the resolution contained a practical solution to the serious criticism to which the Sub-Commission had been subjected. The proposed new timing of the work of the Sub-Commission would prove to be more convenient, since its future sessions would immediately precede the sessions of the Commission on Human Rights and of the Economic and Social Council. Some members added that flexibility in the place of future sessions of the Sub-Commission would offer the possibility of a wider range of publicity to the work of the Sub-Commission.

202. Some members, while agreeing with the practicability of the resolution, expressed serious reservations in regard to its financial implications. Other members pointed out that the terms "occasional sessions" in the last preambular paragraph and "in principle" in operative paragraph 1 of the draft resolution were imprecise. Another member expressed his reservations in regard to the possibility of the Sub-Commission's holding its future sessions at the headquarters of the regional economic commissions, since it was difficult to recall the Commission on Human Rights and related organs having sessions elsewhere than Geneva or New York. In any case, such meetings should be held at the invitation of the relevant regional economic commissions; nevertheless, he expressed his agreement that it was highly desirable for the Sub-Commission to meet alternately in New York or Geneva. One member felt that, in the second paragraph of the preamble, the word "regretting" implied an unnecessary criticism of the decisions of the Economic and Social Council.

Adoption of resolution

203. Mr. Daoudy presented an oral amendment to operative paragraph 2, which consisted of inserting between "to explore" and "the possibility" the words "as a matter of urgency". This amendment was accepted by Mr. Nettel. Mr. Daoudy presented an oral amendment, according to which the Commission on Human Rights and the Economic and Social Council would invite the Secretary-General to take the action described in paragraph 2.

204. Mr. Calovski orally proposed the deletion of the second paragraph of the preamble. This proposal was accepted by Mr. Nettel.

/...

205. Mr. Rybakov asked for a separate vote on the fifth paragraph of the preamble and on operative paragraph 2. A separate vote was also asked by Mr. Hall on the words "as a matter of urgency", in operative paragraph 2.

206. The fifth paragraph of the preamble was adopted by 15 votes in favour, 1 against and 2 abstentions. In operative paragraph 2, the text "as a matter of urgency" was adopted by 7 votes in favour, 2 against and 7 abstentions. Operative paragraph 2 as a whole was adopted by 13 votes in favour, 1 against and 4 abstentions. Finally, the Sub-Commission adopted the draft resolution as a whole as amended by 17 votes in favour, none against, and 1 abstention.

207. The text of the draft resolution, as adopted by the Sub-Commission on 28 August 1970, appears in chapter VIII as resolution 7 (XXIII).

VII. ADOPTION OF THE REPORT

208. The Sub-Commission considered the draft report of its twenty-third session (E/CN.4/Sub.2/CRP.20 and Add.1-8) at its 610th and 611th meetings on 28 August 1970, and adopted unanimously the report, as amended.

VIII. RESOLUTIONS ADOPTED BY THE SUB-COMMISSION AT ITS
TWENTY-THIRD SESSION

- 1 (XXIII). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism ^{1/}

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,
Having considered the progress report on the question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism, submitted by the Special Rapporteur, Mr. Mohamed Awad (E/CN.4/Sub.2/312),

Having noted the information on the same question presented by the Secretary-General in accordance with resolution 4 (XXII) of the Sub-Commission and resolution 1331 (XLIV) of the Economic and Social Council (E/CN.4/Sub.2/308 and Add.1),

1. Expresses its appreciation to the Special Rapporteur for his valuable report, which represents a further step forward for the Sub-Commission in its work in this field;

2. Also expresses its appreciation to the Secretary-General, the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization for placing relevant information at the disposal of the Special Rapporteur and invites them to continue to co-operate with him in the preparation of the study, and associates itself with the thanks expressed by the Special Rapporteur for the collaboration extended by the International Criminal Police Organization and the Anti-Slavery Society;

3. Invites the Special Rapporteur to continue his task, taking into account the exchange of views on the report during the twenty-third session of the Sub-Commission, and to submit his final report to the twenty-fourth session of the Sub-Commission;

4. Requests the Secretary-General to continue to provide the Special Rapporteur with all the assistance necessary for the completion of his tasks;

^{1/} Adopted at the 592nd meeting, on 17 August 1970. See chap. II, para. 41.

5. Requests the Secretary-General once again to urge those States which have not yet ratified the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery to expedite their ratification procedures;

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

"The Economic and Social Council,

"Having noted resolution _____ of the Commission on Human Rights,

"Requests the Secretary-General to extend his assistance to the States Parties for the purpose of arranging for the exchange of information called for by article 3 (3) of the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery;

"2. Authorizes the Secretary-General to supplement the information received from States Parties to that Convention by information which may be available from other official sources, including States that have not yet adhered to the Convention and the appropriate international organizations, and to present such information to the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

"3. Requests the Secretary-General to seek the co-operation of those organizations, both intergovernmental and non-governmental, which can provide assistance in particular in the eradication of slavery, the slave trade and other forms of servitude."

2 (XXIII). Elimination of racial discrimination: special study of racial discrimination in the political, economic, social and cultural spheres 2/

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

Having considered the final report (E/CN.4/Sub.2/307 and Add.1-6) on the special study of racial discrimination in the political, economic, social and cultural spheres, presented by its Special Rapporteur, Mr. Hernán Santa Cruz,

2/ Adopted at the 601st meeting, on 24 August 1970. See chap. IV, para. 154.

/...

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 assistance given to the Special Rapporteur in the preparation of the study;

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

5. Requests the Secretary-General to put the Special Rapporteur's report at the disposal of the General Assembly as a background document for the consideration of item 55 of the provisional agenda of its twenty-fifth session, "Elimination of all forms of racial discrimination", and item 50, "Measures to be taken against nazism and racial intolerance";

6. 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 special study of racial discrimination in the political, economic, social and cultural spheres (E/CN.4/Sub.2/307 and Add.1-6) submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its twenty-third session by its Special Rapporteur, Mr. Hernán Santa Cruz,

"1. Expresses its appreciation to Mr. Santa Cruz 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. Santa Cruz to attend the meetings of the Commission on Human Rights when it considers his report."

/...

