



UNITED NATIONS

COMMISSION ON HUMAN RIGHTS

REPORT of the TENTH SESSION

23 FEBRUARY—16 APRIL 1954

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS: EIGHTEENTH SESSION

SUPPLEMENT No. 7

NEW YORK

E/2573 E/CN.4/705

April 1954

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

TABLE OF CONTENTS

<i>Chapter</i>	<i>Paragraph</i>	<i>Page</i>
I. Organization of the session	1-18	1
A. Opening and duration of the session	1-2	1
B. Representation and attendance at the session	3-12	1
C. Election of officers	13-14	2
D. Meetings, resolutions and documentation	15-18	2
II. Agenda	19-23	3
III. Draft international covenants on human rights and measures of implementation	24-321	3
Part I. Introduction	24-39	3
Part II. Inclusion of an article on the right of property in the draft covenant on economic, social and cultural rights	40-71	7
The proposal of the United States of America	41-42	7
Amendments to the proposal of the United States of America	43-49	7
Alternative proposal by Chile	50-51	8
The text proposed by the Sub-Committee	52-59	8
Decisions of the Commission	60-71	8
Part III. Measures of implementation	72-242	9
A. The applicability of the system of periodic reports to the draft covenant on economic, social and cultural rights	74-170	9
Article 60 (present article 17)	78-97	10
Deletion of the reference to recommendations of the General Assembly and of the Economic and Social Council	80-82	10
Procedure to be followed in submitting reports	83-93	10
Decisions of the Commission	94-97	12
Article 61 (present article 18)	98-106	12
Decisions of the Commission	102-106	12
Inclusion of a new article between articles 61 and 62 (present articles 18 and 19)	107-109	12
Article 62 (present article 19)	110-121	13
Decisions of the Commission	116-121	13
Article 63 (present article 20)	122-132	13
Decisions of the Commission	127-132	14
Article 64 (present article 21)	133-139	14
Decisions of the Commission	136-139	14
Article 65 (present article 22)	140	14
Article 66 (present article 23)	141-147	15
Decisions of the Commission	145-147	15
Article 67 (present article 24)	148-162	15
Decisions of the Commission	157-162	16
Article 68	163-166	16
Decision of the Commission	166	16
Article 69 (present article 25)	167-170	16
Decisions of the Commission	169-170	16
B. The applicability of the system of periodic reports to the draft covenant on civil and political rights	171-214	17
Reporting procedure—article 49	172-205	17
Decisions of the Commission	185-205	19
Article 50	206-214	20
Decisions of the Commission	212-214	21
C. The applicability of the Human Rights Committee procedure to the draft covenant on economic, social and cultural rights	215-225	21
Withdrawal of the proposals	225	22
D. The right of petition	226-242	22
(a) Draft covenant on economic, social and cultural rights	227	22
(b) Draft covenant on civil and political rights	228-241	22
Withdrawal of the proposals	242	25
Part IV. Final clauses	243-321	25
A. Federal clause	244-261	25
Proposal of Australia and India	246-248	26
Proposal of the Union of Soviet Socialist Republics	249	26
Proposal of Egypt	250	26
Discussion of the proposals	251-256	26
Decisions of the Commission	257-261	27

<i>Chapter</i>	<i>Paragraph</i>	<i>Page</i>
B. Reservations	262-305	28
Proposal of the United Kingdom of Great Britain and Northern Ireland	266-270	28
Proposal of China, Egypt, Lebanon and the Philippines	271-272	29
Proposal of Chile and Uruguay	273	29
Admissibility or non-admissibility of reservations	274-276	29
Nature and extent of admissible reservations	277-289	30
Legal effect to be attributed to reservations	290-293	31
The proposal of Belgium for reservations to article 72 (present article 28 of the draft covenant on economic, social and cultural rights and article 53 of the draft covenant on civil and political rights)	294-297	32
Decisions of the Commission	298-304	33
Text of resolution I of the Commission	305	33
C. Other clauses	306-321	34
Article 70 (present article 26 of the draft covenant on economic, social and cultural rights and article 51 of the draft covenant on civil and political rights)	307-315	34
Decisions of the Commission	312-315	34
Article 73 (present article 29 of the draft covenant on economic, social and cultural rights and article 54 of the draft covenant on civil and political rights)	316-321	35
Decisions of the Commission	320-321	35
IV. Recommendations concerning international respect for the right of peoples and nations to self-determination	322-335	35
Decisions of the Commission	333-334	37
Text of resolution II of the Commission	335	37
V. Development of the work of the United Nations for wider observance of, and respect for, human rights and fundamental freedoms throughout the world	336-362	38
Biennial reports	341-347	39
Studies of specific aspects of human rights	348-351	40
Technical assistance	352-354	40
VI. Membership of the Sub-Commission on Prevention of Discrimination and Pro- tection of Minorities	363-364	42
VII. Report of the sixth session of the Sub-Commission on Prevention of Discrimina- tion and Protection of Minorities	365-518	43
A. Procedure followed	368-369	43
B. General debate	370-375	43
C. Study of discrimination in education	376-418	44
Decisions of the Commission	401-417	47
Text of resolution III of the Commission	418	48
D. Study of the present position as regards minorities throughout the world	419-438	48
Decisions of the Commission	430-437	50
Text of resolution IV of the Commission	438	51
E. Measures to expedite the work of the Sub-Commission	439-452	51
Decisions of the Commission	446-451	53
Text of resolution V of the Commission	452	53
F. Future work of the Sub-Commission relating to the protection of minorities	453-458	54
Decision of the Commission	457	54
Text of resolution VI of the Commission	458	54
G. Study of discrimination in employment and occupation	459-485	54
Decisions of the Commission	474-484	57
Text of resolution VII of the Commission	485	57
H. Future programme of work of the Sub-Commission in the field of prevention of discrimination	486-495	57
Decision of the Commission	494	58
Text of resolution VIII of the Commission	495	58
I. Collaboration between the Sub-Commission and the specialized agencies	496-506	59
Decisions of the Commission	501-505	59
Text of resolution IX of the Commission	506	59
J. Report of the sixth session of the Sub-Commission	507	59
Text of resolution X of the Commission	507	59
K. Future sessions of the Sub-Commission	508-518	60
Decisions of the Commission	513-517	60
Text of resolution XI of the Commission	518	60
VIII. Communications	519-520	61
IX. Next session of the Commission	521-522	61
Text of resolution XII of the Commission	522	61
X. Adoption of the report of the tenth session of the Commission to the Economic and Social Council	523	61

ANNEXES

	<i>Pages</i>
I. Draft international covenants on human rights	
A. Draft covenant on economic, social and cultural rights	62
B. Draft covenant on civil and political rights	65
II. Proposals and amendments relating to reservations	
A. Proposals and amendments relating to provisions on reservations	72
B. Amendments to article 26 of the draft covenant on economic, social and cultural rights and to article 51 of the draft covenant on civil and political rights connected with the provisions on reservations	73
III. Proposal for the establishment of an Office of the United Nations High Commissioner (Attorney-General) for Human Rights	74
IV. Draft resolutions for the Economic and Social Council	
A. Inclusion in the draft international covenants on human rights of provisions regarding reservations	76
B. Measures to expedite the work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities	76
C. Study of discrimination in employment and occupation	77
D. Collaboration between the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the specialized agencies	77
E. Future sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities	77
F. Recommendations concerning international respect for the right of peoples and nations to self-determination	77
G. Report of the tenth session of the Commission on Human Rights	78
V. List of documents before the Commission at its tenth session	78
VI. Financial implications of the decisions of the Commission (prepared by the Secretariat)	83

I. ORGANIZATION OF THE SESSION

A. Opening and duration of the session

1. The tenth session was opened on 23 February 1954 (411th meeting) by Mr. Mahmoud Azmi (Egypt), Chairman of the Commission at the ninth session.

2. The session was held at the Headquarters of the United Nations, New York, and ended on 16 April 1954.

B. Representation and attendance at the session

3. The following representatives of Member States on the Commission attended:

Mr. H. F. E. Whitlam, (Australia), member¹
Mr. J. Nisot, (Belgium), alternate
Mr. Rudecindo Ortega, (Chile), member¹
Mr. Cheng Paonan, (China), member
Mr. Mahmoud Azmi, (Egypt), member
Mr. René Cassin, (France), member
Mr. S. G. Roussos, (Greece), member¹
Mr. Rajeshwar Dayal, (India), member¹
Mr. E. Rizk, (Lebanon), alternate
Mr. A. Waheed, (Pakistan), member¹
Mr. José D. Inglés, (Philippines), member
Mr. H. Birecki, (Poland), member
Mr. V. Asiroglu, (Turkey), member¹
Mr. V. I. Sapozhnikov, (Ukrainian SSR), member¹
Mr. P. D. Morosov, (Union of Soviet Socialist Republics), member

Mr. S. Hoare, (United Kingdom of Great Britain and Northern Ireland), member

Mrs. Oswald B. Lord, (United States of America), member

Mr. Enrique Rodríguez Fabregat, (Uruguay), member¹

4. At the 411th meeting the representatives of the Union of Soviet Socialist Republics and of Poland made statements in which they pointed out that it was an abnormal situation when the representative of the People's Republic of China should not participate in the work of the Commission on Human Rights. It was also pointed out that his seat was illegally occupied by a member of the Kuomintang group who did not have any right to represent China. The representative of China considered the statement of the Soviet Union and Poland as out of order and that the Chinese communist régime did not and could not represent the true will of the Chinese people.

5. The following were designated as alternates for the whole session: Mr. J. Nisot (Belgium) in place of Mr. F. Dehousse; Mr. E. Rizk (Lebanon) for Mr. Charles Malik. In accordance with rule 13, paragraph 2, of the rules of procedure of the functional commissions of the Economic and Social Council, Mr. Ashraf Ghorbal represented Egypt for the most part of the session.

6. The following were designated as alternates for various parts of the session: Mr. K. H. Rogers (Aus-

tralia), Mr. Sergio Labarca (Chile), Mr. Hu Chun (China), Mr. P. Juvigny (France), Mr. D. Carayannis (Greece), Mr. B. Rajan and Mr. P. K. Banerjee (India), Mr. A. H. B. Tyabji and Mr. Riaz Piracha (Pakistan), Mr. E. Kulaga (Poland), Mr. Mervyn Brown (United Kingdom of Great Britain and Northern Ireland), Mr. Philip D. Halpern and Mr. James F. Green (United States of America), Mr. César Montero Bustamante and Mr. Darwin Bracco (Uruguay).

7. The members of the Commission were accompanied by the following advisers: Baron Egmont van Zuylen van Nyevelt de Haar (Belgium), Mr. Sergio Labarca (Chile), Mr. Hu Chun (China), Mr. Gerard Amanrich (France), Mr. Julian Forys (Poland), Mr. N. Smirnov (Union of Soviet Socialist Republics), Mr. Philip D. Halpern, Mr. James F. Green, Mr. Warren E. Hewitt and Mrs. Carmel C. Marr (United States of America).

8. In accordance with Economic and Social Council resolution 46 A (IV) and the decision of the fifth session of the Commission on Human Rights (E/1371, paragraph 11), Miss Uldarica Mañas (Cuba) represented the Commission on the Status of Women at various meetings.

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

International Labour Organisation: Mr. R. A. Mé-tall, Director of the ILO Liaison Office with the United Nations, Mr. R. E. Manning, ILO Liaison Office with the United Nations

United Nations Educational, Scientific and Cultural Organization: Mr. Solomon V. Arnaldo, Head of the New York Office of UNESCO

World Health Organization: Mrs. S. Meagher, WHO Liaison Office with the United Nations.

10. The Office of the United Nations High Commission for Refugees was represented at certain meetings of the Commission by Miss Aline Cohn.

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

CATEGORY A

International Chamber of Commerce: Mrs. Roberta Lusardi

International Confederation of Free Trade Unions: Miss Toni Sender

International Federation of Christian Trade Unions: Mr. G. Thormann

World Federation of Trade Unions: Mr. Jan Dessau, Miss Elinor Kahn

World Federation of United Nations Associations: Mrs. C. B. Fox

CATEGORY B

Agudas Israel World Organization: Mr. Isaac Lewin
The Anti-Slavery Society: Mr. C. W. W. Greenidge

¹ Nomination to be confirmed by the Economic and Social Council.

Catholic International Union for Social Service: Mrs. Carmen Giroux, Mrs. Allys D. Vergara
The Commission of the Churches on International Affairs: Mr. O. Frederick Nolde
Consultative Council of Jewish Organizations: Mr. Marcel Franco, Mr. Moses Moskowitz, Mr. Eugene Weill
Coordinating Board of Jewish Organizations for Consultation with the Economic and Social Council of the United Nations: Mr. Saul E. Joftes
Friends World Committee for Consultation: Mr. William R. Fraser
Inter-American Council of Commerce and Production: Mr. Earl F. Cruickshank
International Alliance of Women: Miss Anne Guthrie, Mrs. Charlotte Mahon, Mrs. Ruth F. Woodsmall
International Association of Penal Law: Mr. S. Manuila
International Commission against Concentration Camp Practices: Mr. Theo Bernard
International Conference of Catholic Charities: Mr. Louis Longarzo
International Council of Women: Mrs. Eunice Carter, Mrs. Rose P. Parsons, Mrs. Marjorie W. Register
International Federation of Business and Professional Women: Mrs. Ester W. Hymer, Miss Jean M. Randall
International Federation of University Women: Mrs. Frances McGillicuddy, Miss Janet Robb
International Federation of Women Lawyers: Mrs. A. Makinen-Ollinen, Miss Caroline K. Simon, Miss A. Viola Smith
The International League for the Rights of Man: Mr. Roger Baldwin, Mr. Max Beer
International Movement of Friendly Relations Among Races and Peoples: Miss Mariette Wickes
International Union for Child Welfare: Miss Mary A. Dingman
Liaison Committee of Women's International Organizations: Mrs. Frances McGillicuddy
Nouvelles équipes internationales: Mr. K. Sieniewicz, Mr. J. Sleszynski
Pan-Pacific Women's Association: Mrs. Barbara D. Evans, Mrs. Henry G. Fowler
Pax Romana: Mr. Thomas H. Mahony, Mr. J. H. Price
Women's International League for Peace and Freedom: Miss Gertrude Bussey, Mrs. Gladys D. Walser
World Federation of Catholic Young Women and Girls: Miss Rita D. Schaefer
World Jewish Congress: Mr. A. L. Easterman, Mr. Gerhard Jacoby, Mr. Maurice L. Perlzweig
World's Alliance of Young Men's Christian Associations: Mr. Owen E. Pence
World's Young Women's Christian Association: Mrs. Constance M. Anderson, Miss Alice Arnold
World Union for Progressive Judaism: Mrs. Eleanor S. Polstein, Mr. Ronald L. Ronalds
World Union of Catholic Women's Organizations: Miss Catherine Schaefer, Miss Alba Zizzamia

REGISTER

The World Calendar Association, International: Mr. James A. Joyce

12. Mr. John P. Humphrey, Director of the Division of Human Rights, and Mr. Egon Schwelb, Deputy Director of the Division of Human Rights, represented the Secretary-General at various meetings of the session. Mr. Kamleshwar Das and Mrs. Margaret K. Bruce acted as secretaries of the Commission.

C. Election of officers

13. The Commission at its 411th meeting unanimously elected:

Mr. Mahmoud Azmi, (Egypt), Chairman
 Mr. R. René Cassin, (France), First Vice-Chairman
 Mr. Enrique Rodríguez-Fabregat, (Uruguay), Second Vice-Chairman
 Mr. José D. Inglés, (Philippines), Rapporteur

14. At its 431st meeting, the Commission decided, under rule 18 of the rules of procedure of functional commissions of the Economic and Social Council, that during the meetings when the Chairman and Vice-Chairmen are absent, the Rapporteur should act as Chairman.

D. Meetings, resolutions and documentation

15. The Commission held sixty-nine plenary meetings. The views expressed by the members of the Commission during these meetings are summarized in documents E/CN.4/SR.411-479.

16. In accordance with rule 75 of the rules of procedure of the functional commissions of the Economic and Social Council the Commission granted hearings at various meetings (E/CN.4/SR.414, 415, 418, 420, 424, 434, 455 and 471) to representatives of the following non-governmental organizations: *category A*: International Chamber of Commerce (Mrs. Roberta Lusardi), International Confederation of Free Trade Unions (Miss Toni Sender), International Federation of Christian Trade Unions (Mr. G. Thormann); *category B*: Agudas Israel World Organization (Mr. Isaac Lewin), Catholic International Union for Social Service (Mrs. Allys D. Vergara), Consultative Council of Jewish Organizations (Mr. Moses Moskowitz), Coordinating Board of Jewish Organizations (Mr. Saul E. Joftes), International Federation of Business and Professional Women (Mrs. Ester W. Hymer), International League for the Rights of Man (Mr. Roger Baldwin and Mr. Max Beer), Nouvelles équipes internationales (Mr. K. Sieniewicz), Women's International League for Peace and Freedom (Mrs. Gladys D. Walser), World Jewish Congress (Mr. Gerhard Jacoby and Mr. Maurice L. Perlzweig) and the World Union for Progressive Judaism (Mr. Ronald L. Ronalds).

17. Resolutions I-XII and decisions of the Commission appear under the subject matters to which they relate. Draft resolutions A-G for consideration by the Economic and Social Council are set out in annex IV. Financial implications of decisions of the Commission prepared by the Secretariat will be found in annex VI.

18. Documents before the Commission at its tenth session are listed in annex V.

II. AGENDA

19. At the 411th meeting on 23 February 1954, the Commission adopted without objection the provisional agenda (E/CN.4/695) as its agenda for the tenth session.

20. The agenda for the tenth session was as follows:

1. Election of officers
2. Adoption of the agenda
3. Draft international covenants on human rights and measures of implementation (General Assembly resolutions 543-549 (VI) and 737 (VIII); Economic and Social Council resolutions 384 (XIII), 415 (S-1), 501 B (XVI) and 510 (XVI))
4. Recommendations concerning international respect for the right of peoples and nations to self-determination (General Assembly resolution 637 C (VII) and 738 (VIII); Economic and Social Council resolutions 472 (XV) and 510 (XVI))
5. Development of the work of the United Nations for wider observance of, and respect for, human rights and fundamental freedoms throughout the world (General Assembly resolutions 494 (V), 608 (VI) and 739 (VIII); Economic and Social Council resolutions 358 (XII), 501 C (XVI) and 510 (XVI))
6. Annual reports on human rights (Economic and Social Council resolutions 303 E (XI) and 501 C (XVI); E/1681, paragraph 47)
7. Recommendations to governments concerning the application of special measures for the protection of minorities (Economic and Social Council resolution 502 B II (XVI))
8. Membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities: item proposed by the Secretary-General
9. Report of the sixth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (Economic and Social Council resolution 502 B II (XVI))
10. Review of programme and establishment of priorities (General Assembly resolution 533 (VI); Economic and Social Council resolutions 324 (XI), 402 B I and II (XIII), 451 A (XIV) and 497 C (XVI))
11. Definition and protection of political groups (E/CN.4/641, paragraph 60)
12. Injuries suffered by groups through the total

- or partial destruction of their media of culture and their historical monuments (E/CN.4/641, paragraph 60)
13. General Assembly resolution 644 (VII) on racial discrimination in Non-Self-Governing Territories
14. Draft declaration on the rights of the child (Economic and Social Council resolution 309 C (XI))
15. Old-age rights (welfare of the aged) (General Assembly resolution 213 (III); Economic and Social Council resolutions 198 (VIII) and 309 D (XI))
16. Right of asylum (E/600, paragraph 48)
17. Resolution 154 D (VII) and decision of 2 August 1949 of the Economic and Social Council dealing with the freedom to choose a spouse, etc.
18. Local Human Rights Committees (Economic and Social Council resolution 9/2 of 21 June 1946; E/600, paragraph 49; E/800, paragraph 22; E/1371, paragraph 30)
19. International Court of Human Rights (E/1681, paragraphs 46 and 81)
20. Continuing validity of Minorities Treaties and Declarations (Economic and Social Council resolution 116 C (VI); E/1681, paragraph 76)
21. Yearbook on Human Rights (Economic and Social Council resolution 303 H (XI))
22. Communications
 - (a) Lists of communications and replies from Member States (Economic and Social Council resolutions 75 (V) as amended by 275 B (X) and 192 A (VIII))
 - (b) Procedure for handling of communications relating to human rights (E/1681, paragraph 56; E/CN.4/165, E/CN.4/165/Corr.1 and E/CN.4/165/Add.1)
23. Report of the tenth session of the Commission on Human Rights to the Economic and Social Council.

21. The Commission, at its 411th meeting, agreed to commence its work with items 3 and 4 of its agenda, and to postpone decision on the order of consideration of the other items. The Commission decided by 6 votes to none, with 11 abstentions at the 451st meeting to consider item 9 before item 4.

22. The Commission also considered items 5, 8 and 22 (a) of its agenda.

23. Further consideration of items 4 and 5 and examination of the other items of the agenda were deferred.

III. DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION

PART I. INTRODUCTION

24. At its second session, in December 1947, the Commission on Human Rights decided that the International Bill of Human Rights should consist of a

“declaration,” a “covenant” and “measures of implementation” (E/600, paragraph 18). When the General Assembly adopted the Universal Declaration of Human Rights on 10 December 1948 it requested that

continued priority be given to the preparation of a draft covenant on human rights and draft measures of implementation (resolution 217 E (III)). The Commission has since devoted six sessions, the fifth to the tenth (reports in E/1371, 1681, 1992, 2256, 2447 and 2573), from 1949-1954, to the preparation of the covenants. During this time it received observations and comments from governments of Member States, specialized agencies and non-governmental organizations, as well as directives and instructions from the General Assembly and the Economic and Social Council.

25. During its fifth and sixth sessions in 1949 and 1950 the Commission drafted a covenant based on the texts prepared by the Commission at its second session (1947) and by its drafting committee (1948). It included articles relating to civil and political rights and a system of implementation based on the establishment of a human rights committee whose functions would be to ascertain the facts in cases of alleged violation brought to the attention of the Committee by States Parties and to make available its good offices to the States concerned with a view to a friendly solution of the matter on the basis of respect for human rights as defined in the covenant. It decided not to include provisions relating to the right of petition of individuals, groups and non-governmental organizations, either among the substantive articles or in the measures of implementation. The Commission discussed at both sessions the question whether to include articles on economic, social and cultural rights in the covenant. It had before it at the sixth session (1950) comments from Member States and a survey prepared by the Secretariat of activities of other United Nations organs and of the specialized agencies concerning these rights. It decided at its sixth session to forward to the Economic and Social Council the draft first international covenant on human rights dealing with civil and political rights. It forwarded to the Council proposals concerning the territorial application of the covenant and a federal State article. It also decided to proceed in 1951 with the consideration of additional covenants and measures dealing with economic, social, cultural, political and other categories of human rights and asked the Council to confirm this decision.