3 (XXIII). Study of equality in the administration of justice^{3/}

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

Recalling its resolution 3 (XXII), by which the Sub-Commission transmitted the study of equality in the administration of justice prepared by its Special Rapporteur, Mr. Mohammed Abu Rannat, to the Commission on Human Rights for its earliest possible consideration; resolution 1 (XXVI) of the Commission on Human Rights, by which the Commission recommended a draft resolution concerning the study to the Economic and Social Council for adoption; and Economic and Social Council resolution 1499 (XLVIII), by which the Council requested the Special Rapporteur to attend the meetings of the Commission when it considers his report,

Having completed its consideration of the draft principles contained in the study,

1. Decides to adopt the principles on equality in the administration of justice annexed to the present resolution and to transmit them to the Commission on Human Rights for examination with regard to the advisability of preparing a convention or a declaration, or both, on equality in the administration of justice, or several instruments dealing with various aspects of the problem, and for decision as to subsequent action;

2. 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,

"Recalling its resolution 1499 (XLVIII), on the study of equality in the administration of justice,

"Noting resolution 3 (XXIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and resolution ___ (XXVII) of the Commission on Human Rights,

"Noting also that the Sub-Commission has completed its consideration of the draft principles contained in the study, and has adopted certain principles relating to equality in the administration of justice,

^{3/} Adopted at the 603rd meeting, on 25 August 1970. See chap. III, para. 125.

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

"2. Requests the Secretary-General to print the Special Rapporteur's study, together with the general principles adopted by the Sub-Commission, and to circulate them as widely as possible."

Annex

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,

WHEREAS the United Nations has already dealt with some aspects of the administration of justice in provisions of other international instruments, including articles 9, 10, 11, 14 and 15 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 sufficient national experience has been gained in various parts of the world concerning the methods and forms of combating the types of discrimination condemned by the Universal Declaration of Human Rights,

WHEREAS the types of discrimination in the administration of justice under consideration which still exist make it necessary to adopt an international instrument or instruments with a view to the elimination of discrimination in the administration of justice,

/...

WHEREAS the attainment of the goal of equal rights in the administration of justice requires not only the recognition of the civil and political rights of the individual but also the establishment of the social, economic, educational and cultural conditions which are essential to the full development of the human potential and dignity,

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

1. General principles

Principle 1

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

Principle 2

The State shall have the exclusive power and obligation to administer justice to persons within its jurisdiction.

Principle 3

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.

Principle 4

In the allocation of jurisdiction and determination of competence of tribunals of whatever characterization, no such allocation or determination shall be made upon the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

/...

Principle 5

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.

Principle 6

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.

Principle 7

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

/...

Principle 8

National laws shall ensure that no one shall be denied equal access to the judiciary 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.

Principle 9

Where the State or any other body subsidizes the training of judges, lawyers and court interpreters, they 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.

Principle 10

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.

Principle 11

National laws concerning legal aid for the poor shall develop such aid to the utmost extent consistent with the economic resources of the country concerned. Needy persons shall be entitled to be relieved of all charges and expenses in judicial proceedings and to free aid for their defence.

Principle 12

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.

Principle 13

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

/...

Principle 14

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.

Principle 15

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.

2. Principles relating to all courts

Principle 16

Everyone, 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, shall be guaranteed the following rights in the examination of any criminal charge against him, whether it relates to a crime falling within ordinary jurisdiction or within military or special jurisdiction, or in the determination of his rights and responsibilities through civil, administrative or other judicial proceedings:

- (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 being given adequate time to prepare 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;
- (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 to a higher court.

Principle 17

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

Principle 18

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.

Principle 19

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.

/...

Principle 20

National laws relating to the place of hearing or trial shall provide for the change of place of hearing or trial whenever such change is necessary to ensure a fair hearing or trial.

Principle 21

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

Principle 22

Whatever the jurisdiction of such religious courts as may exist in a country, civil courts shall offer a forum for the settlement of all justifiable 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.

Principle 23

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

Principle 24

The right to a public hearing may be restricted by laws framed so as to prohibit, prior to the final decision of the court, publicity prejudicial to accused persons or other parties to judicial proceedings.

Principle 25

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

/...

3. Principles relating to criminal courts

Principle 26

Everyone against whom a criminal charge is preferred shall be guaranteed, in addition to the above-mentioned rights, 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 be presumed innocent until proved guilty according to law;
- (ii) 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;
- (iii) The right to be informed of his right to defend himself either in person or through counsel of his choosing;
- (iv) The right to have legal assistance assigned to him in any case, if the interests of justice and of the person involved in the judicial proceedings so require, without payment if he does not have sufficient means to pay for it;
- (v) The right to compulsory representation by counsel in proceedings for crimes of a grave nature;
- (vi) The right to examine, or have examined, the witnesses and documentary evidence against him and to obtain documentary evidence and the attendance and examination of witnesses on his behalf;
- (vii) The right to have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- (viii) The right not to be compelled to testify against himself or to confess guilt.

Principle 27

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

/...

Principle 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.

Principle 29

No one shall be compelled to incriminate himself. No accused person or witness shall be subject to physical or psychic pressure, including anything calculated to impair his will or violate his dignity. Evidence obtained in breach of this right shall not be admissible, and the extraction of purported confessions by means of such influences shall be an offence. No one shall be compelled to testify against his spouse, ascendants or descendants.

4 (XXIII). Elimination of racial discrimination^{4/}

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

Having considered the conclusions and proposals set out in chapter XIII of the special study of racial discrimination in the political, economic, social and cultural spheres (E/CN.4/Sub.2/307/Add.5), prepared by Mr. Hernán Santa Cruz.

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

A

"Racial discrimination in the political, economic,
social and cultural spheres

"The Economic and Social Council,

"Considering it necessary that immediate, effective and decisive steps should be taken to eradicate racial discrimination in the political, economic, social and cultural fields,

^{4/} Adopted at the 606th meeting, on 26 August 1970. See chap.IV, para.174.

/...

"Endorsing in general the conclusions concerning such discrimination set out in the special study of racial discrimination in the political, economic, social and cultural spheres (E/CN.4/Sub.2/307 and Add.1-6, chapter XIII, section A),

"Bearing in mind that racial discrimination in the economic sphere is being perpetuated in many countries: in southern Africa especially as a device for maintaining a steady supply of cheap labour, and also in many developing countries as a result of the low levels of living of certain ethnic groups,

"1. Recommends that the General Assembly request every competent United Nations organ, specialized agency, regional intergovernmental organization and non-governmental organization in consultative status to consider, as a matter of the highest priority, at sessions to be held in 1971, the International Year for Action to Combat Racism and Racial Discrimination:

"(a) The further action which it might itself take with a view to speedily eliminating racial discrimination throughout the world;

"(b) The action which it might recommend to its subsidiary organs, to States, and to international and national bodies for this purpose;

"(c) The follow-up measures required to ensure the full and effective implementation of its decisions in this matter;

"2. Recommends further that the General Assembly urge all States which are not parties to the International Convention on the Elimination of All Forms of Racial Discrimination to accelerate the process of ratifying that Convention, to ratify or to accede to it as soon as possible, especially during the International Year for Action to Combat Racism and Racial Discrimination, and request them to report to the General Assembly on the measures taken by them to this effect, on any obstacles which may have been encountered and on any interim measures taken to comply strictly with the principles set out in the Declaration and the Convention;

"3. Recommends further that the General Assembly should launch immediately, as a major feature of the programme for the observance in 1971 of the International Year for Action to Combat Racism and Racial Discrimination, and with the co-operation and assistance of every competent United Nations organ, specialized agency and affiliated national and international organization, a world-wide programme intended to build up public opinion, especially through radio and television broadcasts, as well as through the distribution of appropriate literature such as the Statement on Race and Racial Discrimination adopted by a conference of experts on the subject convened by the United Nations Educational, Scientific and Cultural Organization in Paris in 1967, with a view to eradicating once and for all false racial beliefs based upon a lack of scientific knowledge;

/...