26. In July 1950 the Economic and Social Council, in considering in its broad aspects the draft first international covenant on human rights (E/1681, annex I) drawn up by the sixth session of the Commission (1950), came to the conclusion that further progress could not be made unless certain basic policy decisions were taken by the General Assembly (resolution 303 I (XI)). The General Assembly, at its fifth session in 1950, in resolutions 421 (V) and 422 (V), requested: the revision of the first eighteen articles of a civil and political nature drafted at the sixth session, with a view to including additional rights and with a view to defining the rights and limitations thereto with the greatest possible precision; the study of a federal State article and preparation of recommendations aimed at securing the maximum extension of the covenant to the constituent units of federal States and at meeting the constitutional problems of such States; the inclusion, in co-operation with the specialized agencies, of economic, social and cultural rights and an explicit recognition of equality of men and women in related rights, as set forth in the Charter; the consideration of provisions for inclusion in the draft covenant or separate protocols for the receipt and examination of

petitions from individuals and organizations concerning alleged violations of the covenant taking into consideration certain proposals; the inclusion of an article stating that its provisions "shall extend to or be applicable equally to a signatory metropolitan State and to all the territories, be they non-self-governing, Trust or colonial territories, which are being administered or governed by such metropolitan State". The Council in resolution 349 (XII) transmitted these recommendations of the General Assembly to the Commission for appropriate action, at the same time providing for the co-operation of the specialized agencies interested in economic, social and cultural rights.

27. The Commission devoted its seventh session in April and May 1951 (E/1992) first to the preparation of articles on economic, social and cultural rights, in which representatives of ILO, UNESCO and WHO fully participated, and then to the drafting of articles on measures of implementation relating to these rights and envisaging a system of reporting by States Parties to the covenant. However, the Commission did not take a decision as to whether this system should apply only to economic, social and cultural rights, nor did it decide whether the articles providing for the establishment of a human rights committee, which were revised at this session, should apply only to the civil and political rights. It was unable, owing to lack of time, to comply with all the instructions of the General Assembly.

28. The Economic and Social Council at its thirteenth session, by resolution 384 (XIII) of 29 August 1951, asked the Commission to proceed with the remaining tasks at its next session and transmitted the report of the Commission together with the records of its discussions and certain observations of governments and of specialized agencies to the General Assembly, because it considered that the work on the covenant had reached a stage where it would be desirable for governments not represented on the Commission or the Council to have an opportunity to express their views. It also invited the General Assembly to reconsider its decision to include in one covenant articles on economic, social and cultural rights and articles on civil and political rights.

29. The General Assembly, at its sixth session (1951-52), decided that two draft covenants on human rights should be prepared, one to contain civil and political rights and the other economic, social and cultural rights (resolution 543 (VI)). Both covenants should be submitted simultaneously to the General Assembly and contain as many similar provisions as possible, particularly with regard to the implementation provisions relating to the system of reports. Resolutions 543-547 (VI) of the General Assembly also provided: that Member States and appropriate specialized agencies submit drafts or memoranda containing their views on the form and content of the covenant on economic, social and cultural rights for the information and guidance of the Commission; that the Commission revise the articles on economic, social and cultural rights, taking into consideration the views expressed in the Assembly during the discussion of the draft covenant and any comments that governments of Member States, specialized agencies and non-governmental organizations might think fit to advance; that the Commission prepare for inclusion in the two covenants one or more clauses relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them; that the Commission

consider as "additional basic working papers" a series of proposals on measures of implementation transmitted to the Commission; that the Commission include in the covenant or covenants an article on the right of peoples and nations to self-determination, transmitting the text of such an article as a basis for consideration by the Commission. At a special session of the Council on 24 March 1952 the recommendations of the Assembly were transmitted to the Commission (resolution 415 (S-I)) for action.

30. The Commission at its eighth session in 1952 proceeded with the formulation of two covenants. It prepared (E/2256, annex I, sections A and B) the substantive articles for the draft covenant on economic, social and cultural rights using as the basis for its work the articles which it had drawn up at its seventh session for inclusion in the single draft covenant, and it prepared the substantive articles for the draft covenant on civil and political rights, using as the basis for its work the articles prepared at the sixth session. It drafted an article on the rights of peoples and nations to self-determination for inclusion in both draft covenants. It was, however, unable to carry out the other instructions of the Assembly and it asked the Council that it be allowed to complete its work on both covenants for simultaneous submission to the Council in 1953. The Council approved this recommendation in resolution 440 (XIV) of 30 July 1952.

31. The Commission at its ninth session in 1953, was able to consider only certain matters relating to the draft covenant on civil and political rights (E/2447, chapter III and annex III). A number of articles dealing with additional rights for inclusion in that covenant were drafted on the basis of proposals submitted to the Commission by its members, by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and by the Commission on the Status of Women. Certain articles for the implementation of that covenant, including special provisions relating to the implementation of the article on self-determination, were also drafted on the basis of the provisions contained in part IV of the draft covenant relating to the establishment of a human rights committee set forth in the report of the seventh session of the Commission. The Commission again rejected proposals concerning the right of petition of individuals, groups and non-governmental organizations. A proposal to request the Council to ask the General Assembly to reconsider its decision that two covenants instead of one should be drafted was rejected.

32. In resolution 501 (XVI) of 3 August 1953, the Economic and Social Council noted the progress made by the Commission in the drafting of the covenants and requested it to complete the drafting during the tenth session in 1954. The Council transmitted the report of the ninth session of the Commission to the eighth session of the General Assembly, and it also requested the Secretary-General to communicate it to Member States, specialized agencies and non-governmental organizations concerned for their observations to be submitted not later than 1 January 1954. At its eighth session the General Assembly, on 28 November 1953, adopted resolutions 737 A and B (VIII) relating to the federal clause and to the right of petition respectively. In these resolutions, the General Assembly decided to transmit to the Commission certain documents containing proposals made by delegations on the two subjects, together with the records of the discussion thereon. By its resolution 510 (XVI) of 7 Decem-

ber 1953, the Council transmitted the General Assembly resolutions to the Commission.

33. Pursuant to Economic and Social Council resolution 501 B (XVI), observations on the draft covenants were received from the following:

(a) Member States (E/CN.4/694 and Add.1-7): Belgium, Byelorussian Soviet Socialist Republic, Canada, Norway, Poland, Sweden, Ukrainian Soviet Socialist Republic, United Kingdom of Great Britain and Northern Ireland, the United States of America; the Government of Denmark replied that it had no comments to make.

(b) Specialized agencies (E/CN.4/692 and Add. 1-2): International Labour Organisation, United Nations Educational, Scientific and Cultural Organization and World Health Organization; the International Telecommunications Union, the International Bank for Reconstruction and Development and the Universal Postal Union replied that they had no comments to make.

(c) Non-governmental organizations (E/CN.4/702 and Add.1-6): *category A*: International Confederation of Free Trade Unions, International Organization of Employers, World Federation of Trade Unions; *category B*: Anti-Slavery Society, Catholic International Union for Social Service, Consultative Council of Jewish Organizations, Co-ordinating Board of Jewish Organizations, Friends World Committee for Consultation, International Abolitionist Federation, International Alliance of Women, International Catholic Child Bureau, International Catholic Press Union, International Commission against Concentration Camp Practices, International Council of Women, International Federation of Business and Professional Women, International Federation of Friends of Young Women, International Federation for the Rights of Man, International Law Association, International Union for Child Welfare, Liaison Committee of Women's International Organizations, Pax Romana, Salvation Army, Women's International League for Peace and Freedom, World Jewish Congress, World's Alliance of Young Men's Christian Associations, World Movement of Mothers, World Union of Catholic Women's Organizations, World Union for Progressive Judaism, World's Young Women's Christian Associations; *Register*: International Broadcasting Organization, Joint Committee of International Teachers' Federations, International Confederation of Professional and Intellectual Workers, Open Door International, St. Joan's International Social and Political Alliance. The International Society of Social Defence and the League of Red Cross Societies replied that they had no comments to make.

34. The Secretary-General also submitted memoranda on the measures of implementation (E/CN.4/675, E/CN.4/590 and Add.1-5, and E/CN.4/L.315), on the federal clause (E/1721, A/CONF.2/21, E/CN.4/651), on the question of reservations (E/CN.4/677), on the final clauses (E/CN.4/678 and Corr.1) on the right of property (E/CN.4/L.312), as well as on the substantive articles on economic, social and cultural rights (E/CN.4/673) and on civil and political rights (E/CN.4/674) drafted by the Commission at its eighth session.

35. In accordance with resolution 501 (XVI) of the Council the Commission proceeded at its tenth session to consider the draft covenants in the light of the instructions contained in the resolutions of the

General Assembly and of the Council referred to above and on the basis of the report of its ninth session. The Commission had before it the following drafts (E/2447, annex I, sections C, D and E): the text of the article on territorial application adopted by the General Assembly in its resolution 422 (V); provisions on measures of implementation based on a system of periodic reports drafted at the seventh session; and certain articles relating to final clauses drafted at the sixth session. The Commission also had before it (E/2447, annex II, sections A, B and C): a proposal to add an article on the right of property; the text of the draft article on the federal State clause of the third session of the Commission and other proposals on the subject; and a proposal for the establishment of an Office of the United Nations High Commissioner (Attorney-General) for Human Rights.

36. The Commission devoted forty-one meetings (E/CN.4/SR.412-451 and 478) to consideration of the draft international covenants on human rights and measures of implementation. The Commission agreed generally to follow the programme of work suggested by the Secretary-General in his memorandum in E/CN.4/696, paragraphs 8 and 9. The representative of the Union of Soviet Socialist Republics stated that the delegation of the USSR still considered it incorrect that the Covenant on Human Rights should be divided into two separate covenants. He reserved his right to raise this question at the later stages of consideration of the draft covenants. At the 412th meeting the Commission decided by 12 votes to 1, with 5 abstentions to commence with the examination of a proposed article on the right of property. It agreed to proceed thereafter with the consideration of questions relating to measures of implementation. The proposed article on the right of property was discussed during the 413th-418th meetings (see paragraphs 40-71 below). At the 419th meeting the Commission agreed to begin consideration of questions relating to measures of implementation with the applicability of the system of periodic reports to the draft covenant on economic, social and cultural rights, proceeding thereafter with the consideration of the applicability of this system to the draft covenant on civil and political rights, the applicability of the Human Rights Committee procedure to the draft covenant on economic, social and cultural rights, and the question of the right of petition. These questions were considered during the 419th-437th meetings (see paragraphs 72-242 below). At the 434th meeting the Commission decided to take up the consideration of the final clauses after the measures of implementation beginning with the federal clause and continuing with the question of reservations and the other final clauses. These clauses were considered during the 437th-451st meetings (see paragraphs 243-321 below). A brief indication of these proceedings of the Commission are contained in the following parts of this chapter.

37. At the tenth session the Commission drafted the following provisions: articles relating to a system of periodic reports for the implementation of the draft covenant on economic, social and cultural rights (see annex I, section A, part IV, articles 17-24) based on the articles drafted at its seventh session; an article concerning reporting for inclusion in the draft covenant on civil and political rights (see annex I, section B, part V, article 49); an article for inclusion in both draft covenants concerning the respective responsibilities of the United Nations and the specialized

agencies (see annex I, section A, part IV, article 25, and section B, part V, article 50); articles relating to final clauses for inclusion in both draft covenants based on texts prepared at the sixth session, and a new article relating to federal States; the text of the territorial application clause, adopted by the General Assembly in its resolution 422 (V), was incorporated in both draft covenants (see annex I, section A, part V, articles 26-29, and section B, part VI, articles 51-54). The Commission adjourned *sine die* the consideration of the question of inclusion of an article on the right of property in the draft covenant on economic, social and cultural rights. It decided to request the Economic and Social Council to forward to the General Assembly certain proposals and amendments relating to the admissibility or non-admissibility of reservations and the effect to be attributed to them and certain proposals relating to the article in the final clauses concerning signature, ratification and coming into force of the covenants which were connected with the question of reservations (see annex II). The Commission considered, but did not adopt, provisions concerning the application of the Human Rights Committee procedure of the draft covenant on civil and political rights to the draft covenant on economic, social and cultural rights, and provisions concerning the right of petition of individuals, groups and non-governmental organizations for inclusion in either covenant. Although certain members had raised the question of reopening discussion on some of the provisions of the draft covenants adopted at previous sessions, the Commission did not proceed to such a consideration, leaving the matters to be raised in the Economic and Social Council or the General Assembly.

38. Annex I of this report includes the texts of the draft covenant on economic, social and cultural rights (section A) and the draft covenant on civil and political rights (section B). The order and the numbering of the articles were decided upon by the Commission (E/CN.4/SR.478) on the basis of suggestions made by its Rapporteur and the Secretary-General (E/CN.4/L.378). Annex II, section A, contains the pertinent documents, apart from the summary records, relating to the question of reservations and section B of that annex contains the amendments proposed to articles of the final clauses of the two draft covenants connected with the question of reservations. At the 479th meeting the Commission decided to include in annex III the text of the revised proposal of the representative of Uruguay concerning the establishment of an office of the United Nations High Commissioner (Attorney-General) for Human Rights.

39. At the 476th meeting the Commission agreed to insert in the report the following observations regarding the procedure to be followed for the adoption of the covenants proposed by the representatives of Egypt, France, the Philippines and Uruguay (E/CN.4/L.384):

“When the draft covenants prepared by the Commission on Human Rights were submitted to the Economic and Social Council for study and transmission to the General Assembly, the Council’s attention should be drawn to the possible advantage of recommending the General Assembly to give the drafts, not a single reading, but two separate readings at two consecutive sessions. The first reading would deal with the drafts in their present state.

"The voluntary adoption of that method, for the use of which there was constitutional authority in the case of the adoption of the multilateral conventions submitted to the conferences of the International Labour Organisation, might be justified in the United Nations by the exceptional importance of the covenants on human rights and the problems to which they gave rise. Far from slowing down the work of the United Nations, but rather with a view to ensuring the necessary number of ratifications, such a procedure might give the States participating in the discussion time between the two readings for useful study and even negotiations. It might also give world public opinion an opportunity to display its eagerness for the most effective ways of ensuring progress in the matter of respect for human rights throughout the world.

"It would appear that the highest organs of the United Nations, whose duty it was to choose the best methods of promoting the practical implementation of the Universal Declaration, adopted in 1948, should, without prejudice to the examination of other suggestions such as those for the association of States not Members of the United Nations in its work, give careful consideration to the possible advantages of the procedure described above."

PART II. INCLUSION OF AN ARTICLE ON THE RIGHT OF PROPERTY IN THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

40. The Commission discussed the question of the inclusion of an article on the right of property in the draft covenant on economic, social and cultural rights from the 413th to the 418th meetings (E/CN.4/SR.413-418). At its seventh session (1951) the Commission has decided not to include "at this time" an article on the right to property. At the eighth session (1952) the debate on a draft article proposed by France was adjourned and the Commission did not take up the question during the ninth session (1953). At the tenth session the representative of France withdrew his proposal (E/2447, annex II, section A) and discussion centred on proposals to incorporate into the draft covenant a text based on the corresponding article of the Universal Declaration of Human Rights. No member of the Commission expressed opposition in principle to the inclusion of an article on the right of property. However, the Commission failed to adopt a unified text. Realizing the difficulty of drafting an article that would command the support of the majority, the Commission adjourned consideration of the question *sine die* (see paragraph 71 below).

The proposal of the United States of America

41. The representative of the United States of America proposed a draft article (E/CN.4/L.313) with the same wording as article 17 of the Universal Declaration of Human Rights. As later revised (E/CN.4/L.313/Rev.1) to include the phraseology used to introduce various articles in the draft covenant on economic, social and cultural rights, the article read as follows:

"The States parties to this Covenant recognize that:

"1. Everyone has the right to own property alone as well as in association with others.

"2. No one shall be arbitrarily deprived of his property."

42. In support of this proposal, it was pointed out that there were precedents for incorporating in the

covenant the text of articles taken from the declaration (specifically article 11 recognizing the right of everyone to adequate food, clothing and housing) and it was argued that, being broadly drafted and compatible with all the legal systems, the text had the best chance of commanding a majority of votes in the Commission. Any attempt to be more elaborate and precise would likely accentuate the differences of views regarding property rights embodied in the social and political systems of various States, thus making any agreement on the subject extremely difficult, if not impossible.

Amendments to the proposal of the United States of America

43. The proposal did not satisfy a number of members, who felt that the more ample and definitive text on the lines of that proposed by the representative of France was required.

44. The representatives of Egypt, India and Lebanon introduced a series of amendments (E/CN.4/L.316) to the United States proposal which incorporated certain features of the draft article of France. The amendments (in italics) would have altered the United States text to read as follows:

"1. The States Parties to this Covenant *undertake to respect the right of everyone* to own property alone as well as in association with others.

"2. *This right shall be subject to the laws of the country in which the property is owned.*

"3. No one shall be arbitrarily deprived of his property.

"4. *Expropriation may not take place except for considerations of public necessity or utility as defined by law and subject to such compensation as may be prescribed.*"

45. Members who supported these amendments insisted that, while they agreed with the declaration article, it was also necessary to emphasize the duty of States to fulfil their obligations in respect of this right, to take into account the domestic jurisdiction of States in the matter of property rights, and to recognize that factors of public necessity or utility should govern expropriation with provision for the payment of compensation.

46. Some members felt that while the amendments of Egypt, India, and Lebanon correctly admitted the claims of domestic jurisdiction, they did not sufficiently recognize the criteria of reasonableness and justice, of general international acceptance, which should limit such claims. The representative of the United States of America proposed that the second paragraph of that amendment be changed to read (E/CN.4/L.318):

"The right shall be subject to such reasonable restrictions and regulations as may be imposed by law of general application in the public interest."

47. The discussion on expropriation showed a marked difference of views among the members. Some felt that the implied references to it in paragraph 2 of the amendments of Egypt, India and Lebanon, and in paragraph 2 of the United States proposal were sufficient. There was also a difference of opinion on the amount of compensation to be paid in case of expropriation. While some agreed with the joint sponsors that the compensation prescribed might under exceptional circumstances be nominal, others held that compensation should in all cases be fair, just or equitable.

48. Some members thought that the word "arbitrarily" in the United States proposal was too vague

and carried no precise connotation, especially in international law. The representative of the Philippines proposed (E/CN.4/L.314) that the words "or unlawfully" should be added after "arbitrarily." The representative of Poland felt that the Philippine amendment should be modified so as to read (E/CN.4/L.319): "No one shall be arbitrarily, *that is to say*, unlawfully, deprived of his property."

49. Some members spoke of the importance of recognizing the interests of the community and of limiting the right of property in relation to the public interest, safety and morals, the general welfare, public order, and social progress. To this end the representatives of Chile and Uruguay proposed (E/CN.4/L.317) that the right of property be "subject to such limitations as the public interest and social progress required".

Alternative proposal by Chile

50. The representative of Chile considered that the best way to formulate the proposed article was to repeat the text of article 23 of the Inter-American Declaration of the Rights and Duties of Man adopted at Bogotá in 1948. He based his view on the fact that, in his opinion, it was the Commission's task to indicate not the limits within which this right should enjoy international protection, since that necessarily depended on the political system in force in each country, but the scope which should be given to the right of property in order to make it a human right, and, as such, fundamental and inalienable.

51. The text of the alternative proposal of Chile was as follows (E/CN.4/L.320/Corr.1):

"Every person has a right to own such private property, as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home."

The text proposed by the Sub-Committee

52. In an effort to reconcile the various points of view, the sponsors of the proposals and amendments were asked (E/CN.4/SR.416) to constitute themselves into a working group or sub-committee to try to agree, if possible, on a single text. The Sub-Committee consisting of the representatives of Chile, Egypt, India, Lebanon, the Philippines, Poland, the United States of America and Uruguay, submitted the following text (E/CN.4/L.321):

"1. The States Parties to this Covenant undertake to respect the right of everyone to own property alone as well as in association with others. This right shall be subject to such limitations and restrictions as are imposed by law in the public interest and in the interest of social progress in the country concerned.

"2. No one shall be deprived of his property without due process of law. Expropriation may take place only for considerations of public necessity or utility as defined by law and subject to such compensation as may be prescribed."

53. This text was adopted in the Sub-Committee by 5 votes to 1, with 2 abstentions. Some members however reserved their right to reintroduce their proposals and amendments in the Commission.

54. Amendments were proposed to the text of the Sub-Committee by the representatives of France (E/CN.4/L.322) and the United States of America (E/CN.4/L.323). The United States proposed that the right of property should be subject to such "reason-

able" limitations as are imposed by law in the public interest, etc.; that no one should be "arbitrarily" deprived of his property; and that "just" compensation should be paid in case of expropriation. The representative of France wanted to define compensation as that "prescribed by the law and by the general principles of international law".

55. The word "reasonable" was considered by some members as providing an international standard without which there could be no international protection of the right of property, and reference was made, in this connexion, to the use of the term "unreasonable" in article 23 of the draft covenant on civil and political rights. Other members maintained that the vague word "reasonable" would weaken the text and might lead to interference in the activities of States in the name of alleged international standards.

56. The expression "due process of law" was claimed by some members to have a particular meaning only in certain countries where it covered both substantive and procedural aspects. Whatever special meaning the Commission might wish to give to it might not be universally accepted. In any case, laws enacted by proper procedures might nevertheless be arbitrary and, therefore, the use of the word "arbitrarily" was to be preferred, especially since it had been used both in the Universal Declaration and in the draft covenant on civil and political rights. On the other hand, it was repeated that the word "arbitrarily" defied definition and carried no legal connotation unless it was synonymous with "unlawfully".

57. It was also argued that the idea of "just compensation" was already included in the concept of "due process of law", but if there was to be a reference to expropriation and compensation it was necessary to provide specifically that compensation should be just. Other members maintained that the word "just" was open to conflicting interpretations since it had no generally accepted international connotation.

58. The formula that compensation should be as "prescribed by the law and by the general principles of international law" was preferred by some members as the better way to obviate difficulties arising out of the conflict of laws. While domestic laws would ordinarily apply to all persons within the jurisdiction of a State, aliens would in addition enjoy the protection of international law. Aside from a feeling that the term "general principles of international law" was not sufficiently precise, other members thought that those words might affect article 1, paragraph 3, of the draft covenant relating to the permanent sovereignty of peoples over their natural wealth and resources.

59. Several members were opposed to the inclusion of any reference to compensation, feeling that it was unnecessary, because it was set forth in paragraph 2 of the draft article that expropriation should take place in accordance with the provisions of the law and a State might provide in its law all the provisions under which expropriation could be carried out. Some expressed the view that the general limitations clause, i.e., article 4 of the draft covenant on economic, social and cultural rights, would provide sufficient safeguards against the abuse of the right of property.

Decisions of the Commission

60. The Commission voted first on the text submitted by the Sub-Committee together with amendments thereto (E/CN.4/SR.418).

61. *Paragraph 1:* The Sub-Committee's text read as follows:

"The States Parties to this Covenant undertake to respect the right of everyone to own property alone as well as in association with others. This right shall be subject to such limitations and restrictions as are imposed by law in the public interest and in the interest of social progress in the country concerned."

62. The first sentence was adopted by 17 votes to none, with 1 abstention.

63. The amendment of the United States of America (E/CN.4/L.323) to insert the word "reasonable" between the words "such" and "limitations" in the second sentence was rejected by 7 votes to 6, with 5 abstentions.

64. The original text of the first paragraph was adopted by 9 votes to 1, with 8 abstentions.

65. *Paragraph 2:* The Sub-Committee's text read as follows:

"No one shall be deprived of his property without due process of law. Expropriation may take place only for considerations of public necessity or utility as defined by law and subject to such compensation as may be prescribed."

66. The amendment of the United States of America (E/CN.4/L.323) to replace in the first sentence the words "without due process of law" by the word "arbitrarily", to be inserted before the word "deprived", was rejected by 9 votes to 6, with 3 abstentions, and the original text of the first sentence was adopted by 9 votes to 3, with 6 abstentions.

67. The first part of the second sentence, namely, the words "Expropriation may take place only for considerations of public necessity or utility as defined by law", was voted on separately and adopted by 12 votes to 1, with 5 abstentions.

68. To the rest of the second sentence there were two amendments submitted by France and the United States of America, respectively. The Commission decided by 8 votes to 7, with 3 abstentions, to vote first on the amendment of France (E/CN.4/L.322) which was to replace the words "subject to such compensation as may be prescribed" by the words "and subject to the compensation prescribed by the law and by the general principles of international law". The part consisting of the words "and subject to the compensation prescribed by the law" was adopted by 6 votes to 3, with 9 abstentions, while that consisting of the words "and by the general principles of international law" was rejected by 8 votes to 7, with 3 abstentions. The French amendment, as thus truncated, was rejected by 8 votes to none, with 10 abstentions. The amendment of the United States of America (E/CN.4/L.323) to replace the words "such compensation as may be prescribed" by the words "just compensation" was rejected by 7 votes to 6, with 5 abstentions.

69. The original text of the second paragraph (see paragraph 65 above) was adopted by 6 votes to 5, with 7 abstentions.

70. *The text as a whole:* No amendments having been adopted, the Commission voted on the original text of the Sub-Committee as a whole and rejected it by 7 votes to 6, with 5 abstentions.

71. The Commission did not proceed to vote on the proposals of the representatives of the United States of America and Chile and the amendments thereto, as it adopted (E/CN.4/SR.418) by 12 votes

to 2, with 4 abstentions, a motion of the representative of Uruguay to adjourn *sine die* consideration of the question of the inclusion of an article on the right of property in the draft covenant on economic, social and cultural rights.

PART III. MEASURES OF IMPLEMENTATION

72. The Commission devoted its 419th to 437th meetings to the discussion of measures of implementation. It discussed the following matters: (a) applicability of the system of periodic reports to the Covenant on Economic, Social and Cultural Rights; (b) applicability of the system of periodic reports to the Covenant on Civil and Political Rights; (c) applicability of the Human Rights Committee procedure to the Covenant on Economic, Social and Cultural Rights; (d) inclusion of provisions relating to the right of petition.

73. The proceedings of the Commission on these four questions are briefly indicated in the following paragraphs. As a result of its examination of these questions the Commission revised the articles relating to the system of periodic reports (E/2447, annex I, section D) and adopted eight articles for inclusion in the draft covenant on economic, social and cultural rights (annex I, section A, part IV, articles 17-24). It adopted a new article concerning reporting (article 49) for inclusion in the draft covenant on civil and political rights (annex I, section B, part V). It also adapted an article for inclusion in both draft covenants (annex I, section A, part IV, article 25 and section B, part V, article 50) concerning the respective responsibilities of the United Nations and the specialized agencies. Proposals relating to the applicability of the Human Rights Committee procedure to the Covenant on Economic, Social and Cultural Rights and the inclusion of provisions on the right of petition in both draft covenants were discussed but subsequently withdrawn.

A. The applicability of the system of periodic reports to the draft covenant on economic, social and cultural rights

74. During the 420th-426th meetings, the Commission considered the applicability of the system of periodic reports, E/2447, annex I, section D, articles 60-69, to the draft covenant on economic, social and cultural rights. Article 68 was rejected, articles 65 and 69 (present articles 22 and 25) were adopted in their original form, and articles 60-64 and 66-67 (present articles 17-21 and 23-24) were revised. The adopted articles are incorporated in part IV of the draft covenant on economic, social and cultural rights (see annex I, section A).

75. While the majority of the members of the Commission accepted the system of periodic reports for the implementation of the draft covenant on economic, social and cultural rights, reserving their right to move amendments to the various articles, some members were critical of the system as a whole.

76. Certain members claimed that the correct means of securing the implementation of the articles relating to economic, social and cultural rights was for those articles to provide that the States Parties themselves would adopt specific measures of implementation. They contended that the system of so-called periodic reports could be utilized for interference in matters essentially within the domestic jurisdiction of States, and so was

contrary to Article 2, paragraph 7, of the Charter. What was being proposed was that the contents of reports would be discussed by all the States Members of the United Nations or of the specialized agencies. States which were not parties to the covenant would be placed on an equal footing with the States Parties when it came to judging the manner in which the latter fulfilled their obligations under the covenant, which would be contrary to the principle of international cooperation. As envisaged, the system would confer new powers on the Commission on Human Rights exceeding in some respects those of the Economic and Social Council, and even those of the General Assembly.

77. At the 423rd meeting, the Commission rejected by 9 votes to 3, with 5 abstentions, a proposal of the representative of Belgium, that, after voting on each article, the Commission should take a vote on section D, or the system of periodic reports, as a whole. At the 426th meeting, after the completion of the voting on articles 60-69, the Commission agreed to allow the representative of Belgium to insert the following statement in the report: "Under the provisions entitled 'System of periodic reports', Member States which had acceded to the covenant would be obliged to report their actions to the United Nations, which would include States that had not acceded to the covenant. A disparity would thus be established between States Members of the United Nations, to the prejudice of those which had incurred obligations and to the advantage of those which, not having acceded to the covenant, had not assumed any commitment. The covenant covered many aspects of the life of States, which meant that States Parties would have to justify their action in numerous fields before other States and suffer their criticism. Such disparity was unprecedented, and the establishment of such a system, which would penalize the States that had assumed responsibilities, would discourage accessions to the covenant and would seriously harm the cause of the protection of human rights. Also, the Belgian delegation had abstained from voting on the provisions that had been considered, in order to reserve its Government's position."

ARTICLE 60

(Present article 17)²

78. The original text of the article was as follows:

"The States Parties to this Covenant undertake to submit reports concerning the progress made in achieving the observance of these rights in conformity with the following articles and the recommendations which the General Assembly and the Economic and Social Council, in the exercise of their general responsibility, may make to all the Members of the United Nations."

79. The Commission discussed this article and amendments thereto during the 420th-423rd meetings. Some of the amendments were put forward as purely drafting changes and were adopted (see paragraph 94 below). There were, however, two substantive amendments proposed by the representative of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.325) on which there was considerable dis-

² The numbers of the articles referred to in this section are those of the draft covenant prepared at the seventh session and contained in E/2447, annex I, section D, part V. The references to "present article" denote the numbers of the articles of the draft covenant on economic, social and cultural rights contained in annex I, section A, part IV of this report.

cussion. The first of these related to the deletion of the reference in the article to recommendations of the General Assembly and the Economic and Social Council, and the second, which proposed the addition of a new paragraph to the article, related to the procedure to be followed in submitting reports. The Commission adopted the first amendment, and, as regards the second amendment, it adopted a revised text submitted jointly by the representatives of Chile, Egypt, France, Greece, India, Lebanon, the Philippines, the United Kingdom of Great Britain and Northern Ireland, and Uruguay (see paragraphs 93-95 below).

Deletion of the reference to recommendations of the General Assembly and of the Economic and Social Council

80. The representative of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.325) proposed to delete from the article the words "in conformity with the following articles and the recommendations which the General Assembly and the Economic and Social Council, in the exercise of their general responsibility, may make to all the Members of the United Nations".

81. It was said that the words proposed for deletion did not lay down a precise obligation, but required States Parties to submit themselves to undefined future decisions and recommendations of the General Assembly and of the Council, which might not even relate to matters dealt with in the covenant. If the words in question were intended to minimize the difference between the position of States Parties and that of non-Parties, it had not achieved that object because it would create an obligation only for the States Parties. The deletion of the words would not deprive the recommendations of the General Assembly and of the Council of their existing force, but would ensure that they would have the same force for both Parties and non-Parties to the covenant.

82. On the other hand, it was pointed out that the General Assembly and the Economic and Social Council were entrusted with a continuing responsibility in the field of human rights, as could be shown by reference to the United Nations Charter. To delete the reference to recommendations of the Assembly and the Council would sever an important link between the United Nations and the implementation of the Covenant on Economic, Social and Cultural Rights. Since the General Assembly would consider reports submitted to it through the procedures laid down in later articles and might make recommendations to assist States Parties to the covenant to fulfil their obligations, it was essential for those States to carry out such recommendations. It was necessary to accept the good faith of the General Assembly in this matter. Furthermore, it was to be assumed that a large number of Member States of the United Nations would ratify the covenant and they would exercise a considerable influence in the General Assembly when it adopted relevant recommendations. However, it was pointed out that the good faith of the General Assembly was not being questioned, but that States might be deterred from becoming parties to the covenant if they were asked to assume undefined obligations.

Procedure to be followed in submitting reports

83. *United Kingdom amendment:* The representative of the United Kingdom of Great Britain and Northern Ireland proposed (E/CN.4/L.325) the addi-

tion of a new paragraph to the article reading as follows:

"2. (a) Any State Party which is also a member of a specialized agency shall in respect of any provision of this Covenant falling within the competence of that agency submit its report to that agency.

"(b) All other reports shall be submitted to the Secretary-General of the United Nations for the Economic and Social Council."

84. It was considered that the existing articles relating to the system of periodic reports did not specify to whom reports were to be sent. The proposed additional paragraph, it was argued, would ensure that within the fields of activities of the specialized agencies reports furnished by their members would go to those agencies, while two types of reports would be submitted to the Secretary-General of the United Nations for the Economic and Social Council: reports dealing with matters not within the competence of any specialized agency and reports of States not members of the competent specialized agency. It was observed that the Commission, in drafting a covenant on economic, social and cultural rights, had contented itself, in the main, with general statements of obligations, on the understanding that it would, in general, be for the competent specialized agencies to elaborate the detailed obligations required for the realization of the rights. The amendment conformed with the spirit of this understanding, and with the provisions of article 62 (present article 19). Further, the proposed amendment would save work for national authorities which would be responsible for reporting, and would obviate duplication of functions as well as the establishment of unnecessary new machinery. The choice of agencies to which particular reports should be forwarded would be decided in practice through the programming by the Economic and Social Council which was envisaged in article 61, paragraph 1 (present article 18).

85. The representative of the International Labour Organisation stated the importance attached by the ILO to the principle—which it suggested should be embodied in the covenant—that the reports furnished by States on matters dealt with in the covenant which fell within the competence of specialized agencies of which they were members should be communicated to the agencies in question so as to avoid overlapping and duplication.

86. Several members thought that it was desirable to make provisions concerning the matters raised in the amendment, but opinion was divided on its formulation. Some members felt that the general responsibilities of the United Nations in respect of human rights were clearly laid down in the Charter of the United Nations and any impression of derogating from them or delegating some of them should be avoided.

87. *Amendment of Uruguay:* The representative of Uruguay submitted the following amendment (E/CN.4/L.326) to the amendment of the representatives of the United Kingdom of Great Britain and Northern Ireland:

Replace the new paragraph 2 by the following:

"2. (a) All reports shall be submitted to the Secretary-General of the United Nations for the Economic and Social Council.

"(b) Without prejudice to the provisions of article 63, the Economic and Social Council shall transmit reports received from States Parties to the specialized agencies, in so far as the reports relate

to any provision of this Covenant for which the said agencies are competent."

88. The representative of the Philippines submitted an amendment (E/CN.4/L.327) to replace sub-paragraph (b) of this text by the following:

"The Secretary-General shall refer those portions of the reports which fall within the scope of the specialized agencies to the specialized agencies directly concerned."

89. In support of the Philippine amendment it was said that it was undesirable to speak in terms of "competent" specialized agencies. Several international organizations might be interested in various aspects of certain rights, but their actions with regard to those rights did not necessarily exhaust the whole subject. Moreover, if it were assumed that the articles in the covenant dealt with subject matters within the exclusive competence of the specialized agencies, the question arose why any covenant on economic, social and cultural rights should be drafted at all under United Nations auspices. The proposed reference to "portions" of reports would ensure that the Secretary-General would not be required to forward the entire report of a State Party to a specialized agency just because part of it fell within the scope of that specialized agency. Nor would a State Party have to report separately to several organizations having an interest in the same article of the covenant. On the other hand, it was doubted whether there was any criterion for determining the extent of an agency's concern in a particular matter.

90. *Joint amendment:* The representatives of Chile, Egypt, India, Lebanon, the Philippines and Uruguay subsequently submitted the following text (E/CN.4/L.326/Rev.1) replacing the amendment of Uruguay and the Philippine amendment thereto:

"(a) All reports shall be submitted to the Secretary-General of the United Nations for the General Assembly and the Economic and Social Council.

"(b) The Secretary-General shall forward to the specialized agencies concerned relevant extracts from the reports of States Parties which are also members of those agencies."

91. The reference in sub-paragraph (a) of this text to the General Assembly was questioned by some members. It was observed that the system of reporting did not envisage the examination of the original reports by the General Assembly. Nor was it deemed desirable to overburden the usually crowded agenda of the Assembly.

92. Some members claimed that the new text of sub-paragraph (b) avoided jurisdictional difficulties inherent in the previous references to "competent" specialized agencies, and relieved States Parties of the difficulty of deciding to which international organization any particular report should be submitted. Others thought, however, that the Secretary-General should not be burdened with the delicate and time-consuming responsibility of deciding which "portions" of reports should be forwarded to the various specialized agencies.

93. *Revised joint amendment:* Subsequently, the representatives of Chile, Egypt, France, Greece, India, Lebanon, the Philippines, the United Kingdom of Great Britain and Northern Ireland and Uruguay, submitted a joint amendment replacing all other amendments and taking into account the various points of view. The proposed text, which was adopted (see paragraph 95 below) read as follows (E/CN.4/L.329):

"2. (a) All reports shall be submitted to the Secretary-General of the United Nations for the Economic and Social Council.

"(b) Any State Party which is also a member of a specialized agency shall at the same time transmit, in respect of matters falling within the purview of that agency, a copy of its report, or relevant extracts therefrom, as appropriate, to that agency."

Decisions of the Commission

94. *Original text:* Two drafting amendments of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.325), namely, to insert after the word "submit" the words "in conformity with this part of the Covenant", and to substitute the words "the rights recognized herein" for the words "these rights", were adopted, in each case, by 13 votes to none with 5 abstentions. Another amendment of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.325) to delete the words "in conformity with the following articles and the recommendations which the General Assembly and the Economic and Social Council, in the exercise of their general responsibility, may make to all the Members of the United Nations" (see paragraphs 80-82) was adopted by 9 votes to 3, with 6 abstentions.

95. *Additional paragraph:* The joint amendment for the addition of a new paragraph (see text in paragraph 93 above) was adopted by 14 votes to 3, with 1 abstention.

96. *The text as a whole:* The text of the article as a whole, as amended, was adopted by 14 votes to 3, with 1 abstention.

97. The revised article reads:

"1. The States Parties to this Covenant undertake to submit in conformity with this part of the Covenant reports concerning the progress made in achieving the observance of the rights recognized herein.

"2. (a) All reports shall be submitted to the Secretary-General of the United Nations for the Economic and Social Council;

"(b) Any State Party which is also a member of a specialized agency shall at the same time transmit, in respect of matters falling within the purview of that agency, a copy of its report, or relevant extracts therefrom, as appropriate, to that agency."

ARTICLE 61

(Present article 18)

98. The original text of the article was as follows:

"1. The States Parties shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council after consultation with the States Parties to this Covenant and the specialized agencies concerned.

"2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under this part of the Covenant.

"3. Where relevant information has already previously been furnished to the United Nations or to any specialized agency, the action required by this article may take the form of a precise reference to the information so furnished."

99. The Commission had before it an amendment to paragraph 3 proposed by the representative of the

Philippines (E/CN.4/L.328) to replace the words "the action required by this article may take the form of a precise reference to the information so furnished" by the words "by any State Party it will not be necessary to reproduce that information but a precise reference to the information so furnished will suffice".

100. It was explained (E/CN.4/SR.423) that the amendment was intended to make it clear that a State Party which had already submitted certain information was not thereby absolved from reporting upon matters not covered by that information or from completing or bringing up to date information already given.

101. Concerning the French text of paragraph 2 the representative of France proposed orally that the words "qui ont empêché ces États" should replace the words "qui les ont empêchés" and the Chairman pointed out that paragraph 2 should speak of "under this Covenant", instead of "under this part of the Covenant".

Decisions of the Commission

102. *Paragraph 1* was adopted by 13 votes to 3, with 2 abstentions.

103. *Paragraph 2* was adopted by 14 votes to 3, with 1 abstention, incorporating the changes suggested by the Chairman and the representative of France.

104. *Paragraph 3:* The Philippine amendment (E/CN.4/L.328) was adopted by 14 votes to none, with 4 abstentions; and paragraph 3, as amended, was adopted by 14 votes to 3, with 1 abstention.

105. *The text as a whole:* The article as a whole, as amended, was adopted by a roll call vote of 14 votes to 3, with 1 abstention. The voting was as follows:

In favour: Australia, Chile, China, Egypt, France, Greece, India, Lebanon, Pakistan, Philippines, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay.

Against: Poland, Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics.

Abstaining: Belgium.

106. The revised article reads:

"1. The States Parties shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council after consultation with the States Parties to this Covenant and the specialized agencies concerned.

"2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under this Covenant.

"3. Where relevant information has already previously been furnished to the United Nations or to any specialized agency by any State Party it will not be necessary to reproduce that information but a precise reference to the information so furnished will suffice."

INCLUSION OF A NEW ARTICLE BETWEEN ARTICLES 61 AND 62

(Present articles 18 and 19)

107. At the 423rd meeting of the Commission the representative of Uruguay proposed to insert between articles 61 and 62 a new article (E/CN.4/L.324) reading as follows:

"The Economic and Social Council shall also be authorized to receive from individuals, groups of

individuals and non-governmental organizations communications relating to the fulfilment of obligations under this Covenant.

"The Economic and Social Council shall transmit such communications to the Commission on Human Rights for study and recommendations."

108. It was stated that this proposal was submitted in the light of General Assembly resolution 737 B (VIII) on the right of petition. It was supported on the grounds that the rights which were conferred on the individual in the draft covenants not only made him a subject of international law, but entitled him to have an opportunity to defend his rights by communicating to the United Nations. Furthermore, there were precedents for the proposed procedure, such as communications concerning violations of trade union rights which could be sent to the Economic and Social Council by employers and workers organizations. Some members felt that the proposal did not properly belong under a reporting procedure, and that it could more profitably be examined under the right of petition in conjunction with the Human Rights Committee procedure and its possible applicability to the draft covenant on economic, social and cultural rights. It was pointed out, however, that recognition of the right of petition within the system of periodic reports would be less far-reaching in its consequences than its recognition within the framework of the Human Rights Committee procedure which envisaged the possibility of a finding that a State Party had committed a breach of its obligations under the covenant.

109. The representative of Uruguay withdrew his amendment reserving his right to submit it again at the appropriate time.

ARTICLE 62

(Present article 19)

110. The original text of the article was as follows:

"Pursuant to its responsibilities under the Charter in the field of human rights, the Economic and Social Council shall make special arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of this part of the Covenant falling within their competence. These reports shall include particulars of decisions and recommendations on such implementation adopted by their competent organs."

111. Three amendments to this article were proposed (E/CN.4/SR.424) by the representative of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.325). The first of these amendments, to substitute for the word "shall" the word "may" in the first sentence, was defended on the grounds that, while there was no doubt that the Economic and Social Council would agree to make the arrangements envisaged, it was legally impossible for a multilateral treaty to impose obligations on the Council.

112. The second amendment proposed to delete the word "special" in the first sentence of the article, since that was considered superfluous.

113. The third amendment, to substitute for the word "shall" the word "may" in the second sentence, was proposed on the grounds that the covenant could not impose obligations on the specialized agencies and that specialized agencies should be left free to decide

which decisions and recommendations they wished to forward to the Council.

114. The representative of the Philippines proposed to substitute the words "within their competence" by the words "within the scope of their activities". It was felt that to speak of competence would raise constitutional and jurisdictional questions. It was also pointed out that resolution 502 H (XVI) of the Economic and Social Council relating to studies on discrimination and minorities, for example, used the expression "studies which fall within the scope of specialized agencies".

115. The representative of the United States of America orally proposed (E/CN.4/SR.424) the replacement of the words "of this part of the Covenant" by the words "of this Covenant".