"4. Recommends further that the General Assembly urge all States concerned to accelerate economic and social development of their minority groups with a view to eliminating de facto discrimination occasioned by their low standard of living, and urge also competent organs of the United Nations and specialized agencies to extend their full co-operation, including technical and financial assistance where appropriate, to enable the States concerned to achieve the foregoing objective;

"5. Stresses the significance of social and economic reforms which lead to the acceleration of the social and economic development of countries and also to the full participation of people in the process of such development and in its benefits as the basis for the actual realization of human rights and freedoms and the elimination of all forms of racial discrimination;

"6. Invites the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization to provide the Sub-Commission on Prevention of Discrimination and Protection of Minorities with substantial reports, at five-year intervals, on the nature and effect of any continuing racial discrimination in their respective fields of competence to serve as a basis for its further study of this problem.

B

"The problem of indigenous populations

"The Economic and Social Council,

"Noting that indigenous populations often encounter racial prejudice and discrimination and that sometimes the 'special measures' taken by the authorities to protect their unique culture and identity - which they themselves earnestly wish to maintain - may, with the passage of time, become unnecessary or excessive and therefore may also be discriminatory in character,

"Considering that the international community must therefore devote particular attention to the problems of indigenous populations if it is to succeed in its endeavour to eliminate all forms of discrimination,

"Convinced that the policy of integration of indigenous populations in the national community - and not segregation or assimilation - is the most appropriate means of eliminating discrimination against those populations,

"Convinced further that no integration policy for indigenous populations, whether they represent minority groups or a majority of a country's population, can proceed unless it is accompanied by a policy of economic, social and educational development aimed at achieving a rapid and substantial rise in the living standards of those populations,

/...

"Further convinced that every precaution must be taken to ensure that the process of integration is not carried out to the detriment of the institutions and traditions of the indigenous population and that its cultural and historical values are respected,

"1. Recommends that the Governments of all States having indigenous populations take into account, in their policies of economic and social development, the special problems of indigenous populations with a view to eliminating racial prejudice and discrimination against such populations;

"2. Appeals to the States concerned, if they have not yet done so, to take the appropriate legislative, administrative and other measures to protect the indigenous population and to prevent any discrimination against it;

"3. Invites all competent organs of the United Nations and, especially, the regional economic commissions and specialized agencies concerned to co-operate with Governments in any actions which they may undertake in compliance with the present resolution;

"4. Recommends to all States having legislation for the protection of indigenous populations that they review that legislation with a view to determining whether in practice it has not already resulted, or might not result, in discrimination, or whether its effect has been to place unjust and unnecessary restrictions on certain civil and political rights;

"5. Invites the Organization of American States and its subsidiary bodies, including the Inter-American Commission on Human Rights, to recommend that the resolutions, declarations and recommendations relating to indigenous populations adopted by the Conference of American States and the Inter-American Indian Conferences should be implemented;

"6. Authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to make, either as part of its study on the protection of minorities, or as a separate study, a complete and comprehensive review of the nature and extent of the problem of discrimination against indigenous populations and of the national and international measures necessary to eliminate such discrimination, in co-operation with the specialized agencies concerned and other competent international, regional and national organizations."

C

"Policies of apartheid and racial discrimination

"The Economic and Social Council,

"Strongly condemning the policies of racial discrimination pursued in South Africa, Namibia, Southern Rhodesia and the territories under Portuguese domination,

/...

more particularly the doctrine of apartheid, which is scientifically false and whose application constitutes a crime against humanity and a threat to international peace and security,

"Welcoming the recommendations concerning the policies of apartheid made in General Assembly resolutions of recent years, particularly resolutions 2396 (XXIII), 2397 (XXIII), 2544 (XXIV) and 2547 (XXIV);

"Convinced that, in order to ensure the complete effectiveness of the struggle being carried on against apartheid, it is essential for Member States, in particular the trading partners of South Africa, to apply as a matter of the utmost urgency and without reservation the resolutions concerning apartheid adopted by the General Assembly, the Security Council and other organs of the United Nations,

"1. Requests the Security Council to find means of rigidly enforcing its own resolution in which all Member States are called upon not to supply arms to South Africa, and of effectively implementing the above-mentioned resolutions of the General Assembly;

"2. Urges Member States and in particular the major trading partners of South Africa to apply fully the resolutions concerning apartheid adopted by the General Assembly, the Security Council, and other organs of the United Nations;

"3. Invites the specialized agencies, and especially the financial institutions, to follow towards South Africa a policy in conformity with these resolutions;

"4. Invites all States to strengthen and expand their programmes of assistance to the victims of apartheid, and to respond as promptly as possible to the General Assembly's appeal for substantial contributions to the United Nations Trust Fund;

"5. Invites all States to undertake, with the assistance of non-governmental organizations, including workers, religious, social and professional organizations, universities and civic groups where appropriate, an educational programme designed to acquaint the public of each country and Territory with the evil consequences of the policy of apartheid;

"6. Appeals to all humanitarian organizations, and to the International Committee of the Red Cross in particular, to take an active role in assisting the victims of apartheid, especially those who are detained or imprisoned;

"7. Urges the General Assembly to provide funds on the scale required to combat effectively the propaganda undertaken by the Government of South Africa, by which that Government seeks to defend and justify the policy of apartheid;

/...

"8. Invites the Secretary-General to make special efforts, utilizing the existing information services available to the United Nations, to alert world public opinion, and particularly that of the countries trading with South Africa, to the recommendations made by various United Nations bodies on the subject of apartheid in order to facilitate compliance by Governments with those recommendations.