Decisions of the Commission

116. *First sentence:* In each instance by a vote of 14 votes to none, with 4 abstentions, the Commission adopted the amendments of the United Kingdom to replace the word "shall" by "may" and to delete the word "special," and the amendment of the United States of America to replace the words "of this part of the Covenant" by the words "of this Covenant".

117. It adopted by 11 votes to none with 6 abstentions the amendment of the Philippines to substitute the words "within their competence" by the words "within the scope of their activities".

118. It was agreed to replace in the French text of the first sentence the phrase "rappports relatifs a l'observation" by the words "rappports relatifs au progrès accompli du fait de l'observation".

119. *Second sentence:* The Commission adopted by 12 votes to none with 6 abstentions the amendment proposed by the United Kingdom of Great Britain and Northern Ireland to substitute the word "may" for the word "shall".

120. *The text as a whole:* The Commission adopted by 13 votes to 3, with 2 abstentions the article as a whole, as amended.

121. The revised article reads:

"Pursuant to its responsibilities under the Charter in the field of human rights, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of this Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs."

ARTICLE 63

(Present article 20)

122. The original text of the article was as follows:

"The Economic and Social Council shall transmit to the Commission on Human Rights for study and recommendation the reports concerning human rights submitted by States, and those concerning human rights submitted by the competent specialized agencies."

123. Three amendments were proposed (E/CN.4/SR.424) by the representative of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.325). The first, to substitute for the word "shall"

the word "may" was proposed on the grounds that the covenant could not and should not attempt to bind the actions of the Council.

124. The second amendment was to insert before the word "recommendation" the word "general". It was claimed that this would be in keeping with a widely held view of the manner in which the Commission should study and take action on reports received. The reports should not give rise to particular recommendations to individual States, since, in the view of some, that would be contrary to Article 2, paragraph 7, of the Charter. The purpose of the Commission's general recommendations would be to draw attention to obstacles encountered by States in attaining the full realization of the rights enumerated in the covenants and to ascertain what the United Nations could do to help them to overcome those obstacles. The amendment was opposed on the grounds that, apart from the fact that the General Assembly and the Council were empowered to make specific recommendations to particular States, any State acceding to the covenant would thereby implicitly accept the Council's right to make such recommendations so that the question of violation of Article 2, paragraph 7, of the Charter would not arise.

125. The third amendment proposed by the representative of the United Kingdom of Great Britain and Northern Ireland was to insert after the word "recommendation" the words "or as appropriate for information". Under article 62 (present article 19), it was said the specialized agencies might well submit voluminous and highly technical reports on which the Commission, as at present constituted, might find it difficult to make studies and recommendations. It should therefore be made clear that it was not necessary for all reports to be the subject of discussion and recommendation by the Commission. On the other hand, it was claimed that the existing words would not oblige the Commission to study and make recommendations on all reports which it might receive. The hope was expressed that the adoption of the amendment would not preclude the establishment by the Commission of a committee of experts to carry out a preliminary examination of materials received.

126. In addition, the Commission had before it an amendment orally proposed by the representative of the Philippines (E/CN.4/SR.424) to delete the word "competent" before the words "specialized agencies". It was said that this would avoid jurisdictional disputes; by the words "specialized agencies" would be understood the agencies referred to in previous articles.

Decisions of the Commission

127. The first United Kingdom amendment to substitute the word "may" for "shall", was adopted by 12 votes to 1, with 5 abstentions.

128. The second United Kingdom amendment to insert the word "general" before the word "recommendation", was adopted by 9 votes to 3, with 6 abstentions.

129. The third United Kingdom amendment to insert the words "or as appropriate for information" after the word "recommendation", was adopted by 10 votes to none, with 8 abstentions.

130. The Philippine amendment to omit the word "competent" before the words "specialized agencies", was adopted by 10 votes to none, with 8 abstentions.

131. The article as a whole, as amended, was adopted by 14 votes to 3, with 1 abstention.

132. The revised article reads:

"The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or as appropriate for information the reports concerning human rights submitted by States, and those concerning human rights submitted by specialized agencies."

ARTICLE 64

(Present article 21)

133. The original text of the article was as follows:

"The States Parties directly concerned and the specialized agencies may submit comments to the Economic and Social Council on the report of the Commission on Human Rights."

134. Two amendments were submitted (E/CN.4/SR.424) by the representative of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.325). The first amendment proposed to delete the word "directly" on the grounds that the meaning of the word was not clear and that it would be difficult to determine what were the States directly concerned.

135. The second amendment, to substitute for the words "the report of the Commission on Human Rights" the words "any general recommendation under article 63 or reference to such general recommendation in any report of the Commission or any documentation referred to therein", was put forward on the grounds that the existing articles relating to a system of periodic reports contained no previous reference to a report by the Commission on Human Rights, and that the wording suggested attempted to represent what had been the intention when the article was drafted.

Decision of the Commission

136. The first United Kingdom amendment was rejected by 7 votes to 6, with 4 abstentions.

137. The second United Kingdom amendment was adopted by 9 votes to none, with 8 abstentions.

138. The article as a whole, as amended, was adopted by 12 votes to 3, with 2 abstentions.

139. The revised article reads:

"The States Parties directly concerned and the specialized agencies may submit comments to the Economic and Social Council on any general recommendation under article 63 or reference to such general recommendation in any report of the Commission or any documentation referred to therein."

ARTICLE 65

(Present article 22)

140. Article 65 was adopted by the Commission without any changes by 13 votes to 3, with one abstention (E/CN.4/SR.424). The article reads:

"The Economic and Social Council may submit from time to time to the General Assembly, with its own reports, reports summarizing the information made available by the States Parties to the Covenant directly to the Secretary-General and by the specialized agencies under article . . . indicating the progress made in achieving general observance of these rights."

141. The original text of the article was as follows :

"The Economic and Social Council may submit to the Technical Assistance Board or to any other appropriate international organ the findings contained in the report of the Commission on Human Rights which may assist such organs in deciding, each within its competence, on the advisability of international measures likely to contribute to the progressive implementation of this Covenant."

142. The representative of the United Kingdom of Great Britain and Northern Ireland proposed (E/CN.4/L.325) to substitute for the word "submit" the words "bring to the attention of". This amendment was introduced (E/CN.4/SR.424) in order to give recognition to the higher status of the Economic and Social Council in relation to the Technical Assistance Board. It was subsequently revised to replace the words "may submit to the Technical Assistance Board" by the words "may bring to the attention of the international organs concerned with technical assistance" in order to take account of future difficulties arising out of a change in the designation of the organ or the possible emergence of other organs.

143. A second amendment proposed by the representative of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.325) was to substitute for the words "the findings contained in the report of the Commission on Human Rights" the words "any matters arising out of the reports referred to in this part of the Covenant". This amendment was directed against the use of the word "findings", which was viewed as connoting a judicial procedure, and a possible limitation on the type of item in the report of the Commission on Human Rights which the Council might refer to the Technical Assistance Board or other appropriate international organ. Specific reference to the report of the Commission would, however, be deleted from the article in order to include within its scope any of the reports referred to in the previous provisions relating to the reporting procedure.

144. Certain members opposed the inclusion of the article on the grounds that it constituted an attempt to amend the Charter of the United Nations by way of a multilateral convention, since it purported to regulate the conduct of the Economic and Social Council, whose functions were laid down in the Charter.

Decision of the Commission

145. The two amendments of the United Kingdom of Great Britain and Northern Ireland (see paragraphs 71 and 72 above) were each adopted by 13 votes to none, with 4 abstentions.

146. The article as a whole, as amended, was adopted by 14 votes to 3, with no abstentions.

147. The revised article reads:

"The Economic and Social Council may bring to the attention of the international organs concerned with technical assistance or of any other appropriate international organ any matters arising out of the reports referred to in this part of the Covenant which may assist such organs in deciding, each within its competence, on the advisability of international measures likely to contribute to the progressive implementation of this Covenant."

148. The original text of the article was as follows :

"The States Parties to the Covenant agree that international action for the achievement of these rights includes such methods as conventions, recommendations, technical assistance, regional and technical meetings and studies with governments."

149. During its 424th to 426th meetings, the Commission examined this article and an amendment there-to proposed by the representative of Poland (E/CN.4/L.330), according to which the article would read:

"The States Parties to the Covenant agree that international action for the achievement of these rights includes such methods as conventions and recommendations in accordance with the Charter of the United Nations."

150. In support of the amendment it was argued that it was essential to safeguard the authority of the Charter. By specifying that conventions and recommendations were to be in accordance with the Charter, the article would be brought into line with Article 62 of the Charter, which concerned the terms of reference of the Economic and Social Council, and also, incidentally, those of the Commission on Human Rights. The amendment would also bring into operation Article 2, paragraph 7, of the Charter relating to the domestic jurisdiction of States.

151. Some members thought that article 69 (see paragraphs 167-170 below) sufficiently safeguarded the Charter of the United Nations and that repetition in the present article of a reference to the Charter might impair the effect of that article and lead to difficulties of interpretation. Others insisted that the retention of article 69 (present article 25) had not yet been approved and that, in any case, a separate mention of the Charter in the present article was justified because article 69 was a more generally worded provision. Moreover, article 69 concerned the provisions of the covenant whereas the article under discussion concerned international action which might be taken in addition to those specifically provided in the covenant.

152. It was pointed out by some members that article 69 was drafted in order to recognize the responsibilities of the United Nations and the specialized agencies and the amendment to article 67 by referring only to the Charter might give the impression that the constitutions of the specialized agencies were not to be similarly respected. However, it was maintained that the amendment would not prejudice the position of the specialized agencies, since the reference to the Charter would bring into operation Articles 57 and 63 of the Charter relating to the relationship between the United Nations and the specialized agencies and would safeguard all agreements between the United Nations and those agencies. If the work of the specialized agencies did not violate the Charter there could be no objection to the amendment; if it did violate the Charter then the Charter must be safeguarded.

153. Some members felt that the additional reference to the Charter was also unnecessary in view of Article 103 of the Charter according to which the obligations of States Members of the United Nations was to prevail in the event of a conflict between their obligations under the Charter and their obligations under any other international agreement. In reply, it was pointed out that the intention of Article 103 was

not that conflict should be artificially brought about simply in order that it might be applied, and the amendment was, in fact, in implementation of that article.

154. Apart from the view that other articles of the Charter had made human rights a matter of international concern and hence outside the scope of Article 2, paragraph 7, of the Charter, it was pointed out that the latter provision would become irrelevant as soon as a State ratified the covenant, which act would take out of its exclusive domestic jurisdiction the matters dealt with in the covenant. This view was disputed but it was stated that the amendment would precisely avoid interference in the internal affairs of States by emphasizing the validity of Article 2, paragraph 7, of the Charter.

155. The amendment (see paragraph 149 above) also proposed deletion of all references to types of international action other than conventions and recommendations, on the ground that the words used to describe them were not precise in their meaning. On the other hand, some members thought that the enumeration of further types of international action was useful, and that the methods indicated might in fact be preparatory to the conclusion of conventions or to the making of recommendations. It was also maintained that the original wording of the text reaffirmed the principle, often stated in the Commission, that the task of laying down detailed obligations in respect of the rights formulated in a very general manner in the draft covenant would devolve mainly on the specialized agencies. The various methods listed were part of the established practices of those agencies.

156. Certain members wondered whether the better place for articles 67 and 69 (present articles 24 and 25) was not among the final clauses inasmuch as they properly applied to the whole of the covenant and not merely to the procedure for periodic reports.

Decisions of the Commission

157. The amendment of Poland (E/CN.4/L.330) was rejected by 11 votes to 3, with 4 abstentions.

158. The original text down to the word "conventions" was adopted by 16 votes to none with 2 abstentions.

159. The remainder of the original text was adopted by 14 votes to 3, with one abstention.

160. At the suggestion of the representative of Lebanon, it was agreed that the final words of the article in the English text only would read "recommendations, technical assistance, regional meetings, technical meetings and studies with governments". It was also agreed to substitute in the French text the words "de réunions" for "des réunions".

161. The original text thus revised was adopted by 13 votes to 3, with 2 abstentions.

162. The article reads:

"The States Parties to the Convention agree that international action for the achievement of these rights includes such methods as conventions, recommendations, technical assistance, regional meetings and technical meetings and studies with governments."

163. The original text of the article was as follows:

"Unless otherwise decided by the Commission on Human Rights or by the Economic and Social Council or requested by the State directly concerned, the Secretary-General of the United Nations shall arrange for the publication of the report of the Commission on Human Rights, or reports presented to the Council by specialized agencies, as well as all decisions and recommendations reached by the Economic and Social Council."

164. At its 420th and 426th meetings the Commission considered this article together with a proposal for its deletion made by the representative of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.325).

165. In favour of deletion it was pointed out that the provision would apparently permit either the Commission on Human Rights or the Economic and Social Council or the State directly concerned to prevent the publication of any of the reports, decisions or recommendations specified in the article. Should a State submit information of a confidential nature, it could ask for a closed discussion, but if it allowed the matter to be openly discussed, it would clearly be too late afterwards to ask that there should be no publicity. Again, if a State disapproved of certain aspects of the reports, that State could demonstrate publicly that certain statements or conclusions had been groundless; moreover, under article 64 (present article 21) it could submit comments to the Economic and Social Council. Furthermore, it was not clear what report of the Commission on Human Rights and what reports presented to the Council by specialized agencies were referred to. Against the deletion of the article, it was argued that it was important to give States Parties the right to prevent publication, and that the article, by providing the possibility of a kind of reservation, offered an inducement to States to ratify the covenant.

Decision of the Commission

166. The article was rejected by 8 votes to 3, with 7 abstentions.

ARTICLE 69

(Present article 25)

167. The original text of the article was as follows:

"Nothing in this Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies, which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in this Covenant."

168. Several members stressed (E/CN.4/SR.426) the significance of the article as representing what had appeared to the Commission to be a proper allocation of responsibilities between the United Nations and the specialized agencies. On the other hand, some members felt that the article should end at the words "Charter of the United Nations", since the remaining words were superfluous in view of the existence of agreements defining the relations between the United Nations and the specialized agencies.

Decisions of the Commission

169. The article up to the words "Charter of the United Nations" was adopted by 17 votes to none, with one abstention, and the remainder was adopted by 14 votes to 3, with one abstention.

170. The original text of the article (see paragraph 167 above) was adopted by 14 votes to none, with 4 abstentions.

B. The applicability of the system of periodic reports to the draft covenant on civil and political rights

171. The Commission examined the question of the applicability of the system of periodic reports to the draft covenant on civil and political rights during its 426th-431st meetings. The discussion revolved around the desirability of including in the draft covenant on civil and political rights any reporting procedure, the appropriateness of incorporating the same reporting procedure in both covenants, and the determination of the organ to which reports might be sent. Attention was drawn to General Assembly resolution 543 (VI) directing the inclusion in the two covenants of as many similar provisions on measures of implementation as possible, particularly in so far as the reports to be submitted by States were concerned. In the end the Commission adopted a new article 49 for the draft covenant on civil and political rights dealing with reports from States Parties. It also decided to include in this covenant a new article 50 containing the same text as that of article 69 (present article 25) of the draft covenant on economic, social and cultural rights conserving the respective responsibilities of the United Nations and the specialized agencies.

REPORTING PROCEDURE — ARTICLE 49

172. Certain members objected (E/CN.4/SR.426-430) to the inclusion of any reporting procedure in the draft covenant on civil and political rights pointing out that they had also opposed the incorporation of the system of periodic reports in the draft covenant on economic, social and cultural rights. They considered all such procedures contrary to the Charter, in particular to Article 2, paragraph 7, and as constituting a violation of national sovereignty. It could not assist in the realization of rights and could only lead to tensions between States, besides causing discrimination between States Parties and non-Parties. Moreover, in their view, there was no question but that States were obliged under the Covenant on Civil and Political Rights to give effect to all the rights included therein.

173. Another objection to the inclusion of a reporting procedure in the draft covenant on civil and political rights arose from an essential difference held to exist between the two draft covenants. Whereas the rights in the Covenant on Economic, Social and Cultural Rights were drafted in general terms and were intended to be progressively realized, the rights in the Covenant on Civil and Political Rights were drafted in precise terms and were intended, in the main, to be applied immediately. That being so, there was no evident purpose in including a reporting procedure, and to do so would inevitably detract from the immediacy of these obligations. A more appropriate implementation machinery in the form of the Human Rights Committee procedure had already been provided for the draft covenant on civil and political rights. The Commission should not feel bound to construe the General

Assembly resolution in a manner which would be contrary to the realities of the situation.

174. Those members who desired some form of a reporting procedure for inclusion in the draft covenant on civil and political rights pointed to a number of advantages. They stated that such a procedure would not be entirely new since it was provided for under article 48 of that covenant concerning the implementation of the article on the right of self-determination. There was also a provision in that covenant, namely, article 22, paragraph 4, relating to equality of rights between spouses as to marriage, during marriage and at its dissolution, which was not intended to be implemented immediately. Moreover, reporting would constitute a useful exchange of information between States Parties and it would make governments more conscious of their obligations. Reporting would allow a stock-taking of the standards applied in the various parts of the world, thus facilitating the codification and development of international law. The information supplied would also be valuable to the Human Rights Committee in cases of disputes and it would keep the Committee informed of the "available domestic remedies" referred to in article 41 of that draft covenant. However, several members doubted whether the Human Rights Committee would be able to utilize the information made available through any reporting procedure, and felt that the kind of information envisaged was always available in published form and in such publications as the *United Nations Yearbook on Human Rights*.

175. The disagreement as to the desirability of including a reporting procedure was due partly to the differences of opinion concerning the construction of article 2, paragraph 2, of the draft covenant on civil and political rights. That provision states that "where not already provided for by existing legislation or other measures, each State undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of this Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in this Covenant". Some members held the opinion that action by a State needed to implement an international treaty must be completed by the time of ratification, and that article 2, paragraph 2, was not intended to make an exception to this principle. Others held that, before ratification, the constitutional procedures necessary to bring domestic law into harmony with the covenant must be set in motion. In this connexion, certain members referred to the deletion at the eighth session of the Commission (E/2556, paragraph 273) of the words "within a reasonable time" from article 2, paragraph 2, and to the unsatisfactory nature of the present wording of that provision. Other members felt that even the present wording of the provision left some doubt as regards the immediate undertaking of the obligations. It was also argued that, since the covenant would include provisions relating to a much wider range of subject matter than did the average treaty, it was impossible to apply to it as strict a rule as would normally apply to the implementation of a treaty. Those members who felt that some time might legitimately elapse between ratification and complete implementation argued that it was desirable to make provisions for reporting upon progress made. It was said, on the other hand, that to allow time after ratification for necessary measures to be taken would make it difficult ever to determine when the obligations under the covenant had been fully accepted and consequently

whether the covenant had been violated. If it were desired to alter the rule of immediate applicability then it would be better to deal with that matter in a reservations clause.

176. While the view was expressed that the system of periodic reports included in the draft covenant on economic, social and cultural rights could be adapted to the draft covenant on civil and political rights in order to emphasize the link between the covenants and meet the wishes of the General Assembly resolution, even the majority of members advocating a reporting procedure felt it undesirable to transfer that system of periodic reports to the draft covenant on civil and political rights *in toto*.

177. *Working paper submitted by the Philippines:* The discussions which led to the adoption of the new article 49 were based initially upon a working paper submitted by the representative of the Philippines (E/CN.4/L.332) which read as follows:

"The States Parties to this Covenant undertake to submit to the Human Rights Committee, within one year after the entry into force of the Covenant for the States concerned, a report on the legislative or other measures which they have taken, including the judicial remedies they have developed, in order to give effect to the rights recognized herein in conformity with article 2. Thereafter, they shall submit such additional or supplementary reports as may be appropriate."

178. The working paper envisaged that the Human Rights Committee would receive reports and, in this connexion, attention was drawn to article 48 of the covenant which provided for reports to the Committee on the implementation of Article 1, relating to the right of self-determination. Most representatives felt that the Commission on Human Rights would be a more appropriate body to receive the reports. It was considered that the Human Rights Committee would be a quasi-judicial organ set up for the very specific purpose of receiving complaints alleging non-observance of the covenant and having a membership carefully selected for this task and to transmit reports to the Committee might be to invite it to pass judgment without being seized of a complaint by a State Party; reporting to the Committee would harm the autonomy and independence which it was intended to give to it. It was also pointed out that the Committee would, in any case, have access to the reports received by the Commission.

179. *Draft article submitted by Chile, China, Egypt, India, Lebanon, the Philippines and Uruguay:* The text of the draft article was as follows (E/CN.4/L.333):

"1. The States Parties to this Covenant undertake to submit a report on the legislative or other measures, including judicial remedies, which they have adopted and which give effect to the rights recognized herein (a) within one year of the entry into force of the Covenant for the State concerned and (b) thereafter whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties.

"2. Reports may indicate factors and difficulties affecting the progressive implementation of article 22, paragraph 4, of this Covenant.

"3. All reports shall be submitted to the Secretary-General of the United Nations for the Economic

and Social Council which may transmit them to the Commission on Human Rights for information, study and, if necessary, general recommendations."

180. Several comments were made on the text of paragraph 1 and an amendment was proposed by the representative of France. It was thought that to permit a year to pass between entry into force and submission of reports would encourage the dangerous presumption that the obligations under the Covenant on Civil and Political Rights called only for progressive implementation. This concept of progressivity was seen to be implied even more in clause (b) since action under that clause would presumably take place two years or more after the coming into force of the covenant for the State concerned. The paragraph was however found acceptable by a majority of members of the Commission. There was some debate as to the desirability of empowering the Economic and Social Council on the recommendation of the Commission on Human Rights to require reports from States Parties. Attention was, however, drawn to the fact that such action would take place only after consultation with the States Parties. It was stated that the words "which they have adopted" clearly referred to all relevant measures taken in the past by the State concerned as well as measures taken at the time of ratification. The amendment proposed by the representative of France (E/CN.4/L.334) would delete the words "including judicial remedies". It was argued that these words would place needless emphasis on one type of national implementation among the many types already covered by the words "other measures".

181. The second paragraph was proposed in order to give recognition to the fact that article 22, paragraph 4, of the covenant was different from the other provisions of that covenant, in that it implied only progressive implementation. Some doubt was expressed as to whether this particular reference would not have the effect of excepting article 22, paragraph 4, from the general obligation of reporting contained in paragraph 1 of the proposed article. The paragraph was therefore later revised to read (E/CN.4/SR.430): "Reports shall indicate factors and difficulties, if any, affecting the implementation of article 22, paragraph 4, of this Covenant."