D

"The danger of a revival of Nazism and racial intolerance

"The Economic and Social Council,

"Noting resolution 4 (XXIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and resolution ____ (XXVII) of the Commission on Human Rights, on the danger of a revival of nazism and racial discrimination,

"Having considered the special study of racial discrimination in the political, economic, social and cultural spheres (E/CN.4/Sub.2/307 and Add.1-6) prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and in particular chapter XII of that study on the danger of the revival of nazism and racial discrimination,

"1. Invites the General Assembly to resume, as soon as possible, its study of the question of the international criminal jurisdiction and the question of the draft code of offences against the peace and security of mankind with a view to the preparation of effective measures to eliminate any possibility of a revival of nazism;

"2. Recommends to the General Assembly the adoption of the following draft resolution:

"The General Assembly,

"Recognizing that there still exist in the world convinced adherents of nazism and racial intolerance whose activities - if they are not opposed in sufficient time - could bring about a resurgence of those ideologies, which are clearly incompatible with the purposes and principles of the United Nations Charter, the United Nations Declaration and the International Convention on the Elimination of All Forms of Racial Discrimination, and that, accordingly, the danger of a revival, or a development of new forms of nazism and racial discrimination combined with terrorism cannot be disregarded,

"Considering that contemporary manifestations of resurgent nazism, like the earlier ones, combine racial prejudice and discrimination with terrorism, and that in some cases racism has been raised to the level of State policy, as in the case of the Republic of South Africa,

/...

'Believing it essential, in order to remove this threat to the peace and security of peoples and to the realization of basic human rights and fundamental freedoms, to elaborate a series of urgent and effective measures which might be adopted by States with a view to suppressing the revival of nazism and preventing its revival, in any form or manifestation, in the future,

'Firmly convinced that the best bulwark against nazism and racial discrimination is the establishment and maintenance of democratic institutions; that the existence of genuine political, social and economic democracy is an effective vaccine and an equally effective antidote against the formation or development of Nazi movements; and that a political system which is based on freedom and effective participation by the people in the conduct of public affairs, and under which economic and social conditions are such as to ensure a decent standard of living for the population, makes it impossible for fascism, nazism or other ideologies based on terror to succeed.

'Confirming that nazism and other forms of racial intolerance constitute a serious threat to the realization everywhere of human rights and freedoms and the maintenance of international peace and security,

'Deeming it essential that the question of measures to be taken to combat nazism and racial intolerance should be kept under constant review by the appropriate United Nations bodies with a view to the timely and immediate adoption of the necessary measures for the complete eradication of nazism from the life of society,

1. Condemns all manifestations of the ideology and practice of nazism and racial intolerance, wherever they may occur;

2. Calls upon States to take steps to bring to light any evidence of the manifestation and dissemination of the ideology and practice of nazism and racial intolerance and to ensure that they are rigorously suppressed and prohibited;

3. Invites all eligible States which have not yet done so to ratify and to accede to the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity as soon as possible, and requests them to report to the twenty-sixth session of the General Assembly on the measures taken by them to comply strictly with the provisions of those Conventions;

4. Invites all States Members of the United Nations and members of the specialized agencies to review their legislation, in the light of the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, with a view to

/...

determining whether, in the light of their circumstances, further legal measures are required to eradicate for all time the danger of a revival of nazism, racial intolerance, or other ideologies based on terror.

'5. Urgently calls upon those States concerned which have not yet done so to take immediate and effective measures, including legislative measures, with due regard to the principles contained in the Universal Declaration of Human Rights, for the complete prohibition of Nazi and racist organizations and groups and for their prosecution in the courts;

'6. Appeals to all States to prohibit activity by organizations or groups propagating concepts of nazism, racial superiority, chauvinism, hatred of other peoples, militarism and revanchism, regardless of whether such organizations or groups openly call themselves Nazi or Fascist or masquerade as unions of servicemen, veterans, displaced persons, etc.:

'7. Urges those States which are unable, for serious constitutional or other reasons, to implement immediately and fully the provisions of article 9 of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, both of which condemn and outlaw all propaganda and all organizations based on ideas or theories of the superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, to take measures designed to ensure the speedy disbandment and disappearance of such organizations; these measures should provide, inter alia, that:

'(a) Such organizations should not be allowed to receive financial subsidies from organs of the State, private companies or individuals;

'(b) Such organizations should not be allowed the use of public premises in which to establish their headquarters or conduct meetings of their members, the use of streets and squares in populated areas for holding demonstrations, or the use of public media of information for disseminating propaganda;

'(c) Such organizations should not be allowed to form militarized detachments on any pretext, and offenders should be subject to prosecution in the courts;

'(d) Persons employed by the State, particularly in the armed forces, should not be permitted to belong to such organizations;

'8. Requests United Nations Educational, Scientific and Cultural Organization, the International Labour Organisation and other United Nations specialized agencies to consider the question of measures to combat nazism and racial intolerance;

/...

'9. Appeals to regional intergovernmental organizations to consider the question of measures which could be taken at the regional level to combat nazism and other manifestations of racial intolerance;

'10. Calls upon Governments, particularly those which control mass information media of world or continental scope, the United Nations and its subsidiary bodies, specialized agencies and international and national organizations to increase public awareness of the danger of a revival of nazism and racial intolerance, especially among young people, by the preparation and dissemination of information on this subject, by participation in ceremonies commemorating the victims of nazism and similar ideologies and practices based on terror and racial intolerance, and by any other means at their disposal;

'11. Calls upon all States to take legislative and administrative measures to prohibit propaganda of any kind in favour of nazism, the concept of racial superiority, chauvinism, hatred of other peoples, militarism and revanchism;

'12. Decides to place the question of measures to be taken against ideologies and practices based on terror or on incitement to racial discrimination or any other form of group hatred on its agenda and under continuing review, and urges other competent organs of the United Nations to do likewise, so that appropriate measures can be taken promptly as required;

'13. Confirms the principles of international law with regard to the eradication of nazism, and appeals to all States to act in conformity with those principles.'"

5 (XXIII). Elimination of racial discrimination: International Year for Action to Combat Racism and Racial Discrimination 5/

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

Having considered the report of the Secretary-General (A/7649) submitted on 17 September 1969 to the General Assembly, at its twenty-fourth session, in which he proposed a programme for the celebration of an international year for action to combat racism and racial discrimination,

5/ Adopted at the 607th meeting, on 26 August 1970. See chap.IV, para.180.

Having noted General Assembly resolution 2544 (XXIV) of 11 December 1969 and resolution 3 (XXVI) of the Commission on Human Rights of 26 February 1970,

Referring to its resolution 2 (XXIII), of 24 August 1970, transmitting to the Commission on Human Rights the final report (E/CN.4/Sub.2/307 and Add.1-6) on the special study of racial discrimination in the political, economic, social and cultural spheres prepared by its Special Rapporteur, Mr. Santa Cruz,

Recalling operative paragraph 3 of the draft resolution contained in the above-mentioned resolution, in which the Sub-Commission requested the Secretary-General to make the necessary arrangements to enable Mr. Santa Cruz to attend the meetings of the Commission on Human Rights at which it considered his report,

Desiring to co-operate fully in ensuring the success of the celebration of the International Year for Action to Combat Racism and Racial Discrimination and to assist in the preparation of detailed plans for specific programmes for the International Year.

1. Appoints the Special Rapporteur, Mr. Santa Cruz, whose presence in the Commission on Human Rights during the discussion of his special study has been proposed, to represent the Sub-Commission during the discussion of the plans for the celebration of the International Year;

2. Requests the Commission on Human Rights to endorse the proposal and to take the necessary steps to inform the competent organs of the United Nations of that appointment;

3. Proposes that a meeting should take place in an African capital situated not far from South Africa, such as that of Namibia, Territory under direct responsibility of the United Nations, or another capital, to be attended by the following persons:

The President of the General Assembly;

The Secretary-General of the United Nations;

The Chairman of the Commission on Human Rights;

The Secretary-General of the Organization of African Unity;

The Chairman of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa;

The President of the United Nations Council for Namibia;

/...

The Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

this meeting, which should be held at a date to be decided upon and within the context of the celebration of the International Year, would be an important occasion for bringing to the people of South Africa in particular and to other oppressed peoples and victims of discrimination in general the support of the international community in their struggle to regain their dignity and freedom and to enjoy with the other peoples of the world all the rights embodied in the Universal Declaration of Human Rights;

4. Urges the Commission on Human Rights to study with the appropriate United Nations organs the possibility of implementing this proposal.

6 (XXIII). 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 6/

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

Considering the difficulties arising during its consideration of the 'Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories', included under agenda item 6 at its twenty-third session, and in view of the impossibility of reaching a decision on this matter,

1. Decides to transmit to the Commission on Human Rights, for its consideration:

(a) Draft resolutions E/CN.4/Sub.2/CRP.30 submitted by Mr. Ferguson, Miss Dubra and Mr. Juvigny and draft resolution E/CN.4/Sub.2/CRP.37, submitted by Mr. Ferguson.

(b) Draft resolution E/CN.4/Sub.2/CRP.44 submitted by Mr. Daoudy;

(c) Draft resolution E/CN.4/Sub.2/CRP.45, submitted by Mr. Carey;

6/ Adopted at the 609th meeting, on 28 August 1970 See chap. V, para. 197.

(d) Draft amendments E/CN.4/Sub.2/CRP.41 and E/CN.4/Sub.2/CRP.42, submitted by Mr. Rybakov;

(e) Draft amendment E/CN.4/Sub.2/CRP.46, submitted by Mr. Cornelius;

(f) The summary records of the meetings held on 26, 27 and 28 August 1970, contained in documents E/CN.4/Sub.2/SR.607-609;

2. Further decides to place this item, as a priority matter, on the agenda of its next session.

7 (XXIII). Consideration of the future work of the Sub-Committee^{7/}

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

Recalling that for many years its annual sessions were normally held during the month of January, and that this arrangement made it possible for the Sub-Commission's report to be considered expeditiously at sessions of the Commission on Human Rights and of the Economic and Social Council, which were held shortly thereafter,

Recalling that the January sessions of the Sub-Commission proved to be more convenient for members of the Sub-Commission, who serve in their capacity as individual experts and have other responsibilities which make demands upon their time,

Pointing out that the Council's decisions to schedule the 1969, 1970 and 1971 sessions of the Sub-Commission for the month of August, with a resultant serious delay in the consideration of its reports by the Commission and the Council, make it extremely difficult for the Sub-Commission to carry out expeditiously the tasks which it has undertaken under the authority of the Commission and the Council;

Considering further that the holding of occasional sessions of the Sub-Commission away from Headquarters would have the effect of promoting a more widespread understanding of the problems relating to the prevention of discrimination and the protection of minorities,

^{7/} Adopted at the 609th meeting, on 28 August 1970. See chap. VI, para 206.

1. Requests the Commission on Human Rights to recommend to the Economic and Social Council that in principle future annual sessions of the Sub-Commission should be held during the month of January, if possible at Headquarters and in Geneva in alternate years, and that such sessions should in no case be held at the same time as the session of the General Assembly;

2. Requests the Commission on Human Rights and the Economic and Social Council to invite the Secretary-General to explore, as a matter of urgency, the possibility of holding sessions of the Sub-Commission in future years in Addis Ababa, Bangkok and Santiago - headquarters of regional economic commissions; and to report to the Sub-Commission on this matter at its twenty-fourth session.

ANNEXES

Annex I

ATTENDANCE

MEMBERS AND ALTERNATES

Mr. Mohammed A. Abu Rannat	(Sudan)
Mr. Luigi Ferrari Bravo (alternate for Mr. Francesco Capotorti)	(Italy)
Mr. Peter Calvocoressi Mr. Philip Hall (alternate)	(United Kingdom of Great Britain and Northern Ireland)
Mr. Rafael E. Castillo (alternate for Mr. Vicente Díaz Samayoa)	(Guatemala)
Mr. A.R. Cornelius Mr. A.S. Karim (alternate)	(Pakistan)
Mr. Aurel Cristescu (alternate for Mr. Alexandru Bolintineanu)	(Romania)
Mr. Adib Daoudy	(Syria)
Mr. I.J.D. Durlong	(Nigeria)
Mr. Clyde Ferguson, Jr. Mr. John Carey (alternate) Mr. George Gowen (alternate)	(United States of America)
Miss Mary N. Gichuru	(Kenya)
Mr. Héctor Gros Espiell Miss Graziella Dubra (alternate)	(Uruguay)
Mr. John P. Humphrey	(Canada)
Mr. Simon Ilako	(Democratic Republic of the Congo)
Mr. José D. Ingles Mr. Alejandro D. Yango (alternate)	(Philippines)
Mr. Branimir Jankovic Mr. N.D. Čaloroki (alternate)	(Yugoslavia)
Mr. Pierre Juvigny Mr. Jean Dominique Parlim (alternate)	(France)
Mr. Ahmed Kettani	(Morocco)

/...

Mr. Ahmid Khalifa	(United Arab Republic)
Mr. Mohab Mokbel (alternate)	
Mr. Antonio Martínez Báez	(Mexico)
Mr. José Martínez Cobo	(Ecuador)
Mr. Horacio Sevilla-Borja (alternate)	
Mr. Erik Nettel	(Austria)
Mr. Paul Nikiema	(Upper Volta)
Mr. Nicodeme Ruhashyankiko	(Rwanda)
Mr. U.M. Rybakov	(Union of Soviet Socialist Republics)
Mr. V.N. Federov (alternate)	
Mr. Hernán Santa Cruz	(Chile)
Mr. José Piñera (alternate)	
Mr. W.E. Waldron Ramsey	(Barbados)

SPECIAL RAPPORTEUR ON SLAVERY

Mr. Mohamad Awad	(United Arab Republic)
------------------	------------------------

OBSERVERS FROM STATES MEMBERS OF THE UNITED NATIONS

<u>Argentina:</u>	Mr. O. Rebagliati
<u>Canada:</u>	Mr. François Mathys
<u>Ghana:</u>	Mr. G. Cudjoe, Mr. S. Okudjeto
<u>India:</u>	Mr. J.S. Teja, Mr. A.S. Mani, Mr. K.M. Puri
<u>Iraq:</u>	Mr. Talib H. El-Shibib, Mr. Adnan Raouf, Mr. Ayad Munir
<u>Pakistan:</u>	Mr. Munir Akram
<u>Spain:</u>	Mr. Amador Martínez Marcillo
<u>Turkey:</u>	Mr. Mehmet Guney
<u>Ukrainian SSR:</u>	Mr. V. Kravets
<u>United States of America:</u>	Mr. Arthur Stillman

/...