182. Paragraph 3 had the support of a majority of the members of the Commission, reflecting as it did the feeling that reports should be submitted, not to the Human Rights Committee, but to the Economic and Social Council, for possible transmission to the Commission on Human Rights. It was also explained that the words "general recommendations" had been taken from the system of periodic reports adopted for inclusion in the draft covenant on economic, social and cultural rights (see paragraphs 124, 128 and 132 above). Doubt was however expressed whether the reports could be used for purposes other than information and study.

183. *Additional paragraphs proposed by France:* Two new paragraphs were proposed for addition to the draft new article by the representative of France as follows (E/CN.4/L.334):

"The specialized agencies, the organs of the United Nations or organs placed under its auspices, shall receive such parts of the reports concerning the rights as fall within their respective fields of activity.

"The States Parties directly concerned, and the above agencies and organs may submit to the Eco-

conomic and Social Council observations on any general recommendation made pursuant to paragraph 3 of this article."

184. In support of the first part of the amendment it was argued that, whereas most rights dealt with in the draft covenant did not fall within the purview of any specialized agency, there were some exceptions, for instance, forced labour and freedom of association, and there were also organs which were already studying such subjects as slavery, forced labour, freedom of information and penal and penitentiary questions, which might become permanent in the future. The second part of the amendment was said to be taken from the system of periodic reports adopted by the Commission for inclusion in the draft covenant on economic, social and cultural rights (see paragraphs 133-139 above). While there was no general objection to these paragraphs, it was thought that the references to indeterminate organs was inadmissible and possibly dangerous for the future of the covenant.

Decisions of the Commission
(E/CN.4/SR.430)

Paragraph 1

185. Paragraph 1 of the draft article submitted by Chile, China, Egypt, India, Lebanon, Philippines and Uruguay was as follows:

"The States Parties to this Covenant undertake to submit a report on their legislative or other measures, including judicial remedies, which they have adopted and which give effect to their rights recognized herein

"(a) Within one year of the entry into force of the Covenant for the State concerned, and

"(b) Thereafter whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties."

186. The amendment of France (E/CN.4/L.334) to delete the words "including judicial remedies" was rejected by 8 votes to 3, with 7 abstentions.

187. The words "which they have adopted and" were adopted by 7 votes to 5, with 6 abstentions.

188. The text to the end of sub-paragraph (a) was adopted by 11 votes to 4, with 3 abstentions.

189. Sub-paragraph (b) was adopted by 10 votes to 5, with 3 abstentions.

190. The original paragraph as a whole (see paragraph 185 above) was adopted by 10 votes to 4, with 4 abstentions.

Paragraph 2

191. The text of this paragraph in its revised form was as follows (E/CN.4/SR.430):

"Reports shall indicate factors and difficulties, if any, affecting the implementation of article 22, paragraph 4, of this Covenant"

192. This paragraph was adopted by 10 votes to 4, with 4 abstentions.

Paragraph 3

193. The text of this paragraph was as follows:

"All reports shall be transmitted to the Secretary-General of the United Nations for the Economic and Social Council which may transmit them to the Commission on Human Rights for information, study and, if necessary, general recommendations."

194. The passage down to the words "United Nations" was adopted by 11 votes to 3, with 4 abstentions.

195. The words "for the Economic and Social Council" were adopted by 11 votes to 4, with 3 abstentions.

196. The following passage down to the words "for information" was adopted by 11 votes to 3, with 4 abstentions.

197. The word "study" was adopted by 11 votes to 3, with 4 abstentions.

198. The remaining words of the paragraph were adopted by 10 votes to 6, with 2 abstentions.

199. The text of the proposed paragraph as a whole (see paragraph 193 above) was adopted by 10 votes to 3, with 5 abstentions.

Additional paragraphs

200. The additional paragraphs to the joint draft article submitted by the representative of France were as follows (E/CN.4/L.334):

"The specialized agencies, the organs of the United Nations or the organs placed under their auspices, shall receive such parts of the reports concerning the rights as fall within their respective fields of activity.

"The States Parties directly concerned, and the above agencies and organs may submit to the Economic and Social Council observations on any general recommendation that may be made in accordance with paragraph 3 of this article."

201. The words "the organs of the United Nations or the organs placed under their auspices" in the first paragraph were rejected by 9 votes to 3, with 6 abstentions, and the paragraph as thus amended was adopted by 7 votes to 3, with 8 abstentions.

202. As a consequence of the vote on the previous paragraph the words "and organs" was deleted from the second paragraph, which was then adopted by 7 votes to 3, with 8 abstentions.

203. The proposed additional paragraphs as a whole, as amended, were adopted by 7 votes to 3, with 8 abstentions.

The text as a whole

204. The Commission adopted by 10 votes to 5, with 3 abstentions, the following text of article 49:

"1. The States Parties to this Covenant undertake to submit a report on the legislative or other measures, including judicial remedies, which they have adopted and which give effect to the rights recognized herein (a) within one year of the entry into force of the Covenant for State concerned and (b) thereafter whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties.

"2. Reports shall indicate factors and difficulties, if any, affecting the progressive implementation of Article 22, paragraph 4, of this Covenant.

"3. All reports shall be submitted to the Secretary-General of the United Nations for the Economic and Social Council which may transmit them to the Commission on Human Rights for information, study and, if necessary, general recommendations.

"4. The specialized agencies shall receive such

parts of the reports concerning the rights as fall within their respective fields of activity.

"5. The States Parties directly concerned, and the above agencies may submit to the Economic and Social Council reservations on any general recommendation that may be made in accordance with paragraph 3 of this article."

205. At the 430th meeting the Commission agreed to permit the representative of Belgium to insert the following statement in the report of the Commission concerning article 49:

"Article 49 would make it obligatory for contracting States to report to the United Nations, which would comprise States that had not assumed the obligations embodied in the covenant, and that a category of privileged States, of which there might be a large number, would thus be created within the United Nations. Without having assumed any obligation themselves, those States would be able to supervise the conduct of States parties to the covenant and to direct criticism and recommendations to them. That inequality, which would last as long as the covenant remained in force, would affect nearly all matters within the sovereignty of the States parties to the covenant. The question of the observance of their contractual obligations could be raised at any time and on any pretext. Even the action of a private individual which was allegedly contrary to the covenant would be enough to challenge the effectiveness of the legislation in force. The extent to which reports should be submitted by the States parties to the covenant would be determined by a request of the Economic and Social Council, in which there were Member States which would not have contracted any obligation but would nevertheless be entitled to vote and take decisions. The request for reports would be binding on the Contracting States whose role, however, would only be advisory. Such a system would vitiate the covenant at its very core, prevent many States from acceding to it and thus seriously jeopardize the cause of human rights. For those reasons, the Belgian delegation could not support draft article 49, the more so since it considered that there was in principle no justification for using the system of reports in the covenant on civil and political rights. The concept of progressive implementation was not relevant to that covenant for the implementation of which detailed provision had been made, including the intervention of a special organ, the Human Rights Committee."

ARTICLE 50

206. At the 430th meeting the representatives of Belgium and France introduced a new draft article (E/CN.4/L.366) for inclusion in the draft covenant on civil and political rights, the words of which were identical with those of article 69 (present article 25) adopted for inclusion in the draft covenant on economic, social and cultural rights. The proposed text was as follows:

"Nothing in this Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies, which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in this Covenant."

207. An amendment was proposed by the representatives of Belgium and the Philippines (E/CN.4/L.337) which in its revised form (E/CN.4/SR.431) would add the following:

"Similarly, it shall not be interpreted in such a way as to impair the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide."

208. Discussion (E/CN.4/SR.430-431) centred around the amendment, but certain views on the proposed article itself were expressed similar to those heard on the equivalent article adopted for inclusion in the draft covenant on economic, social and cultural rights (see paragraphs 167-170 above). In addition, several members said that their support of the new article was not to be taken to mean that they approved article 49, but that the adoption of the latter made it necessary to include the new article.

209. In support of the proposed amendment it was argued that the Convention on Genocide was of relevance to three provisions of the draft covenant, namely, articles 6, 7 and 26, and that such an important achievement of the United Nations as the Convention should receive due protection in the draft covenant. If it was thought necessary to stipulate in the proposed article that nothing in the draft covenant should be interpreted as impairing the provisions of the Charter of the United Nations, the same protection should be extended to the Convention on Genocide, particularly since the latter did not contain any clause similar to Article 103 of the Charter to ensure that its provisions should take precedence over those of other international agreements. Furthermore, in article 21, paragraph 3, of the draft covenant on civil and political rights, there was a specific provision safeguarding the International Labour Convention of 1948 on Freedom of Association and Protection of the Right to Organize, and the proposed article contained a reference to the constitutions of the specialized agencies. The Convention on Genocide possessed at least as great a significance in the field of human rights as those instruments and was entitled to the same protection in the covenant.

210. Against the proposed amendment, it was argued that the primary purpose of article 69 (present article 25 of the draft covenant on economic, social and cultural rights), from which the proposed article originated, was to safeguard not the Charter or the constitutions of the specialized agencies, but the distribution of responsibilities between the United Nations and the specialized agencies. Therefore, any mention of the Convention on Genocide would be irrelevant. It would in any case be inappropriate to mention the Convention on Genocide and yet omit other relevant international instruments, such as the conventions on slavery, forced labour, the political rights of women and on the status of refugees. The criterion should be the legal relevance, not the importance, of the convention cited, and, that being so, considerable research would be needed to ensure a full listing of all the existing conventions which had a direct bearing on the rights enunciated in the draft covenant. Otherwise, it might be argued that they were not to be equally respected. It was added that, after the covenant had come into force, other relevant instruments might be elaborated, and no listing of conventions could therefore be regarded as final. Again, if the amendment were adopted, it would be necessary to reopen the discussion on article 69 in order to add a clause listing the numerous conventions which were relevant to the implementation of eco-

conomic, social and cultural rights. The reference to the International Labour Convention in article 21 of the covenant was justified, on the grounds that there was a definite possibility of a discrepancy between the guarantees offered in the draft covenant and those extended by the Convention, and it had therefore been necessary to ensure that the provisions of the former were not used to evade obligations assumed under the latter. No such danger existed with regard to the Convention on Genocide, since it was unthinkable that any provision of the draft covenant would impair or in any way conflict with an instrument which defined and provided for the punishment of an international crime. It was also pointed out that the Genocide Convention was specifically mentioned in article 6, paragraph 2, of the draft covenant and was also protected by the more general provisions of its article 5, paragraph 2.

211. The amendment was withdrawn by its sponsors, in view of the possible unfavourable political consequences of a rejection of the amendment or its adoption by only a small majority (E/CN.4/SR.431).

Decisions of the Commission

212. The words "Nothing in this Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations" were adopted unanimously.

213. The rest of the proposed text was adopted by 14 votes to 3.

214. The proposed text of the new article 50 as a whole was adopted by 14 votes to none, with 3 abstentions (see paragraph 206 above).

C. The applicability of the Human Rights Committee procedure to the draft covenant on economic, social and cultural rights

215. The Commission discussed the applicability of the Human Rights Committee procedure included in the draft covenant on civil and political rights (annex I, section B, part IV, articles 27-48) to the draft covenant on economic, social and cultural rights during its 431st-433rd meetings. While some members of the Commission advocated an immediate vote on the principle involved, the Commission accepted the view that the matter should be discussed in conjunction with such proposals as might be moved before the Commission. In the end, however, the Commission did not even vote on the principle because all proposals for a draft article were withdrawn.

216. The representative of France proposed the following draft article (E/CN.4/L.338):

"The States Parties to this Covenant may, at the time of ratification or at any subsequent time, indicate in respect of which rights laid down in the present Covenant they agree, or will agree subject to reciprocity, that complaints of violations lodged by another State Party shall be submitted to the procedure for bringing complaints before the Human Rights Committee, as established by articles 27 *et seq.* of the Covenant on Civil and Political Rights."

217. A draft article submitted by the representatives of Chile and Uruguay was as follows (E/CN.4/L.339):

"1. The States Parties to this Covenant undertake to accept the jurisdiction of the Human Rights Committee with regard to the progressive implementation of the rights set forth herein.

"2. To this end, the Secretary-General of the United Nations may, upon the recommendation of the Commission on Human Rights, convene a conference or conferences of the States Parties to this Covenant to determine the possibility of adapting all the procedures provided in Article 27 and subsequent articles of the Covenant on Civil and Political Rights to the provisions of the Covenant on Economic, Social and Cultural Rights."

218. This text was subsequently revised to read (E/CN.4/L.339/Rev.1):

"1. The States Parties to this Covenant may, at the time of ratification, indicate the rights with respect to which they undertake to accept the jurisdiction of the Human Rights Committee with regard to the implementation of such rights.

"Similarly, the Secretary-General of the United Nations may:

"(a) At the request of one-third of the States Parties to the Covenant, or,

"(b) Upon the recommendation of the Commission on Human Rights, approved by the Economic and Social Council, convene a conference or conferences of the States Parties to this Covenant to determine the possibility of adapting the procedures provided in article 27 and subsequent articles of the Covenant on Civil and Political Rights to the provisions of the Covenant on Economic, Social and Cultural Rights."

219. The representative of France proposed (E/CN.4/SR.433) two amendments to this revised text. The first would add to the end of the first paragraph the words "subject to reciprocity", and the second would substitute the words "one-half" for the words "one-third" in sub-paragraph (b) of paragraph 2.

220. The immediate or unconditional application of the Human Rights Committee procedure to the draft covenant on economic, social and cultural rights was not suggested or proposed by any member. Certain members opposed any proposals on the subject on the ground that the Human Rights Committee procedure was contrary to the Charter provisions in that it constituted an interference in the domestic affairs of States and a violation of their sovereignty. Some members, bearing in mind General Assembly resolution 543 (VI), wished to provide for the eventual application of the procedure to the draft covenant on economic, social and cultural rights, under certain conditions, in order to render the provisions of the two covenants as similar as possible. Other members pointed out that, notwithstanding the General Assembly resolution, practical considerations were heavily weighted against any form of such application. There was also the view that proposals contemplating future modifications of the provisions of the covenant could more properly be discussed under the procedures relating to the amending of the covenants.

221. The Commission heard the representatives of the International Labour Organisation and of UNESCO, who referred to the views of the Governing Body of the International Labour Office and the Executive Board of UNESCO (E/2057/Add.2 and E/CN.4/692/Add.2) respectively. The ILO representative pointed out that the constitution of the ILO included procedures for the handling of complaints and referral of matters coming within its purview to the Human Rights Committee would only lead to duplication and overlapping, which might affect the

authority and efficiency of the Committee and the ILO. The representative of UNESCO remarked that the Executive Board considered that as examinations of complaints by the Committee implied a thorough knowledge of the technical conditions of implementation, suitable guarantees should be provided, and UNESCO should be invited to submit to the Committee written statements on any matter affecting the violation of any human right in respect of which it was particularly competent.

222. Several members pointed out that the system of periodic reports had been evolved, in collaboration with the specialized agencies, as the best method of implementing the economic, social and cultural rights, while the Human Rights Committee had been conceived as the most appropriate way to safeguard civil and political rights. The nature of the rights and the obligations laid down in each covenant and the fact that civil and political rights were to be applied forthwith while economic, social and cultural rights were to be achieved progressively largely through the assistance of the specialized agencies, justified the preservation of the distinction between the two methods of implementation. They also doubted whether States would be willing to submit to examination of complaints concerning, for example, national distribution of expenditures or the priority given to various programmes, and, generally speaking, the whole basis of their economic, social and cultural life. On the other hand, some members thought that certain rights, such as trade union rights and rights relating to primary education, could be subjected to the Human Rights Committee procedure, and, in time, the need for progressive implementation would diminish and many rights might become enforceable. Accordingly, provisions should be included to afford States opportunity to accept the jurisdiction of the Committee for at least those articles to which its application was feasible, on an optional basis, and, in the view of some members, on the basis of reciprocity. The acceptance of such a provision would in no way impair the work of the specialized agencies. A State member of a specialized agency which had established procedures concerning complaints in respect of any of the rights laid down in the draft covenant would be bound by that procedure. Not all the rights in the covenant, however, came within the purview of the agencies, and not all States would be members of the agencies, in which cases recourse to the Human Rights Committee procedure might be desired.

223. Other members felt that there was no indication of the purpose for which States would decide to accept the jurisdiction of the Committee, the procedure to be followed and the results to be obtained. The Committee would be composed largely of jurists with quasi-judicial functions and in the case of the draft covenant on economic, social and cultural rights there was no criterion capable of providing the basis for a semi-judicial decision. If the Committee were to be invested with the contemplated powers, its membership would have to be changed in order to include experts in the economic, social and cultural fields and representation of the specialized agencies concerned.

224. Certain members referred to the contradictory nature of the two paragraphs of the joint proposal of Chile and Uruguay and pointed out that conferences might come to the conclusion that it was not possible to adapt the procedures in which case the recognition of the jurisdiction of the Committee by States at the

time of ratification would have no value. Other members referred to the provisions relating to conferences as unrealistic since a conference could be called by a majority of the Economic and Social Council even without the consent of one-third of the States Parties.

WITHDRAWAL OF THE PROPOSALS

225. The divergent views expressed by the members led to the withdrawal of both of the proposals by their sponsors. The Commission, therefore, did not adopt any provisions concerning the applicability of the Human Rights Committee procedure to the draft covenant on economic, social and cultural rights.

D. The right of petition

226. The draft resolution of Ecuador, Egypt, Guatemala, the Philippines and Uruguay (A/C.3/L.372) which the General Assembly transmitted to the Commission by resolution 737 B (VIII) proposed that the General Assembly should request the Commission on Human Rights to draft "provisions recognizing the right of petition of every natural person, every duly constituted group of individuals and every recognized non-governmental organization", for inclusion in the draft international covenants on human rights in accordance with the decision of the General Assembly contained in its resolution 421 F (V) and in the light of the discussion at the eighth session of the Assembly. In resolution 421 F (V) the General Assembly had requested the Commission to consider provisions "to be inserted in the draft Covenant or in separate protocols, for the receipt and examination of petitions from individuals and organizations with respect to alleged violations of the Covenant".

(a) DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

227. A proposal on the subject of petition which had been moved by the representative of Uruguay (E/CN.4/L.324) in connexion with the system of periodic reports contemplated in the draft covenant on economic, social and cultural rights had been withdrawn, as reported in paragraphs 107-109 above.

(b) DRAFT COVENANT ON CIVIL AND POLITICAL RIGHTS

228. Two draft articles on the right of petition were proposed for inclusion in the draft covenant on civil and political rights: one by the representatives of Chile, Egypt, the Philippines and Uruguay, later joined by India, and the other by the representative of France. These proposals were discussed by the Commission at its 434th-437th meetings (E/CN.4/SR.434-437). It soon became evident that, while many members had no objection in principle to the recognition of the right of petition, opinion in the Commission was as deeply divided on the issue of its inclusion in the draft covenants as it had been at its ninth session (see E/2447, chapter III, paragraphs 143-156) and at the eighth session of the General Assembly (see A/2573, paragraphs 81-84): many of the arguments put forward on those occasions were adduced in the debate. The proposals were eventually withdrawn by their sponsors and no provisions on the right of petition were adopted.

229. The joint proposal of Chile, Egypt, the Philippines and Uruguay read in its original form as follows (E/CN.4/L.341):

"1. The Human Rights Committee may receive petitions addressed to the Secretary-General of the United Nations from any individual, any group of individuals and any recognized non-governmental organization, alleging violation by any State Party of any of the rights recognized in this Covenant.

"2. The Committee may, if it considers the petitions serious enough to justify the exercise of its conciliatory functions, approach the State concerned with a view to a clarification and settlement of the issue.

"3. The Committee shall communicate to the States Parties a report on the results of its action taken under paragraph 2."

230. The revision of the joint draft article affected paragraph 1 only, which was changed to read as follows (E/CN.4/L.341/Rev.1) :

"1. The Human Rights Committee may receive petitions addressed to the Secretary-General of the United Nations from :

"(a) Any individual or group of individuals alleging violation of any right recognized in the Covenant by the State Party of which the individual or the group are nationals ;

"(b) Any recognized non-governmental organization alleging violation by any State Party of any of the rights recognized in the Covenant."

231. The draft article proposed by the representative of France was as follows (E/CN.4/L.342) :

"No provision in this Covenant shall be construed as preventing the Committee from dealing with any matter concerning the alleged violation of human rights by a State whenever international instruments to which such State is a Party, other than the present Covenant, recognize the competence of the Committee to examine complaints from other States Parties to the said instrument or from sources other than States."

232. After revision this draft article read as follows (E/CN.4/L.342/Rev.1) :

"No provision in this Covenant shall prevent the Committee from dealing with any matter concerning the alleged violation of human rights by a State which is a Party to international instruments other than the present Covenant, which recognize the competence of the Committee to examine complaints from other States Parties to the said instrument or from sources other than States."

233. The differences of opinion among the members of the Commission ranged over a wide area. Some members held that the Charter had made matters relating to human rights a question of international concern and protection and hence there could be no question of trespassing on the domestic jurisdiction of States by recognizing the right of petition in the covenant. The right had existed under the minorities and mandates systems of the League of Nations and it was specifically provided for in the International Trusteeship System established by the Charter, the practice of which had greatly accelerated the development of Trust Territories. Others recalled that no one accepted the theory of a supranational authority and, while they did not question the legitimate interests of the United Nations arising out of the Charter provisions in the field of human rights, they thought that apart from petitions relating to the Trusteeship System, the obligations of States to co-operate under the Charter in

no way implied the automatic recognition of the right of petition. They thought that its inclusion in the covenant would only deter States from becoming parties to it.

234. Certain members considered that international law was concerned only with States and not with individuals, and that international society had not yet reached a stage of development at which individuals could be allowed to petition. Others questioned the validity of this theory and held that, apart from other examples rebutting that contention, in the very terms of the covenant the individual was plainly a subject of international law and its exact purpose was to protect him against abuse of power by the State and, therefore, he should not be denied his sole means of defence against the violation of his rights.