UNITED NATIONS SECRETARIAT

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

Secretary of the Sub-Commission: Mr. Rupert John

Representative of the Commission on the Status of Women

Mrs. Eugenia H. Stevenson

SPECIALIZED AGENCIES

International Labour Organisation: Mr. Metiku Teferra,
Mr. Vernon Chivers

United Nations Educational, Scientific
and Cultural Organization: Miss Lorna McPhee

REGIONAL INTERGOVERNMENTAL ORGANIZATIONS

League of Arab States: Mr. Abdul Aleem El-Abyad

Organization of American States: Mr. Luis A. Reque

NON-GOVERNMENTAL ORGANIZATIONS

Category II

Agudas Israel World Organization: Mr. Isaac Lewin
Anti-Slavery Society: Miss Estelle Linzer
Baha'i International Community: Mr. Victor de Araujo
Consultative Council of Jewish Organizations: Mr. Moses Moskovitz
Co-ordinating Board of Jewish Organizations: Mr. Harris Schonberg
International Council of Jewish Women: Mrs. Nettie S. Levy
Mrs. S. Hekmal
International Federation for the Rights of Man: Mrs. Roberta Cohen
International Federation of University Women: Miss Genevieve N. Gildersleeve

/...

<u>International Federation of Women Lawyers:</u>	Miss Dora Aberlin Miss Anna R. Kumin
<u>International League for the Rights of Man:</u>	Mr. Herschel Halbert Mr. John Salzberg Mr. Sidney Liskofsky
<u>International Social Service:</u>	Mrs. Rosalind W. Harris
<u>Women's International League for Peace and Freedom:</u>	Mrs. Eugenie S. Intemann
<u>Women's International Zionist Association:</u>	Mrs. Evelyn Sommer
<u>World Jewish Congress:</u>	Mr. Max Melamet
<u>World Union of Catholic Women's Organizations:</u>	Miss Catherine Schaefer Miss Alba Zizzamia Miss Miriam Rooney
<u>World Young Women's Christian Association:</u>	Mrs. Mildred F. Jones Mrs. Mildred Persinger Mrs. Margaret Forsyth

ROSTER

<u>International Humanist and Ethical Union:</u>	Mrs. Walter M. Weiss
<u>St. Joan's International Alliance:</u>	Miss Frances McGillicuddy

/...

Annex II

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

1. In the course of its twenty-third session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted seven resolutions, six of which have financial implications. Prior to the adoption of these resolutions, the Secretary-General, in compliance with financial regulation 13.1 and rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, submitted statements of the administrative and financial implications of the proposals. In some cases, the draft resolutions on the basis of which the estimates were submitted were amended before their adoption, and appropriate adjustments have been made in the cost estimates.
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 1971, 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 1971 which the Secretary-General will submit to the General Assembly at its twenty-sixth session.

Resolution 1 (XXIII). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism

3. In operative paragraph 3 of this resolution, the Sub-Commission invites the "Special Rapporteur to continue his task, taking into account the exchange of views on the report during the twenty-third session of the Sub-Commission", and "to submit his final report to the twenty-fourth session of the Sub-Commission". In paragraph 4, the Secretary-General is requested "to continue to provide the Special Rapporteur with all the assistance necessary for the completion of his tasks".

/...

4. Paragraph 6 requests the Commission on Human Rights to recommend that the Economic and Social Council request the Secretary-General, inter alia, "to extend his assistance to the States Parties for the purpose of arranging for the exchange of information called for by article 3 (3) of the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery"; and authorizes the Secretary-General to supplement the information received from States parties to that Convention by information which may be available from other official sources, including States that have not yet adhered to the Convention and the appropriate international organizations and to present such information to the Sub-Commission.

5. In connexion with paragraphs 3 and 4, the Sub-Commission was reminded that the financial implications of its resolution 7 (XXI) of 22 October 1968, concerning the work of the Special Rapporteur, had been set forth in annex I, paragraph 6, of the Sub-Commission's report on its twenty-first session (E/CN.4/976), which noted, inter alia, that the preparation of the final report in 1971 would involve travel by the Special Rapporteur to Headquarters in New York and a stay of not more than four weeks working with the Secretariat, at an estimated cost of \$2,430. It was at that time further assumed that the final report prepared by the Special Rapporteur following consideration by the Sub-Commission, the Commission on Human Rights and the Economic and Social Council would be printed in three languages in 1971 or 1972 at an estimated cost of \$4,200.

6. When resolution 7 (XXI) was considered by the Commission on Human Rights at its twenty-fifth session in 1969, it was noted that, as Mr. Awad would no longer be a member of the Sub-Commission, provision would have to be made for the travel of a Special Rapporteur who was not a member to present his reports to the Sub-Commission. The revised financial implications for the Special Rapporteur's travel therefore amounted to \$3,200 in 1971, and were presented to the Economic and Social Council at its forty-sixth session in 1969 in document E/4621/Add.1, in connexion with the Council's consideration of Commission on Human Rights resolution 12 (XXV). Economic and Social Council resolution 1419 (XLVI) subsequently confirmed the designation of Mr. Awad as Special Rapporteur and requested the Secretary-General to provide all necessary assistance to the Special Rapporteur.

/...

7. As the travel and subsistence costs for the Special Rapporteur are included in the 1971 Budget Estimates, and as the question of printing the Special Rapporteur's report would require further action by the competent organs, the requests made in paragraphs 3 and 4 of this resolution can be carried out within the provisions already made, subject of course to the approval of the relevant 1971 budget estimates by the General Assembly.

8. As far as the requests to be made to the Secretary-General under operative paragraph 6 are concerned, the activities contemplated in this resolution could be carried out within the framework of the existing work programme and, as far as can be envisaged, would not entail additional expenditures.

Resolution 2 (XXIII). Elimination of racial discrimination: special study of racial discrimination in the political, economic, social and cultural spheres

9. In paragraph 6 of this resolution, the Sub-Commission requests the Commission on Human Rights to recommend to the Economic and Social Council that the Council request the Secretary-General "to print the Special Rapporteur's study and circulate it as widely as possible". The estimated cost of printing and wide circulation of the Special Rapporteur's study, based on the assumption that it will not exceed 375 standard manuscript pages in three languages (English, French and Spanish), and a total press run of not more than 6,800 copies, would be approximately \$12,000. These costs represent the external production costs and are based on the use of existing stencils or fair copy. Subject to the availability of Secretariat resources, it might be possible to carry out some or all of this work utilizing internal resources at lower cost.

10. The same paragraph also requests the Commission to recommend to the Council that it request the Secretary-General to make arrangements for the Special Rapporteur, Mr. Hernán Santa Cruz, to attend the meetings of the Commission on Human Rights when it considers his report. As the cost of first-class travel (Santiago/Geneva/Santiago) has already been included in the 1971 Budget Estimates, in connexion with Mr. Santa Cruz's attendance at the twenty-seventh session of the Commission in his capacity as Special Rapporteur on discrimination in the matter of political rights, the additional costs entailed in 1971 by resolution 2 (XXIII) would relate to one week's subsistence at an estimated cost of \$200.

/...

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

11. In operative paragraph 2 of this resolution, the Sub-Commission requests the Commission on Human Rights to recommend to the Economic and Social Council that the Council request the Secretary-General "to print the Special Rapporteur's study, together with the general principles adopted by the Sub-Commission", and "to circulate them as widely as possible".

12. The estimated cost of printing and wide circulation of the Special Rapporteur's study and the general principles would be based on the cost of production of such a publication, not exceeding 275 standard manuscript pages in three languages (English, French and Spanish), with a total press run for the three languages of not more than 5,400 copies, and would be approximately \$10,900. These costs represent the external production costs and are based on the use of existing stencils or fair copy. Subject to the availability of secretariat resources, it might be possible to carry out some or all of this work utilizing internal resources.

Resolution 4 (XXIII). Elimination of racial discrimination

13. This resolution includes draft resolutions A, B, C and D proposed for adoption by the Economic and Social Council on the recommendation of the Commission on Human Rights.

14. Both draft resolution A (Racial discrimination in the political, economic, social and cultural spheres) and draft resolution C (Policies of apartheid and racial discrimination) are concerned, inter alia, with publicity on racial discrimination and apartheid throughout the world. In operative paragraph 3 of draft resolution A, the Economic and Social Council would recommend that the General Assembly should "launch immediately, as a major feature of the programme for the observance in 1971 of the International Year for Action to Combat Racism and Racial Discrimination, and with the co-operation and assistance of every competent United Nations organ, specialized agency and affiliated national and international organization, a world-wide programme to ensure the greatest possible distribution throughout the world of the Statement on Race and Racial Discrimination adopted by a conference of experts on the subject convened by UNESCO in Paris in 1967, with a view to eradicating once and for all false racial beliefs based

/...

upon a lack of scientific knowledge". By operative paragraph 8 of draft resolution C, the Council would invite the Secretary-General "to make special efforts, utilizing the existing information services available to the United Nations, to alert public opinion in the countries maintaining diplomatic or trade relations with South Africa to the recommendations and resolutions adopted by various United Nations bodies on the subject of apartheid in order to facilitate compliance by their Governments with those recommendations and resolutions".

15. In connexion with these requests, the Secretary-General noted that, in response to requests made earlier by the United Nations organs concerned with racial discrimination and apartheid, every effort was now being made through all media at his disposal, and with the co-operation of the various specialized agencies and the intergovernmental, governmental and non-governmental organizations concerned, to eradicate false racial beliefs and to disseminate the recommendations and resolutions of the various United Nations bodies on the subject of apartheid and the need to eliminate racial discrimination. One major new information step taken in this connexion was the initiation of a new periodical by the United Nations Office of Public Information, Objective: Justice, published in English and French and occasionally in other languages. This magazine is designed to provide a continuing outlet for information on such special subjects as decolonization, apartheid and racial discrimination which are of vital concern to the United Nations. In this connexion, efforts are being made and will continue to be made to increase distribution of appropriate literature such as the Statement on Race and Racial Prejudice as part of the programme for the observance in 1971 of an International Year for Action to Combat Racism and Racial Discrimination, and consultations will be held with UNESCO with a view to achieving maximum distribution for this statement.

16. In operative paragraph 6 of draft resolution B (The problem of indigenous populations), the Economic and Social Council would authorize the Sub-Commission "to make, either as part of its study on the protection of minorities, or as a separate study, a complete and comprehensive study of the nature and extent of the problem of discrimination against indigenous populations and of the national

/...

and international measures necessary to eliminate such discrimination, in co-operation with the specialized agencies concerned and other competent international, regional and national organizations".

17. In this connexion, the attention of the Sub-Commission was drawn to the approval previously given by the Economic and Social Council in its resolution 1418 (XLVI) of 6 June 1969 of the decision of the Sub-Commission to proceed with the study of the protection of minorities and to designate a Special Rapporteur from among its members to carry out the study (Sub-Commission resolution 9 (XX)). By the same resolution 1418 (XLVI), the Council requested the Secretary-General to provide all necessary assistance to the Special Rapporteur and to the Sub-Commission.

18. In pursuance of Council resolution 1418 (XLVI), the Secretary-General had made provision in the 1970, 1971 and 1972 work programmes for the estimated man-months required for carrying out the study of the protection of minorities, on the assumption that the Sub-Commission would designate a Special Rapporteur at its twenty-third session. These resources would therefore be available to assist the Sub-Commission and a Special Rapporteur which it may appoint in carrying out the envisaged review of the problem of discrimination against indigenous populations. As, however, the Sub-Commission deferred consideration of the agenda item on protection of minorities until its twenty-fourth session in 1971, the Secretary-General will review the resources at his disposal with a view to making necessary adjustments in the priorities proposed to the Commission on Human Rights in connexion with its work programme and in the budget estimates for 1972-1973.

Resolution 5 (XXIII). Elimination of racial discrimination: International Year for Action to Combat Racism and Racial Discrimination

19. In operative paragraph 1 of this resolution, the Sub-Commission appointed Mr. Hernán Santa Cruz, the Special Rapporteur on the special study of racial discrimination in the political, economic, social and cultural spheres, whose presence at the twenty-seventh session of the Commission on Human Rights during the discussion of his special study was requested by the Sub-Commission in its resolution 2 (XXIII), to represent the Sub-Commission during the discussion of the plans for the celebration of the International Year.