235. Some members pointed to the great progress in the protection of human rights which had been directly helped by the very existence of the United Nations, and objected to the persistent doubts expressed concerning the fulfilment of the obligations undertaken by the States who would become parties to the covenant. Indeed, in the view of some, there was more to be feared from the abuse of the right of petition than from any abuse of power by States which, in terms of modern society, were bound to ensure the welfare of all citizens. Nor must it be forgotten that the right of petition would inevitably lead to the examination of the operation of the judicial systems of States which might well have a disruptive influence on the administration of justice and government. Other members admitted that some price would have to be paid for the inclusion of the right of petition but they considered that this would not be unduly high and it would be worth paying in order to uphold the basic principles of the covenant. Provisions were already included forbidding international action before the exhaustion of domestic remedies and it would be quite possible to provide for further safeguards against possible abuses. If only States could complain the provisions of the covenant would not be properly implemented. One State might be chary of accusing another State of having violated the covenant either from a desire to remain on good terms with that State or for fear that it might retaliate with counter-accusations, since perfection was not the rule and no State could claim to be entirely innocent on every count. Conversely, if the relations between two States were strained, any complaint made by one against the other might be viewed with some scepticism. Moreover, a violation might not, at the level of diplomatic relations, have the importance it might assume for individuals. If, as stated in the preamble of the covenant, it was recognized that the rights derived from the inherent dignity of the human person and that States were consequently under an obligation to promote respect for and observance of those rights, that person was the ultimate basis of the covenants and must be given the basic right to protest when that dignity was impaired.

236. Many members thought that ideally the right of petition of individuals and at least of non-governmental organizations, many of which had played a most important and invaluable part in promoting human rights, should be recognized internationally as it had been done nationally, but that the many problems which arose in connexion with it would have to be resolved slowly on the basis of a thorough study of the operation of the covenant in practice, for a hasty decision

was likely to be worse than no decision for the present. The right would have to be exercised within certain well-defined limits lest it degenerate into an instrument of political agitation. The experience of the past decade made it abundantly clear that it took a long time for truth to prevail, and, in the meantime, the harm done to States, and even to the United Nations, by a mass of frivolous, mischievous and propagandist allegations, some of which might possibly even be incited by States non-Parties to the covenant, could not be undone.

237. References were also made to the proposal of Uruguay concerning the establishment of a United Nations High Commissioner (Attorney-General) for Human Rights (see annex III) as a better method for dealing with the right of petition. Another point of view was that a matter of such importance should not be decided by a body composed of only eighteen States and it had better be resolved by a more widely representative body, preferably by a final conference of plenipotentiaries convened for the purpose of adopting the covenants.

238. Certain members reiterated their stand against the establishment and activity of the Human Rights Committee as being contrary to the Charter provisions and international law, and a violation of the national sovereignty of States. Proposals relating to petitions, except as provided in the Charter for Trust Territories which did not relate to sovereign States, were considered illegal and a violation of Article 2, paragraph 7, of the Charter. They disagreed with the argument that that provision of the Charter did not prevent Member States from concluding agreements amongst themselves, including provisions like the ones contemplated. It was held that the provisions relating to the Human Rights Committee as drafted would form an integral part of the United Nations system and it would be as much bound by the Charter provisions, and in particular by Article 2, paragraph 7, as all other organs of the United Nations. Therefore, the Committee would be unable to consider petitions from individuals, groups and non-governmental organizations, since that would constitute an obvious and flagrant interference in the domestic affairs of States. Individuals and groups had the right to complain of violations of their rights at the national level and the duty of States to remedy any such violation was incontestable but, in their view, this was recognized and sufficiently safeguarded by article 2 of the Covenant on Civil and Political Rights.

239. Those supporting the joint draft article (see paragraphs 229-230 above) pointed out that it was a compromise between the two proposals submitted at the ninth session of the Commission (see E/2447, chapter III, paragraphs 145-148). The Human Rights Committee would exercise only its conciliatory functions, and not its quasi-judicial competence, in relation to petitions. The members of the Committee, by virtue of the provisions of the covenant, would be composed of independent and eminent persons of high moral standing and competence in the field of human rights, who could be relied upon to offer confidence and complete guarantee of impartiality and objectivity in their task. The Committee would establish adequate machinery for sifting the complaints and, in any case, the provisions already included in the covenant for the prior exhaustion of domestic remedies would keep the volume of petitions within reasonable bounds. Moreover, the experience of the Trusteeship Council, which was able to evolve a procedure for the examination of petitions,

had demonstrated that there was no reason to fear that the system would be very much more unmanageable under the covenant. Only serious petitions would receive attention and the petitioner and the States would be assisted by the Committee in the realization of the rights in the covenant. If conciliation failed, and it were deemed necessary, the Committee would report on its actions to the States parties. On the basis of this report a formal complaint might be made by a State party. Thus, the existing principle that only States parties could submit complaints in order to bring into operation the fact-finding functions of the Human Rights Committee, would be observed. Against these arguments it was observed that the plan would be unworkable in practice, that there would be a flood of petitions and the Human Rights Committee would be unable for technical and other reasons to function properly. There were no criteria provided upon which the Committee could determine whether a petition was serious enough to justify the exercise of its conciliatory functions, and there was no guarantee against the abuse of the right by agitators and demagogues. Further clarifications were needed concerning the term "recognized non-governmental organizations", the role to be played by the petitioners and the States, and the exact meaning of the term "conciliatory functions". There were also considerations of time, provision of staff and finance that had been left unanswered, and it was not enough to be informed by the proponents of the proposal that the Committee could be relied upon to meet all the difficulties and to find the best solutions for them. On the contrary, the Committee might find itself in a position where it would be unable to fulfil the mandate given to it. The view was also expressed that it would be most undesirable to present States Parties, in the form of the report by the Committee, with information which they could use as a basis for making complaints to the Committee.

240. A number of non-governmental organizations in consultative relationship with the Economic and Social Council were heard by the Commission at various meetings (International Confederation of Free Trade Unions, International Federation of Christian Trade Unions, Catholic International Union for Social Service, Consultative Council of Jewish Organizations, Co-ordinating Board of Jewish Organizations, International Federation of Business and Professional Women, International League for the Rights of Man, Women's International League for Peace and Freedom, World Jewish Congress and the World Union for Progressive Judaism). These strongly urged the Commission not to restrict the complaints procedure to States but to include provisions relating to the right of petition, at least as regards non-governmental organizations in consultative relationship with the Council. In their view the violations of the covenants were a matter which concerned the international community and it was doubted whether aggrieved individuals, groups or organizations would be able to appeal to the good offices of a foreign State, and whether, even if such an appeal could be made, it would be exercised except in the most extreme circumstances. The result would be that the very purpose of the covenants would be frustrated. Reference was made to the long experience of the ILO, which had never received a complaint from a member State against another State party to a convention, but only from organizations. It was held that adequate screening procedures could be provided, and, in this connexion, it was suggested that, apart from

excluding anonymous, abusive and trivial petitions, other conditions might be laid down, such as that petitions must not be at variance with the principles of the Charter and that they must be submitted after a specific decision of the executive organ of the non-governmental organization concerned.

241. Another point of view, which was embodied in the proposal of the representative of France (see paragraphs 231-232 above), was that at present a general unconditional provision on the right of petition was not likely to be approved or ratified by any substantial number of States, but that it was useful to provide for the eventual realization of that right. It was observed that there had been considerable advance between the irrevocable notion of non-intervention in the internal affairs of States and their international responsibilities and obligations. The covenants, for example, made international many matters which till recently were mostly within the jurisdiction of States, and the institution of a quasi-judicial organ of implementation, as contemplated in the proposed Human Rights Committee, would bring the conduct of States under international control. There were also such precedents as the Joint United Nations-ILO Fact-Finding and Conciliation Commission on Freedom of Association and ILO itself was a body composed of representatives of workers and employers as well as States. It was therefore realistic to propose that a provision should be inserted in the covenant empowering the Committee in advance to consider complaints from non-governmental organizations and individuals to the extent that States Parties would agree in some other instruments to allow such complaints. Thus the door would be opened for a possible future recognition of the right by new agreements relating to the rights set forth in the covenant, be they bilateral, regional or multilateral agreements. Other members of the Commission, however, saw no reason for including such a provision, because they considered that there was nothing to bar future agreements, such as a protocol to the covenant, concerning petition, and because the United Nations, which in any event would have to authorize this extension of the Committee's functions, was free to take such steps as it deemed feasible and appropriate. Moreover, there was a likelihood that general provisions along the lines contemplated might be misconstrued and there might be possible conflicts in interpretation. Some members considered that the proposal did not specify the manner in which the Committee would exercise its new functions or the scope of the competence with which it would thus be invested and that these questions should be elucidated if States were to consider the possibility envisaged by the proposal. Such a provision was also opposed as inadequate if not illusory by those who desired the immediate inclusion of the right of petition in the covenant.

Withdrawal of the proposals

242. In view of the withdrawal of the three draft articles (E/CN.4/L.324, L/341/Rev.1 and L/342/Rev.2) by their respective sponsors (E/CN.4/SR.423 and 437), no provisions on the right of petition were adopted for inclusion in either the draft covenant on economic, social and cultural rights or the draft covenant on civil and political rights.

PART IV. FINAL CLAUSES

243. During its 437th to 451st meetings, the Commission examined the final clauses which had been

drafted at its sixth session (E/2447, annex I, section E, articles 70-73), together with the question of the federal clause and of the admissibility or non-admissibility of reservations. The Commission adopted the original text of articles 70 and 73. It drafted an article relative to federal States for inclusion as article 71. It agreed to include the territorial application article of the General Assembly (E/2447, annex I, section C) as article 72 (E/CN.4/SR.450). No articles were adopted on the question of reservations but the Commission adopted a resolution whereby it transmitted certain documents to the General Assembly through the Economic and Social Council. It was further agreed that the adopted articles on the final clauses would be included in both the draft covenants (see articles 26-29 of the draft covenant on economic, social and cultural rights and articles 51-54 of the draft covenant on civil and political rights in annex I).

A. Federal clause

244. By resolution 421 C (V) of 4 December 1950 the General Assembly had requested the Commission to study a federal article and to prepare "recommendations which will have as their purpose the securing of the maximum extension of the Covenant to the constituent units of federal States and the meeting of the constitutional problems of federal States". This request was later repeated by the Economic and Social Council in its resolution 384 A (XIII) of 29 August 1951. The Commission was, however, unable to consider the question until its tenth session when it also had before it certain proposals made at the eighth session of the General Assembly by Egypt, Australia and Guatemala, together with the summary records (A/C.3/SR.518-521) of the discussion thereon in the General Assembly which the latter transmitted to the Commission by resolution 737 A (VIII) of 28 November 1953. The proposal of Egypt (A/C.3/L.366) was that the General Assembly should request the Commission "not to include provisions relating to federal States in the draft international covenants on human rights". An amendment (A/C.3/L.388) to this by Guatemala proposed that the General Assembly should "request the International Court of Justice for an opinion on the desirability or undesirability of including a federal clause in the covenants on human rights, having regard to the universal application of those rights and the constitutional problems of some federal States" and "request the Commission on Human Rights not to consider the question until the International Court has delivered the opinion requested". The proposal of Australia (A/C.3/L.374) was that the General Assembly should direct the attention of the Commission to resolution 421 C (V) and should request Member States, specialized agencies and non-governmental organizations to submit to the Commission their views concerning a federal State article.

245. The Commission dealt with the question of a federal clause at its 437th to 441st and 450th meetings. Three proposals were submitted to it: (a) a draft article (E/2447, annex II, section B, No. III) originally proposed by Australia, India and the United States of America at the eighth session of the Commission, but which was submitted at the present session by Australia and India alone, the United States of America having withdrawn its sponsorship (E/CN.4/SR.437); (b) a draft article submitted by the representative of the Union of Soviet Socialist Republics (E/CN.4/340/Corr.1); and (c) a draft resolution

(E/CN.4/L.343) of the representative of Egypt which was similar to the one submitted by the Egyptian delegation to the eighth session of the General Assembly. There were also before the Commission the text of a federal article drafted by the Commission at its second session and a draft article proposed by the representative of Denmark to the seventh session of the Commission (E/2447, annex II, section B, Nos. I and II), which the Commission agreed to regard as working papers (E/CN.4/SR.437).

PROPOSAL OF AUSTRALIA AND INDIA

(E/2447, annex II, section B, No. III)

246. The text of the draft article was as follows:

"1. A federal State may at the time of signature or ratification of, or accession to, this Covenant make a declaration stating that it is a federal State to which this article is applicable. In the event that such a declaration is made, paragraphs 2 and 3 of this article shall apply to it. The Secretary-General of the United Nations shall inform the other States Parties to this Covenant of such declaration.

"2. This Covenant shall not operate so as to bring within the jurisdiction of the federal authority of a federal State making such declaration, any of the matters referred to in this Covenant which, independently of the Covenant, would not be within the jurisdiction of the federal authority.

"3. Subject to paragraph 2 of this article, the obligations of such federal State shall be:

"(a) In respect of any provisions of the Covenant, the implementation of which is, under the constitution of the federation, wholly or in part within federal jurisdiction, the obligations of the federal government shall, to that extent, be the same as those of Parties which have not made a declaration under this article;

"(b) In respect of any provisions of the Covenant, the implementation of which is, under the constitution of the federation, wholly or in part within the jurisdiction of the constituent units (whether described as States, provinces, cantons, autonomous regions, or by any other name), and which are not, to this extent, under the constitutional system bound to take legislative action, the federal government shall bring such provisions with favourable recommendations to the notice of the appropriate authorities of the constituent units, and shall also request such authorities to inform the federal government as to the law of the constituent units in relation to those provisions of the Covenant. The federal government shall transmit such information received from constituent units to the Secretary-General of the United Nations."

247. This text was subsequently supplemented to include a fourth paragraph submitted originally by the representative of Belgium as an amendment (E/CN.4/L.344) to the joint proposal with the aim of safeguarding the principle of the equality of contracting parties, which read as follows:

"4. A contracting State shall not be entitled to avail itself of the present Covenant against other contracting States except to the extent that it is bound by the Covenant."

The representative of Belgium moved (E/CN.4/SR.440) and the joint sponsors also accepted a con-

sequential amendment to paragraph 1 of the joint proposal where the reference was to be to paragraphs 2, 3 and 4.

248. The representative of France submitted an amendment (E/CN.4/L.346) to the draft article. First it was proposed to insert in paragraph 3 (b) after the words "Secretary-General of the United Nations" the words "who shall communicate them to the States Parties to the Covenant", in order to denote to whom the information supplied was to be communicated. Second, in order to acquaint States Parties with the developments in the federal units, it was proposed to add the following sub-paragraph (c) to paragraph 3:

"Subsequently, the federal government shall notify the Secretary-General, for communication to States Parties to the Covenant, the legislative or other measures which the above-mentioned units have taken in implementation of the provisions of the Covenant."

PROPOSAL OF THE UNION OF SOVIET SOCIALIST REPUBLICS

(E/CN.4/L.340/Corr.1)

249. The text of the draft article was as follows:

"The provisions of the Covenant shall extend to all parts of federal States without any limitations or exceptions."

PROPOSAL OF EGYPT

(E/CN.4/L.343)

250. The text of the draft resolution was as follows:

"The Commission on Human Rights,

"Considering that the federal system, like all other systems, is a form of government which is determined, in each State, by the national constitution and organic law,

"Considering that the generally accepted rule in the matter of the signature and ratification of international conventions and treaties is that the said signature and ratification observe the constitutional processes of each country,

"Considering that the concern felt in some interested federal States about the constitutional difficulties raised by treaties and conventions has greatly diminished,

"Decides not to include provisions relating to federal States in the draft international covenants on human rights."

DISCUSSION OF THE PROPOSALS

251. During the discussion on the proposals views were expressed for and against the inclusion of a federal clause in the draft covenants which demonstrated that opinions were as divided in the Commission as they had been during the discussion at the eighth session of the General Assembly (see A/2573, paras. 72-74), and it was suggested that rather than adopt a decision by a narrow majority, it would be better to transmit the various proposals for decision to the General Assembly or to a diplomatic conference which might be convened to draft the final texts of the covenants.

252. Those who favoured the inclusion of a federal clause of the pattern proposed by Australia and

India maintained that some federal States would find it impossible to become parties to the covenants unless such a clause were included. They pointed out that accession to the covenants would raise serious difficulties in the case of some federal States since most of the matters covered by the covenants were within the jurisdiction of the constituent units of those States. Such States should therefore be assisted to overcome the difficulties with which they might be faced in order to ensure that the covenants would be ratified by as many countries as possible. While it was recognized that the federation alone had a personality in international law and was able to make international commitments, it was argued that a purely legalistic approach to the problem would fail to take into account the realities of the situation. The existence of federal States was often the result of historical, ethnic, linguistic, economic and social conditions. In some instances it was the consequence of a practical compromise which brought about a delicate balance in the distribution of power and authority between the federation and its units. Therefore the whole question should be viewed in a broader context than that of classical international law alone; it had to be appreciated in that spirit of international organization and international co-operation which had become an outstanding feature of the present-day world. Some international instruments, such as the constitution of the International Labour Organisation and the Convention on the Status of Refugees which embodied federal clauses, clearly recognized that fact and had adopted a pragmatic approach to the problem.

253. Certain members of the Commission who were opposed to the inclusion of a federal clause pointed out that such a clause would be at variance with both theory and practice in the matter of accession to international agreements. Hitherto, all federal States had been held responsible in respect of their territories as a whole for the international obligations which they assumed and none of the many treaties registered by the League of Nations, for example, made special arrangements concerning federal States. The ILO conventions, it was pointed out, were of a special character and could not be followed by the Commission as an example. Several members referred to the inequality which would result between federal and non-federal States with respect to the obligations which they would assume under the covenants. Federal States would be placed in a privileged position and would assume less clear-cut obligations than unitary States, which would be in contravention of the sovereign equality of States affirmed in Article 2, paragraph 1, of the Charter. Other Members expressed the view that human rights were fundamental and inalienable rights of the individual, hence to assert that they might legally not extend to certain parts of some countries was inconceivable. The insertion of a federal clause would contradict the spirit of the Charter and the Universal Declaration of Human Rights which recognized the principle of the universal application of human rights.

254. On the other hand, it was contended that federal States were not trying to gain advantages in seeking the inclusion of a federal clause; their sole purpose was to overcome some real and actual difficulties. As to the formal disparity in the obligations which federal and unitary States would assume under a federal clause, it was emphasized that legal obligations were not always the most important elements of

the commitments undertaken through international agreements. The ultimate obligation was a moral and spiritual one; consequently, the limited scope of the legal obligations which would be undertaken by federal States would not be the full measure of their real commitments. Some members felt that the incorporation of the Belgian amendment in the joint draft article proposed by Australia and India had rectified to a great extent the disparity in the obligations of federal and unitary States under the article.

255. Reference was made by some members to the General Assembly resolution 421 C (V) which had asked the Commission to study a federal State article and to prepare recommendations with a view to (a) securing the maximum extension of the covenants to the constituent units of federal States and (b) meeting the constitutional problems of federal States. The draft proposed by Australia and India was considered as meeting only the second element of the resolution. It was pointed out that under the proposed article federal governments would merely make favourable recommendations to the appropriate authorities of the constituent units, but even with the inclusion of the amendments proposed by France, they would have no responsibility of seeing to it that the units enacted legislation to implement the provisions of the covenants.

256. Some members questioned the necessity of including a federal clause. The view was expressed that adequate provisions were already made for the problems of federal States by article 2, paragraph 2, of the draft covenant on civil and political rights which stated that "where not already provided for by existing legislative or other measures, each State undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of this Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in this Covenant". It was also pointed out that federal States could secure the agreement of their constituent units before signing or ratifying the covenants. Moreover, it was suggested that the constitutional difficulties of federal States might be overcome in a more suitable manner by the use of reservations. None of these suggestions, however, were considered satisfactory by the advocates of the joint Australian and Indian draft. It was contended that federal States which were incompetent constitutionally to undertake commitments for their constituent units would be unable to take the steps mentioned in article 2, paragraph 2, in so far as matters within the jurisdiction of the constituent units were concerned. As for reservations, it was claimed that if a federal government was incompetent to undertake commitments for the constituent units, it would be improper for that government to commit the constituent units by ratifying the covenants and then to withdraw the commitment by making reservations on certain matters. Such an action was not only wrong in principle but might easily strain the relations between the federal and local governments, which would be both undesirable in itself and not conducive to proper observance of the covenants.

Decisions of the Commission

257. At its 441st meeting the Commission adopted by 12 votes to 1, with 5 abstentions, the motion of the representative of Lebanon to adjourn the vote on the proposals until after a decision had been taken on the

question of reservations. Accordingly, the voting took place at the 450th meeting.

258. The draft resolution of Egypt (E/CN.4/L.343) was voted on first, and it was not adopted, the vote being 8 in favour and 8 against, with 2 abstentions.

259. The draft article of the Union of Soviet Socialist Republics (E/CN.4/L.340/Corr.1) was then voted upon and adopted by 8 votes to 7, with 3 abstentions.

260. As a consequence of the adoption of the text proposed by the Union of Soviet Socialist Republics, the draft article of Australia and India and the amendment thereto, were not put to a vote.

261. The text of the article adopted (article 28 of the draft covenant on economic, social and cultural rights and article 53 of the draft covenant on civil and political rights) reads:

“The provisions of the Covenant shall extend to all parts of federal States without any limitations or exceptions.”

B. Reservations

262. The question of reservations had been discussed at previous sessions of the Commission and at the sixth session (1950) the Commission had rejected certain proposals providing for the admissibility of reservations (see E/CN.4/677). No discussion on the question however, had taken place since the adoption of resolution 546 (VI) of 5 February 1952 by the General Assembly. In that resolution, which was transmitted to the Commission by resolution 415 (S-1) of the Economic and Social Council, the Commission was asked “to prepare, for inclusion in the two draft international covenants on human rights, one or more clauses relating to the admissibility or non-admissibility of reservations and the effect to be attributed to them”.

263. The Commission dealt with the question at its 442nd to 449th meetings. Except with respect to a proposal by the representative of Belgium concerning reservations to the territorial application clause, the discussion centered on the question of reservations to the draft covenant on civil and political rights and proposals thereon. The question of reservations to the draft covenant on economic, social and cultural rights was not considered by the Commission.

264. The debate revealed a wide divergence of opinion. While certain members took the position that no reservations whatsoever should be allowed, there appeared to be a majority of members who felt that reservations should be admitted. Opinion was however divided concerning the extent and nature of admissible reservations and the effect to be attributed to them. The following views were advanced: (a) that reservations to all provisions should be admitted without any limitations or restrictions whatsoever; (b) that reservations to part III only of the covenant should be allowed, subject to the consent of two-thirds of the States Parties; (c) that no reservations should be admitted to parts I and II, to the measures of implementation and to the final clauses; (d) that only such reservations as are compatible with the purpose and object of the covenant should be admitted.

265. The Commission had before it the following proposals: (a) a draft article submitted by the representative of the United Kingdom (E/CN.4/L.345 and Add.1), to which amendments were proposed by the representatives of the USSR (E/CN.4/L.349) and

France (E/CN.4/L.352); (b) a draft article proposed by the representatives of China, Egypt, Lebanon and the Philippines (E/CN.4/L.351), to which an amendment was submitted by the USSR (E/CN.4/L.353); (c) a draft article proposed by the representatives of Chile and Uruguay (E/CN.4/L.354). A draft article providing for reservations to article 72 was also submitted by the representative of Belgium (see paragraph 294).

PROPOSAL OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

(E/CN.4/L.345 and Add.1)

266. The text of the draft article was as follows:

“1. Any State may, on depositing its instrument of acceptance to this Covenant, make a reservation to the extent that any law in force in its territory is in conflict with, or to the extent that its law does not give effect to a particular provision of part III of this Covenant. Any reservation made shall be accompanied by a statement of the law or laws to which it relates.

“2. As soon as the period of two years mentioned in article 70 (3)³ has elapsed, the Secretary-General of the United Nations shall, subject to paragraph 5 of this article, circulate a copy of all reservations received by him to all States which have by the date of circulation deposited an instrument of acceptance with or without reservation.

“3. Copies of reservations received after the expiry of the period mentioned in article 70 (3)³ shall, subject to paragraph 5 of this article, forthwith be circulated by the Secretary-General to all States which, by the date of circulation, have deposited an instrument of acceptance with or without reservation or, if on that date the Covenant has entered into force, to all States parties thereto.

“4. A reservation shall be deemed to be accepted if not less than two-thirds of the States to whom copies have been circulated in accordance with this article accept or do not object to it within a period of three months following the date of circulation.

“5. If an instrument of acceptance accompanied by a reservation to any part of this Covenant not mentioned in paragraph 1 of this article is deposited by any State, the Secretary-General shall invite such State to withdraw the reservation. Unless and until the reservation is withdrawn, the instrument of acceptance shall be without effect and the procedure provided in this article shall not be followed with respect to such instrument or the reservation or reservations accompanying it.

“6. Any State making a reservation in accordance with this article may withdraw that reservation either in whole or in part at any time after its acceptance, by a notice addressed to the Secretary-General; such notice shall take effect on the date of its receipt; and a copy of such notice shall be circulated by the Secretary-General to all States parties thereto.”

267. Subsequently the following paragraph 7 was added to the foregoing text:

“7. It is understood that, in order to achieve the application to the fullest extent of the provisions

³ See annex II, section B.

of this Covenant, any State making a reservation in accordance with this article should take, as soon as may be practicable, such steps as will enable it to withdraw the reservation either in whole or in part.”

268. The representative of the USSR submitted the following amendment (E/CN.4/L.349) to the draft article proposed by the United Kingdom (E/CN.4/L.345):

“1. Draft paragraph 1, as follows: ‘Any State may, either at the time of signature of the present Covenant followed by acceptance, i.e., ratification, or at the time of acceptance, make reservations with regard to any of the provisions contained therein. If reservations are made the Covenant shall, in relations between the States which have made the reservations and all other States Parties to the Covenant, be deemed to be in force in respect of all its provisions except those with regard to which the reservations have been made.’

“2. In paragraph 2, delete the words: ‘As soon as the period of two years mentioned in article 70 (3) has elapsed’ and the words: ‘subject to paragraph 5 of this article.’

“3. Delete paragraphs 3, 4 and 5.”

269. The representative of France submitted the following amendment (E/CN.4/L.352) to the draft article:

“In paragraph 4 replace the words ‘three months’ by the words ‘one year.’”

270. The representative of Belgium submitted an amendment (E/CN.4/L.350) which proposed to replace the words “a particular provision of part III of this Covenant”, appearing in paragraph 1 of the draft article by the words “a provision of this Covenant”. The amendment was, however, subsequently withdrawn (E/CN.4/SR.448).

PROPOSAL OF CHINA, EGYPT, LEBANON AND THE PHILIPPINES

(E/CN.4/L.351)

271. The text of the draft article read as follows:

“1. Any State, at the time of its signature subsequently confirmed by ratification, or at the time of its ratification or acceptance, may make any reservation compatible with the object and purpose of the Covenant.

“2. Any State Party may object to any reservation on the ground that it is incompatible with the object and purpose of the Covenant.

“3. Should there be a dispute as to whether or not a particular reservation is compatible with the object and purpose of the Covenant, and it cannot be settled by special agreement between the States concerned, the dispute may be referred to the International Court of Justice by the reserving State or by any State Party objecting to the reservation.

“4. Unless a settlement is reached in accordance with paragraph 3, any State Party objecting to a reservation may consider that the reserving State is not a party to the Covenant, while any State Party which accepts the reservation may consider that the reserving State is a party to the Covenant.

“5. Any State making a reservation in accordance with paragraph 1, or objecting to a reservation in accordance with paragraph 2, may at any time withdraw the reservation or objection by a communica-

tion to that effect addressed to the Secretary-General of the United Nations.”

272. The representative of the USSR submitted the following amendment (E/CN.4/L.353) to the draft article proposed by the four delegations (E/CN.4/L.351):

“1. In paragraph 1, replace the words ‘any reservation compatible with the object and the purpose of’ by the words ‘reservations with regard to any of the provisions contained in’.

“2. Replace paragraph 2 by the following: ‘If reservations are made, the Covenant shall be deemed to be in force, in relations between the States which have made the reservations and all other States Parties to the Covenant, in respect of all its provisions except those with regard to which the reservations have been made’.

“3. Delete paragraphs 3 and 4 and in paragraph 5 replace the words ‘or objecting to a reservation in accordance with paragraph 2 may at any time withdraw the reservation or objection’ by the words ‘may at any time withdraw it’.”

PROPOSAL OF CHILE AND URUGUAY

(E/CN.3/L.354)

273. The text of the draft article was as follows:

“No State Party to this Covenant may make reservations in respect of its provisions.”

ADMISSIBILITY OR NON-ADMISSIBILITY OF RESERVATIONS

274. Certain members held the view that no reservations to the covenant should be admitted. It was maintained that by the very nature of the covenant no reservations could be made to any of its provisions without destroying the two fundamental principles on which it was based, namely, the principle of universality and that of the immediate application of its provisions. It would be improper to allow reservations to be made to the covenant since it was not an instrument by which one State granted another a certain advantage on a reciprocal basis or in exchange for some other advantage; the covenant granted rights to third parties, i.e., to individuals, and not to the signatory States themselves. It was also pointed out that it was unacceptable that the United Nations itself, after proclaiming that human rights were inherent in the personality of every member of the human race and were therefore inalienable, should at the same time admit that any one of these rights could be legitimately disregarded, since the reservations procedure could have no other moral and legal effect.

275. On the other hand, some members took the ground that the right of States to make reservations to treaties was an accepted principle of international law. The present day method of preparing the texts of international instruments by majority instead of unanimous vote of the participants required the admission of the right of States which had been in the minority during the preparatory work to make reservations enabling them to accede to the instruments, without impairing their sovereignty. A refusal to allow the exercise of that right would, therefore, be contrary to international law and, in particular, to the principle of sovereign equality of States enshrined in the Charter.

276. Other members contended that reservations should be admitted as a practical necessity. While in principle any dilution of the covenant, which dealt with fundamental human rights, should be opposed, it was pointed out that the covenant was attempting to codify and amend the existing municipal law over the whole of this field; because of the diversity of the existing juridical systems the provisions of the covenant could not be expected to fit exactly to the laws and legal institutions of all countries, even of those which had achieved a high level of respect for human rights. Changes in domestic legislation to bring it into harmony with the provisions of the covenant would have to be made, and such process required time. Furthermore, since many of the articles of the draft covenant had been adopted by a majority vote, provision would have to be made for the admissibility of reservations if the draft covenant was to be ratified by a large number of States. The admission of reservations would also preclude the possible interpretation of article 2, paragraph 2, of the draft covenant, as permitting progressive implementation of the covenant, since reservations having in view the progressive implementation of any particular provision of the covenant could only be based on the assumption that the provisions of the covenant were of immediate application.

NATURE AND EXTENT OF ADMISSIBLE RESERVATIONS

277. Opinion was divided concerning the extent and nature of the reservations to be admitted. One view, which was reflected in the USSR amendments to the United Kingdom and the joint proposals, was to the effect that every State had the sovereign right to make such reservations as it deemed necessary, and that right should not be destroyed by any kind of restrictions. There was no reason to fear that States would not honour their obligations or that they would abuse the right, since experience had shown that the number of reservations to conventions had hitherto not been unduly numerous. The other view was that the right to make reservations should not be unlimited. To permit reservations to be made to the covenant without any restrictions would result in a multiplicity of texts which would be different for various parties, each State being bound only by the clauses which suited it, and the covenant would thus be deprived of its effectiveness. To limit the scope of reservations would not be incompatible with the doctrine of State sovereignty since by becoming a party to the covenant a sovereign State would voluntarily restrict its sovereignty. Various ways of limiting the scope of reservations were proposed.

278. *The United Kingdom proposal:* Under the United Kingdom draft, it was proposed to limit the range and effect of reservations by providing that reservations might be made to the extent that the domestic law of a State was in conflict with, or did not give effect to, a particular provision of part III of the covenant. Reservations to other provisions of the covenant were inadmissible, thus ensuring that the implementation provisions and other parts of the covenant which might be regarded as sacrosanct would not be subject to reservation. It was undesirable to single out particular articles in part III to which reservations might be admitted and those to which no reservations could be made since that procedure would imply setting up a form of hierarchy as between the articles. Although in itself the proposal did not provide against excessive reservations, the best safeguard lay in the

recognition of the fact that reservations must be accepted by no less than two-thirds of the States Parties. The acceptance of a reservation by a closely knit community of States bound by common concern for human rights would ensure that reservations would be kept within limits which would preserve the effectiveness of the covenant. Moreover, it was envisaged that a reservation could be withdrawn either in whole or in part at any time after its acceptance. One difficulty, however, was that certain States might sign the instrument without ratifying it within a reasonable time, and others, entitled to sign or accede, might delay doing so. As long as such States were potential parties to the covenant their views had to be borne in mind, but, on the other hand, the possibility that they might not eventually ratify or accede to the covenant had to be considered. To meet the difficulty, it was proposed to provide for a two-year waiting period during which the covenant would not come into force and at the end of which the reservation would be circulated to all States which had deposited an instrument of acceptance before the time-limit expired, and to require such States to submit any objections which they might have within a period of three months following the date of circulation of the reservations.

279. Objections were raised to the United Kingdom proposal to limit reservations to part III only of the covenant. Certain members considered this contrary to the principles of international law, since it was for the States signatories themselves to determine to which provisions they thought fit to make reservations. Moreover, by specifying the provisions of the covenant to which reservations could be made, the draft article appeared as especially intended to invite reservations to these provisions. It was also pointed out that to allow reservations to part III of the covenant alone could not be justified in principle. Other members expressed the view that part III of the covenant constituted the most important part and that to allow reservations to it would run counter to the aims of the covenant. Furthermore, the draft would permit reservations to be made to substantive rights from which, under article 4, no derogation was permitted even in time of public emergency. To this objection it was replied that there was no inconsistency between allowing a State, with the approval of other States, to limit its commitments in respect of a particular right, and requiring it also to respect its commitments, as thus limited, even in emergency conditions.

280. The provision in the United Kingdom proposal whereby a State might make a reservation to the extent that its laws were in conflict with or did not give effect to a particular provision of part III of the covenant, was criticized as in effect introducing an element of progressive implementation into the Covenant on Civil and Political Rights contrary to the principle that the covenant should be of immediate application. Besides, States might wish to make reservations to part III for reasons other than those mentioned in the United Kingdom proposal.

281. The proviso that reservations must be accepted by two-thirds of the States Parties was objected to as inconsistent with the principle of national sovereignty. It was also argued that the provision was an absolute negation of the principle of reservations. Since the necessity of giving States in the minority the possibility of safeguarding their national sovereignty by making reservations was admitted, it was unthinkable that the acceptance of their reservations should be

made subject to a decision by two-thirds majority of the other Contracting Parties.

282. The period of three months, within which States may object to the reservation made by other States, as provided for in paragraph 4 of the United Kingdom draft article, was criticized as too short to enable the competent authorities of each State to examine with due care the reservations which might be made. The French amendment (E/CN.4/L.352) providing for a one year period was intended to remedy the situation.

283. Some members pointed out that the United Kingdom draft article failed to prescribe what further action a State would have to take once a reservation made by it had been accepted, the effect of which might be to encourage States to make reservations permanent and to perpetuate the *status quo*. To meet the objection, the representative of the United Kingdom added a paragraph (E/CN.4/L.345/Add.1) to his original proposal providing that a State making a reservation should take, as soon as practicable, such steps as will enable it to withdraw the reservation either in whole or in part.

284. Several members supported the view that reservations should not be permitted with regard to those parts of the covenant which contained provisions on the right of self-determination, the general obligations of States, the measures of implementation or the final clauses.

285. *The joint proposal of China, Egypt, Lebanon and the Philippines:* The joint draft article proposed that reservations, to be admissible, should be compatible with the object and purpose of the covenant. The draft article, it was explained, was based on the principles laid down in the advisory opinion of the International Court of Justice concerning reservations to the Convention on the Prevention and Punishment of the Crime of Genocide. The Court's opinion was interpreted as an attempt to find a compromise between two extreme views, namely, the view that reservations should not be admitted if the integrity of the convention was to be maintained, and the view that reservations should be admitted in order to safeguard the principle of national sovereignty and to obtain as many ratifications as possible. The same opposing views were being advanced in the Commission concerning reservations to the draft covenant on civil and political rights. It was therefore thought important that the Commission should take into account the principles enunciated by the Court in its advisory opinion. The joint draft article followed closely the Court's advisory opinion and provided a middle course between the two extreme points of view.

286. On the other hand, some members maintained that the criterion of compatibility on which the Court relied in its advisory opinion was not suitable for application to the draft covenant. The advisory opinion was strictly limited to the Convention on Genocide which did not contain any provision concerning the admissibility of reservations, and, moreover, was not a unanimous opinion of the Court. The International Law Commission, at its third session, had, for example, expressed the view that the criterion of compatibility of a reservation with the object and purpose of a convention was not suitable for application to multilateral conventions in general. It would be extremely difficult to define the objects and purposes of such far-reaching and detailed multilateral conventions as the covenants

on human rights, and, therefore, to make the admissibility of reservations contingent on such a criterion was most undesirable.

287. In reply, it was stated that certain general principles may nevertheless be deduced from the advisory opinion of the Court on the Genocide Convention which the Court was not likely to reverse in a similar situation. Moreover, the opinion of the International Law Commission did not exclude the possibility of the application of the advisory opinion of the Court to the specific case of the covenants on human rights which, like the Genocide Convention, were eminently humanitarian and universal in character. Under the joint draft article any difficulties caused by the application of the criterion of compatibility would be resolved by special agreement between the States concerned or as a last resort, by reference to the International Court of Justice. Minor reservations, as was pointed out by the Court, should not be considered as incompatible with the object and purpose of the Covenant.

288. Some members doubted whether the Court would be willing, or was indeed competent, to determine what reservations were admissible. It was claimed that neither the Court nor any other international organ could be asked to decide on a matter which came within the prerogative of sovereign States. Other members thought that in practice the proposal might entail the constant intervention of the Court which might as a consequence find itself so over-burdened with controversies that its functions would be utterly distorted. On the other hand, it was recalled that the procedure by which disputes concerning the admissibility of reservations were to be referred to the Court had been recommended by the Court itself in its advisory opinion and therefore had its approval.

289. Certain members preferred the United Kingdom draft article to the joint proposal. Attention was invited to the fact that the former would allow reservations to be made to part III only, while under the joint proposal reservations could be made to any part of the covenant although it differed from the text submitted by the USSR which would admit reservations, of all kinds without any restrictions whatsoever. It was stated that the procedure envisaged in the United Kingdom proposal seemed less rigid than that provided for in the joint draft since States Parties would be able to make allowances for factors which the Court, being a legal body, could not take into consideration. Moreover, it was alleged that the joint draft by giving States the discretionary power of objecting to reservations but leaving it optional to refer disputes to the International Court of Justice left a gap in its mechanism. It was pointed out, however, that the provisions of the joint draft should not be interpreted to mean that no consideration would be given to the special circumstances of each State. It was stressed that States were first to try to settle their disputes by special agreement before referring them to the International Court of Justice. It was also pointed out that the formula, already flexible, was rendered still more so by paragraph 5, which allowed States at any time to withdraw either their reservations or their objections.

LEGAL EFFECT TO BE ATTRIBUTED TO RESERVATIONS

290. Reference was made to various views on the effect of a reservation as between the reserving State

and the other States parties to a convention, if an objection or objections were made to the reservation. It was stated that under the rule followed by the League of Nations and until recently by the Secretary-General of the United Nations, if any State Party objected to a reservation made by another State Party, the instrument of ratification of the reserving State would fall. Under what was called the Pan-American practice, on the other hand, when a State made a reservation and a State Party objected, the treaty would not enter into force as between the objecting and the reserving States but the reserving State would be deemed a party to the treaty with respect to the other States Parties which did not object to the reservation. Another view was that a treaty to which reservations were made would, in relation to the States making the reservations and all the other States Parties, be considered in force in respect of all its provisions except those in regard to which the reservation had been made. Mention was also made of the rule laid down in the Advisory Opinion of the International Court of Justice on Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide.

291. It was pointed out that the unanimity rule was open to the criticism that the right to object might be used as a form of veto which would result in the complete exclusion of a given State from the covenant. Objections were also raised to the adoption of what was called the Pan-American system. It was argued that the principle behind the Pan-American system was only suited to ordinary treaty-making, where agreement involved some degree of *quid pro quo*. The Covenant on Human Rights, on the other hand, was prompted by purely humanitarian considerations and the contracting parties would derive no advantages therefrom. The adoption of the Pan-American practice would also tend to convert the covenant from an instrument of a universal character to a series of bilateral agreements.

292. Certain members favoured the system envisaged in the United Kingdom proposal whereby reservations had to be accepted by two-thirds of the States Parties on the grounds that it was more suitable to the covenant than the other systems. Since the covenant would be adopted by a majority vote it was reasonable that any proposed modification by way of a reservation to the obligations assumed should also be put to the test of a vote. It was pointed out that the proposal was fully consonant with the views expressed by the Special Rapporteur of the International Law Commission in his recent report (A/CN.4/63) on the law of treaties. The proposal was criticized by other members as being unrealistic. Since many of the controversial articles of the covenant had been adopted by small majorities, the result of the proposal might be to delay indefinitely the full entry into force of the covenant.

293. The joint draft article proposed that unless a settlement was reached concerning the compatibility or incompatibility of a reservation with the object and purpose of the covenant, any State Party objecting to the reservation could refuse to consider the reserving State as a party to the Covenant, but a State Party accepting the reservation could consider the reserving State as a party to the covenant. It was explained that the situation would be temporary since any of the parties concerned might put an end to it by applying the procedure laid down in paragraph 3 of

the draft article which provided that a dispute as to whether a particular reservation was compatible or not with the object and purpose of the covenant should be settled by special agreement of the parties concerned or in default thereof by reference to the International Court of Justice. Some members criticized the proposal on the ground that it would lead to a greater fragmentation of the covenant than the United Kingdom proposal. Under that proposal the provisions in force between the Contracting States might not be exactly the same for each State, but all the States would be parties to the covenant whereas under the joint proposal one State could consider another State not to be a party to the covenant, yet they could both be parties in regard to the remaining States. The result could well be utter confusion. It was further contended that if some objecting States referred a dispute as to the effect of a reservation to the International Court of Justice and the Court decided that the reservation was incompatible with the object and purpose of the covenant, the reserving State and the States which had accepted the reservations but which were not parties to the dispute would be bound to a reservation which had been pronounced incompatible with the covenant. It was pointed out, however, that the joint proposal contemplated that the States Parties should yield to the final opinion of the Court on the question of the compatibility or incompatibility of a particular reservation with the object and purpose of the covenant.

THE PROPOSAL OF BELGIUM FOR RESERVATIONS TO ARTICLE 72

294. The text of the draft reservation to article 72 (present article 28 of the draft covenant on economic, social and cultural rights and article 53 of the draft covenant on civil and political rights) proposed by the representative of Belgium was as follows (E/CN.4/L.348) :

"1. Any State may, at the time of signature, ratification or accession, declare that, in accepting the present Covenant, it does not assume any obligation in respect of all or any of the non-self-governing, trust or colonial territories which it administers or governs, and the present Covenant shall not apply to any territories named in such declaration.

"2. Any State may give notice to the Secretary-General of the United Nations at any time subsequently that it declares that the present Covenant shall apply to all or any of the territories which have been made the subject of a declaration under the preceding paragraph, and the present Covenant shall apply to all the territories named in such notice ninety days after its receipt by the Secretary-General of the United Nations.

"3. The Secretary-General shall communicate to all contracting States all declarations and notices received in virtue of this Article."

295. In support of the proposal it was contended that the restricted application of the covenants to the Trust and Non-Self-Governing Territories was the only condition under which some governments could sign or become parties to the covenants. The populations of a number of territories administered by certain governments had not yet reached the degree of development at which all the provisions of the covenants could be applied to them without transition. Moreover, the

principle of progressive development laid down in Article 73 of the Charter should be observed.

296. On the other hand, several members maintained that the proposal was inadmissible in view of General Assembly resolution 422 (V) which asked the Commission to include in the covenants the text of the territorial application clause contained in article 72, which the Assembly itself had drafted. The Commission therefore could not modify, or even discuss, the text of article 72. Moreover, it was argued, the proposal made the extraordinary assumption that certain human beings were in a different category from others simply because they lived in Non-Self-Governing, Trust or colonial Territories. The covenants, by definition, were intended to apply to all human beings. The submission of the draft might also give the impression that certain governments were trying to evade not only the obligations entailed in the covenants but also the provisions of the Charter which placed upon them the responsibility of promoting the development of the Non-Self-Governing and Trust Territories which they administered.