20. As the cost of first-class travel (Santiago-Geneva-Santiago) has already been included in the 1971 Budget Estimates in connexion with Mr. Santa Cruz's attendance at the twenty-seventh session of the Commission on Human Rights in his capacity as Special Rapporteur on discrimination in the matter of political rights, the additional costs entailed in 1971 by Sub-Commission resolution 2 (XXIII) would relate to one-week's subsistence at an estimated cost of \$200.

21. In operative paragraph 3 of the same resolution, the Sub-Commission proposed that "a meeting should take place in an African capital situated not far from South Africa, such as that of Namibia, Territory under the direct responsibility of the United Nations or another capital, to be attended by the following persons:

The President of the General Assembly

The Secretary-General of the United Nations

The President of the Commission on Human Rights

The Secretary-General of the Organization of African Unity

The Chairman of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa

The President of the United Nations Council for Namibia, and

The Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to the Colonial Countries and Peoples".

The Sub-Commission noted that "this meeting, which should be held at a date to be decided upon and within the context of the celebration of the International Year, would be an important occasion for bringing to the people of South Africa in particular and to other oppressed peoples and victims of discrimination in general the support of the international community for their struggle to regain their dignity and liberty and to enjoy with the other peoples of the world all the rights contained in the Universal Declaration of Human Rights".

22. The Sub-Commission, in operative paragraph 4, urged the Commission on Human Rights to study with the appropriate United Nations organs the possibility of implementing this proposal.

23. In so far as operative paragraph 3 is concerned, the attention of the Sub-Commission was drawn to the need for extensive further study on the proposed meeting, including the consideration of such matters as the location and duration of such a meeting, the nature of its agenda and the documentation required.

/...

Resolution 7 (XXIII). Consideration of future work of the Sub-Commission

24. In operative paragraph 1 of this resolution, the Sub-Commission requests the Commission on Human Rights to recommend to the Economic and Social Council that, in principle, future annual sessions of the Sub-Commission should be held during the month of January, if possible at Headquarters and in Geneva in alternate years, and that such sessions should in no case be held at the same time as the session of the General Assembly.
25. By operative paragraph 2, the Sub-Commission also requests the Commission and the Council to invite the Secretary-General to explore, as a matter of urgency, the possibility of holding sessions of the Sub-Commission in future years in Addis Ababa, Bangkok and Santiago - headquarters of regional economic commissions; and to report to the Sub-Commission on this matter at its twenty-fourth session in 1971.
26. In this connexion, the Secretary-General drew the attention of the Sub-Commission to General Assembly resolution 2478 (XXIII) of 21 December 1968 on the pattern of conferences. In operative paragraph 6 of the resolution, the Assembly reaffirmed the general principle that, in drawing up the schedule of conferences and meetings for future years, United Nations bodies shall plan to meet at their respective established headquarters; the exceptions listed to this general principle include:
- (a) In operative paragraph 6 (f), it is provided that "one Headquarters - based functional commission of the Economic and Social Council, to be determined by the Council, may meet at Geneva during the period from January to April";
- (b) In operative paragraph 6 (g), it is provided that "sessions of not more than three other Headquarters - based functional commissions or committees of the Economic and Social Council may, by decision of the Council taken after consultation with the Secretary-General, be held at Geneva during the period from September to December without overlap".
27. General Assembly resolution 2478 (XXIII) goes on, in operative paragraph 9, to urge "all organs and subsidiary bodies of the United Nations to plan their

/...

future conferences and meetings in accordance with the following recommendations of the Ad Hoc Committee of Experts to Examine the Finances of the United Nations and the Specialized Agencies:

- "(i) Priorities should be established for fixing the areas and programmes of meetings and conferences on a long-term basis;
- "(ii) The availability of human and physical resources necessary for servicing conferences should be determined and taken into account;
- "(iii) The financial ability of the organizations and of Member States to meet the requirements necessary to hold conferences should be determined and taken into account;
- "(iv) An adequate interval of time should be allowed between conferences of the same body or of similar nature."

28. At its twenty-fourth session, the General Assembly, by resolution 2609 (XXIV) of 16 December 1969, reaffirmed and reiterated the various provisions set forth in its resolution 2478 (XXIII).

29. The Secretary-General will take the appropriate step in response to the views expressed by the Sub-Commission as to the place of its future sessions and will report to the competent organs.

Annex III

LIST OF DOCUMENTS BEFORE THE SUB-COMMISSION AT ITS TWENTY-THIRD SESSION^{a/}

1. Documents issued in the general series

E/CN.4/Sub.2/303 and Add.1-8	Genocide: note by the Secretary-General
E/CN.4/Sub.2/306	Provisional agenda and annotations to the provisional agenda: note by the Secretary-General
E/CN.4/Sub.2/307 and Corr.1 and Add.1-2, Add.3, Add.3/Corr.1 (Spanish and Russian only), Add.4 and Add.4/Corr.1, Add.5, Add.5/Corr.1 (English, Spanish and Russian only), Add.5/Corr.2 (Russian and Spanish only) and Add.5/Corr.3	Special study of racial discrimination in the political, economic, social and cultural spheres: final report submitted by the Special Rapporteur, Mr. Hernán Santa Cruz
E/CN.4/Sub.2/308 and Add.1	Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of <u>apartheid</u> and colonialism
E/CN.4/Sub.2/309	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.2/310	Study of equality in the administration of justice: note by the Secretary-General
E/CN.4/Sub.2/311	Review of further developments in fields with which the Sub-Commission has been concerned: note by the Secretary-General
E/CN.4/Sub.2/312	Question of slavery and the slave-trade in all their practices and manifestations, including the slavery-like practices of <u>apartheid</u> and colonialism: progress report submitted by the Special Rapporteur, Mr. Mohamed Awad

^{a/} In addition to the documents listed below, certain conference room papers were issued for use only during, and for the purposes of, the twenty-third session of the Sub-Commission.

/...

E/CN.4/Sub.2/313

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: procedures for dealing with communications relating to violations of human rights and fundamental freedoms under resolution 1503 (XLVIII) of the Economic and Social Council: note by the Secretary-General

E/CN.4/Sub.2/314

Review of further developments in fields with which the Sub-Commission has been concerned: résumé of periodic reports on human rights: note by the Secretary-General

E/CN.4/Sub.2/315 and Add.1

Review of further developments in fields with which the Sub-Commission has been concerned: memorandum submitted by the United Nations Educational, Scientific and Cultural Organization

F/CN.4/Sub.2/CR.15

Non-confidential list of communications concerning discrimination and minorities

E/CN.4/Sub.2/NGO/45 and Corr.1

Procedures for dealing with communications relating to violations of human rights and fundamental freedoms under resolution 1503 (XLVIII) of the Economic and Social Council; statement submitted by the World Jewish Congress, a non-governmental organization in consultative status, category II

2. Documents issued in the limited series

E/CN.4/Sub.2/L.538

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