297. In reply, it was explained that the proposal was not intended to deny the exercise of human rights to the inhabitants of dependent territories, but to meet the actual problems arising for States which could not extend them to such peoples because they were inaccessible. Besides, the exclusion of the application of the covenants to certain territories need not be permanent since the draft article provided that the reserving State might subsequently extend the application of the covenant to all or any of such territories. It was also claimed that the General Assembly which had decided on the text of the territorial application clause had not excluded the possibility of permitting reservations to it.

Decisions of the Commission

298. At the 448th meeting the representatives of Chile and Uruguay introduced the following draft resolution (E/CN.4/L.355 and E/CN.4/SR.448):

"The Commission on Human Rights,

"Bearing in mind the discussions which have taken place in the Commission on the problem of the admissibility or non-admissibility of reservations and the effect to be attributed to them in the Covenants on Human Rights and Measures of Implementation,

"Requests the Economic and Social Council to transmit to the General Assembly at its ninth session the pertinent documents relating to those discussions."

299. In support of the draft resolution it was explained that the discussion had revealed the difficulties and complexities involved in the question of reservations. Since there was no clear majority supporting any particular point of view or any of the proposals before the Commission, it was appropriate that the Commission should not decide on the question but should refer the proposals and amendments to the General Assembly with the records of the discussion. Several members supported the draft resolution, pointing out that, although the discussion in the Commission had been most useful and constructive, so many legal and political implications were involved that it was only proper that the matter should be examined by all Member States taking into account the considerations advanced

in the Commission. Certain members regretted the inability of the Commission to take a decision, and, while they had no objection to the matter going to the Assembly, they thought that the Commission should not refer its difficulties to that body without some indication, by way of analysis, of its views on the problems involved. They hoped that this would be to some extent reflected in the report of the Commission.

300. There was some discussion concerning the documents to be transmitted to the General Assembly. Some members contended that the Belgian proposal should be excluded from these documents on the grounds that it did not relate to the general question of reservations, nor could it be considered as an amendment to article 72 as it was diametrically opposed to the principles consecrated in that article, which had been adopted by the General Assembly itself. Other members emphasized that the Belgian proposal was among the proposals submitted to the Commission on the question of reservations and that it had been the subject of some discussion, and that in any case the USSR amendments also affected article 72. It was, therefore, improper to exclude it, however much it may be objected to by some members. It was pointed out, however, that the Belgian proposal would in any case figure in the report of the Commission and hence there was no question of withholding it from the General Assembly. But it was felt by some members that its formal transmittal by a resolution of the Commission might give the impression that the Commission was sanctioning an attempt to destroy the territorial application clause.

301. The representative of Pakistan submitted an amendment (E/CN.4/L.356) to the second paragraph of the joint draft resolution to replace the words "the pertinent documents relating to those discussions" by the following: "the pertinent summary records of the discussion (E/CN.4/SR.441-449) and the proposal of the United Kingdom (E/CN.4/L.345 and Add.1) together with the amendments proposed by the USSR (E/CN.4/L.349) and France (E/CN.4/L.352), the joint proposal of China, Egypt, Lebanon and the Philippines (E/CN.4/L.351) as well as the amendments proposed by the USSR (E/CN.4/L.353), and the proposal of Chile and Uruguay (E/CN.4/L.354)". The representative of Belgium submitted a sub-amendment (E/CN.4/L.348) to add the following words at the end of the Pakistan amendment: "and the proposal of Belgium (E/CN.4/L.348)".

302. The Belgian amendment to the Pakistan amendment was rejected by 10 votes to 5, with 3 abstentions.

303. The Pakistan amendment was adopted by 13 votes to 4, with 1 abstention.

304. The joint draft resolution, as amended, was adopted by 14 votes to 4.

305. The resolution adopted by the Commission reads:

"I

"RESERVATIONS"

"The Commission on Human Rights,

"Bearing in mind the discussions which have taken place in the Commission on the problem of the ad-

* A draft resolution on this subject for consideration by the Economic and Social Council appears in annex IV of this report as draft resolution A.

missibility or non-admissibility of reservations and the effect to be attributed to them in the Covenants on Human Rights and Measures of Implementation,

"Requests the Economic and Social Council to transmit to the General Assembly at its ninth session the pertinent summary records of the discussion (E/CN.4/SR.441-449) and the proposal of the United Kingdom (E/CN.4/L.345 and Add.1) together with the amendments proposed by the USSR (E/CN.4/L.349) and France (E/CN.4/L.352), the joint proposal of China, Egypt, Lebanon and the Philippines (E/CN.4/L.351) as well as the amendments proposed by the USSR (E/CN.4/L.353), and the proposal of Chile and Uruguay (E/CN.4/L.354)."⁵

C. Other clauses

306. At its 450th and 451st meetings, the Commission considered articles 70 and 73 (E/2447, annex I, section E) drafted at its sixth session concerning signature ratification and coming into force of covenants and the procedure for their amendment.

ARTICLE 70

(Present article 26 of the draft covenant on economic, social and cultural rights and article 51 of the draft covenant on civil and political rights)

307. The original text of article 70 was as follows:

"1. This Covenant shall be open for signature and ratification or accession on behalf of any State Member of the United Nations or of any non-member State to which an invitation has been extended by the General Assembly.

"2. Ratification of or accession to this Covenant shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as twenty States have deposited such instrument, the Covenant shall come into force among them. As regards any State which ratifies or accedes thereafter the Covenant shall come into force on the date of the deposit of its instrument of ratification or accession.

"3. The Secretary-General of the United Nations shall inform all Members of the United Nations, and other States which have signed or acceded, of the deposit of each instrument of ratification or accession."

308. The representative of the United Kingdom of Great Britain and Northern Ireland had proposed the following amendment (E/CN.4/L.347):

"1. Any State Member of the United Nations or any State so invited by the General Assembly of the United Nations may become a party to this Covenant by:

"(a) Signature followed by acceptance;

"(b) Acceptance.

"2. Acceptance shall be effected by the deposit of a formal instrument with the Secretary-General.

"3. This Covenant shall bear the date of its approval by the General Assembly. It shall enter into force as soon as twenty instruments of acceptance have been deposited, either without reservation or

with reservation accepted in accordance with article , provided that it shall in no circumstances enter into force until a period of two years following such date of approval has elapsed.

"4. Instruments of acceptance deposited after the date of the entry into force of this Covenant shall take effect on the date of their deposit, or, if accompanied by a reservation, on the date of the acceptance of that reservation in accordance with article .

"5. If within a period of four years following the date of approval of this Covenant of the General Assembly the Covenant has not entered into force, the Secretary-General shall compile a full report for transmission to the General Assembly."

309. There was also an amendment by the representative of India (E/2447, annex II, section C) to omit the words "among them" in the first sentence of the second paragraph of the article.

310. Neither the amendment of the United Kingdom of Great Britain and Northern Ireland nor the amendment of India was pressed for consideration or the vote since it was felt that they contained provisions which depended on the prior examination of the question of the admissibility or non-admissibility of reservations to the covenant. It was understood that these amendments would be forwarded to the General Assembly (see annex II, section B).

311. Most members of the Commission felt that the Commission could adopt the existing article purely on the technical ground that it covered matters which were basic in connexion with the formulation of any international treaty and without prejudice to the possibility of changes resulting from any decision to include in the covenants provisions relating to reservations. However, two matters were raised in connexion with the article. One related to the possibility of providing in the article for the final adoption of the covenant and opening it for signature by a diplomatic conference of Member and non-Member States of the United Nations. The other related to the number of ratifications required for the coming into effect of the draft covenants. It was claimed that the covenants could not be compared to other international instruments, to the international labour conventions, for example, or to some of the conventions drawn up by the United Nations in connexion with particular rights; the covenants were of unique significance and were closely linked with the Charter and the Universal Declaration of Human Rights. Consequently their entry into force required an exceptionally large number of ratifications and accessions. It was pointed out that France had proposed at one time that the number of ratifications necessary for the entry into force of the covenants should be raised to two-thirds of the Member States, which must include three of the permanent members of the Security Council; France did not intend to reintroduce that proposal, but it felt that ratification by at least one-half of the Member States should be required. However, it was said that the question which concerned all States, both Members and non-Members, could more appropriately be dealt with in the General Assembly.

Decisions of the Commission

312. Paragraph 1 of the original text was adopted by 17 votes to none, with one abstention.

⁵ See annex II, section A.

313. Paragraph 2 of the original text was adopted by 15 votes to none, with 3 abstentions.

314. Paragraph 3 of the original text was adopted by 17 votes, with 1 abstention.

315. The original text of the article as a whole was adopted by 15 votes to none, with 3 abstentions (see paragraph 307 above).

ARTICLE 73

(Present article 29 of the draft covenant on economic, social and cultural rights and article 54 of the draft covenant on civil and political rights)

316. The original text of the article was as follows:

"1. Any State Party to the Covenant may propose an amendment and file it with the Secretary-General. The Secretary-General shall thereupon communicate the proposed amendments to the States Parties to the Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one-third of the States favours such a conference the Secretary-General shall convene the conference under the auspices of United Nations. Any amendment adopted by a majority of States present and voting at the conference shall be submitted to the General Assembly for approval.

"2. Such amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the Covenant in accordance with their respective constitutional processes.

"3. When such amendments come into force they shall be binding on those Parties which have accepted them, other Parties being still bound by the provisions of the Covenant and any earlier amendment which they have accepted."

317. An amendment of the representative of India proposed the deletion of the third paragraph (E/2447, annex II, section C). In support of the amendment it was pointed out (E/CN.4/SR.450 and 451) that the article already subjected the consideration and adoption of an amendment to a lengthy procedure, and any

amendment had to be approved by the General Assembly as well as two-thirds of the States Parties. Under those circumstances an amendment should become binding on all States Parties who should not be left free to decide in each case whether to accept or not to accept the amendment.

318. The proposed amendment was considered by certain members as providing for an unusual procedure and it was opposed on the grounds that it would mean that States which adhered to the covenant would be signing a blank cheque in advance to accept unknown amendments, that it would infringe the sovereignty of States, and that the adoption of such a procedure would discourage many a State from ratifying the covenant. The fact that a majority of the Members of the General Assembly and two-thirds of the States parties to the covenants would be allowed to impose their will on those State Parties who were not in favour of certain amendments to the covenants was considered particularly objectionable. On the other hand, it was held that the amendment was not in any sense novel, since it would not make the rule of the majority prevail to a larger extent in the case of amendments to the covenants than was already provided in the case of amendments to the United Nations Charter. It was doubted whether an amendment liable to prejudice the interests of signatory States would succeed in passing through the three successive stages of examination which were contemplated in the article. Moreover, international co-operation necessarily implied partial renunciation of national sovereignty and that, in fact, the extent to which States had renounced that sovereignty might be said to be a measure of the progress made in the field of international co-operation.

319. After the exchange of views, the representative of India withdrew his amendment.

Decisions of the Commission

320. Paragraphs one and two of the original text were adopted unanimously, and paragraph 3 was adopted by 14 votes to none, with 3 abstentions.

321. The original text of the article as a whole was adopted by 14 votes to none, with 3 abstentions (see paragraph 316 above).

IV. RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT FOR THE RIGHT OF PEOPLES AND NATIONS TO SELF-DETERMINATION

322. The General Assembly, in resolution 637 C (VII) of 16 December 1952, had requested the Commission: (a) to continue preparing recommendations concerning international respect for the right of peoples to self-determination, and particularly recommendations relating to the steps which might be taken, within the limits of their resources and competence, by the various organs of the United Nations and the specialized agencies to develop international respect for the right of peoples to self-determination; and (b) to submit its recommendations through the Economic and Social Council to the General Assembly. This resolution was transmitted to the ninth session of the Commission by the Economic and Social Council by resolution 472 (XV) of 1 April 1953. The Commission, however, was unable to consider the question at that session. At its eighth session the General As-

sembly, by resolution 738 (VIII) of 28 November 1953, requested the Commission to give due priority at its tenth session to the preparation of recommendations concerning international respect for the rights of peoples and nations to self-determination. This resolution was transmitted to the Commission by resolution 510 (XVI) of 7 December 1953 of the Economic and Social Council.

323. The Commission considered the question at its 474th to 476th meetings. The Commission had before it a joint draft resolution proposed by the representatives of Chile, China, Egypt, India, Pakistan and the Philippines (E/CN.4/L.381) and a statement of its financial implications prepared by the Secretary-General (E/CN.4/L.381/Add.1, and see annex VI). Under the joint draft resolution it was proposed that the Commission should recommend to the Economic

and Social Council the transmission of two draft resolutions to the General Assembly for consideration and adoption. It was further proposed that the Commission should decide that the item on self-determination be retained on the agenda of its next session.

324. The first of the draft resolutions for transmittal to the General Assembly contained a proposal for the establishment by the General Assembly of a commission to conduct a full survey of the status of the right of peoples and nations to permanent sovereignty over their natural wealth and resources, and to make recommendations, where necessary, for the strengthening of that right. The regional economic commissions of the Economic and Social Council and the specialized agencies were to co-operate with the Commission in its task. The Commission was to report to the twentieth session of the Economic and Social Council.

325. The second draft resolution for transmission to the General Assembly proposed the establishment by the General Assembly of a commission consisting of representatives of governments. Its terms of reference would be: (1) to examine any situation resulting from alleged denial or inadequate realization of the right of self-determination, which fell within the scope of Article 14 of the Charter and to which the Commission's attention was drawn by any ten Members of the United Nations; (2) to provide its good offices for the peaceful rectification of any situation it was required to examine; (3) to report the facts with appropriate recommendations to the General Assembly, if within six months no adjustment of the situation could be effected to the satisfaction of the parties concerned.

326. Statements were made concerning the joint draft resolution as a whole. Several members emphasized that the right of peoples and nations to self-determination was a basic and fundamental right enshrined in the Charter. It was stated that many of the rights defined in the draft covenants could not be fully attained unless the right of peoples to self-determination were recognized and guaranteed. It was not sufficient to proclaim the right but ways and means should be found to ensure the realization of the right. It was recalled that in resolution 637 A and B (VII) the General Assembly had adopted certain recommendations to promote international respect for the right. The General Assembly, however, felt that the steps it had taken were not sufficient, and called for the preparation of further recommendations. The Commission would fail in its duty if it did not formulate at its present session some recommendations at least for transmittal to the General Assembly. It was explained that the recommendations embodied in the joint draft resolution were not exhaustive and that the subject required further study, and that consequently the Commission should keep the question on the agenda of its next session.

327. On the other hand certain members while attaching great importance to the principle of self-determination felt that the time available to the Commission for the consideration of the joint proposal was too short to permit a thorough and careful study of the complex and difficult problems which it involved. Appreciation was expressed of the fact that the proposed recommendations were not directed at particular groups of States but were universal in character. But it was pointed out that the proposal was a complicated one and the implications of some of its provisions,

especially concerning the texts already embodied in the covenants, had to be carefully considered. The Commission had to consider, for example, the relationship of the machinery envisaged in the joint proposal to the various organs of the United Nations in order to preserve the balance established in the Charter.

328. While self-determination was a principle to which all subscribed, it was pointed out that there were difficulties concerning its application. Some members thought that the problem of first importance was to determine the precise meaning of the right of peoples to self-determination. The view was expressed that self-determination was not an absolute right. It was a political principle which had to be considered along with other political principles affirmed in the Charter. It had, for example, to be exercised in a manner compatible with the maintenance of international peace and security. Some members recalled that the principle of self-determination was applicable not only to dependent territories but also to countries which had already attained independence but had lost or were in danger of losing their independence. It was pointed out that there were different ways of attaining self-determination: the form was less important than the freedom of each nation to choose its status and its form of government. Some members hold the view that self-determination must be achieved through a process of peaceful evolution. A time limit, however, was desirable so that the process would not be utilized as a subterfuge for unduly delaying the realization of the right, and some transitional measures should be worked out such as increasing the participation of indigenous populations in legislative and administrative organs in order to train them for eventual independence or self-government.

329. Certain members, on the other hand, deplored the approach which called for precise definition of the meaning of the right of peoples to self-determination. The meaning of the term, it was argued, was well understood. Reference was made to article 1, paragraph 1, of the draft covenant which stated that all peoples shall have the right of self-determination, namely, the right freely to determine their political, economic, social and cultural status. With respect to the contention that the exercise of the right might threaten international peace and security it was pointed out that the Charter regarded the right of self-determination as the basis of peace and of friendly relations among nations. The denial of the right of peoples to self-determination was more likely to endanger international peace than its recognition. Some members held that the problems raised in the proposals before the Commission were not as difficult as had been claimed and that the Commission could take a decision on the proposals. The subject of self-determination was familiar to a number of members on the basis of the experience which their countries had in exercising the right of self-determination. Moreover, it was pointed out that the question of self-determination had already been considered at previous sessions of the General Assembly, the Economic and Social Council and the Commission.

330. With respect to the recommendation concerning the establishment of a commission to study the status of the right of peoples to permanent sovereignty over their natural resources, it was explained that the purpose was to secure necessary information regarding the actual extent and character of the right. The study could not be entrusted to the regional economic

commissions since the activities of such commissions did not extend to all areas of the world. The specialized agencies on the other hand might hesitate to undertake the task because of its political implications. It was therefore thought desirable that a commission be set up by the General Assembly to undertake the study with the assistance of regional economic commissions and the specialized agencies. The task of the commission to be established would not be limited however to gathering information. It would make a study and appraisal of the information gathered with a view to making recommendations for strengthening the right of peoples to permanent sovereignty over their natural resources. Certain members, however, criticized the proposal as premature since it was based on the covenants which had not yet been adopted. Moreover, the proposal was considered illogical since it envisaged the creation of a commission to study only the economic rights of peoples, but not their political rights. It was also pointed out that the proposal was not clear about the aim and method of the study to be undertaken by the proposed commission.

331. With regard to the proposal that a good offices commission be established by the General Assembly, it was pointed out that where the right of peoples to self-determination was denied or not adequately realized friendly relations among nations would likely be impaired. It was thought essential therefore that some machinery should be established to adjust such situations in a peaceful manner. The draft covenant on civil and political rights, it was argued, envisaged a similar machinery. There were some differences however between the two procedures in that under the system envisaged in the draft covenant final recourse was to the International Court of Justice while under the joint proposal the dispute if not settled within a certain period of time was to be referred to the General Assembly. Moreover the powers of the commission which would be set up under the joint proposal would include the carrying out of investigations and the making of recommendations, whereas the Human Rights Committee's activities were to be limited to ascertaining the facts and drawing conclusions. The proposed commission was to be set up by the General Assembly and would be composed of representatives of governments, thus obviating the objection raised against the Human Rights Committee to the effect that the Committee, being composed of experts chosen by the International Court of Justice, possessed neither the qualifications nor the means to deal with disputes arising out of the right of self-determination.

332. Some members doubted the constitutionality of the machinery proposed under the draft resolution. It was felt that the commission would resemble a Security Council in miniature. At least it could not be established without the Security Council being consulted. Moreover it was contended that the Charter had deliberately left certain political matters within the sphere of action of particular States and not within the scope of the authority of the United Nations. The proposal if adopted would make it possible for any ten States Members to complain about the conduct of a State Member in a matter essentially within its domestic jurisdiction and place the matter before the commission. The view was expressed that the proposal instead of promoting peace and friendly relations among nations would give rise to conflicts. The complaining States were not required to prove anything, but it was sufficient for them to allege the viola-

tion of the right of self-determination in order to bring the machinery into operation. The proponents of the draft resolution, on the other hand, maintained that the purpose was to set up a machinery for the implementation of Article 14 of the Charter, for the establishment of which there was express authority under Article 7, paragraph 2, of the Charter; hence it could not be alleged that the proposal was contrary to the Charter. There was no intention to by-pass the Security Council. The proposed commission would try to seek the peaceful adjustment of situations arising out of alleged violations of the right of self-determination which would likely impair the general welfare and friendly relations among nations, whereas the Security Council would deal only with disputes or situations likely to endanger international peace and security. As to the contention that the establishment of the Commission would constitute an invitation to any ten Members of the United Nations to file complaints concerning alleged denial of the right of self-determination, it was pointed out that while under the procedure envisaged in the draft covenant on civil and political rights a single State may file such a complaint, under the joint proposal at least ten Member States or one-sixth of the entire membership of the United Nations would have to initiate action. Certain members, however, affirmed that the principle of article 48 of the draft covenant on civil and political rights upon which the proposal was modelled was wholly unacceptable to them.

Decisions of the Commission

333. The Commission first voted on draft resolutions I and II annexed to the joint draft resolution proposed by the representatives of Chile, China, Egypt, India, Pakistan and the Philippines (E/CN.4/L.381). Draft resolution I was adopted in a roll call vote by 11 votes to 6. Draft resolution II was also adopted in a roll call vote by 11 votes to 6. The vote on each of the two draft resolutions was as follows:

In favour: Chile, China, Egypt, Greece, India, Pakistan, Philippines, Poland, Ukrainian SSR, USSR and Uruguay;

Against: Australia, Belgium, France, Turkey, United Kingdom of Great Britain and Northern Ireland and the United States of America.

334. The draft resolution as a whole was adopted by 11 votes to 6.

335. The resolution adopted by the Commission reads:

"II

"RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT FOR THE RIGHT OF PEOPLES AND NATIONS TO SELF-DETERMINATION"⁶

"The Commission on Human Rights,

"Having considered resolution 738 (VIII) of the General Assembly on the right of peoples and nations to self-determination,

"Recommends to the Economic and Social Council that it transmit to the General Assembly the draft resolutions annexed for consideration and adoption;

⁶ A draft resolution on this subject for consideration by the Economic and Social Council appears in annex IV of this report as draft resolution F.

"Conscious, however, that these recommendations are not exhaustive and that the subject requires further study,

"Decides that this item should be retained on the agenda of the next session of the Commission.

"I. *The General Assembly,*

"Noting that the right of peoples and nations to self-determination as affirmed in the two draft covenants completed by the Human Rights Commission includes 'permanent sovereignty over their natural wealth and resources',

"Believing it necessary to have full information at its disposal regarding the actual extent and character of this sovereignty,

"Decides to establish a Commission consisting of _____ to conduct a full survey of the status of this basic constituent of the right to self-determination with recommendations, where necessary, for its strengthening;

"Invites the regional economic commission and the specialized agencies to co-operate with the Commission in its task;

"Requests the Commission to report to the twentieth session of the Economic and Social Council;

"Requests the Secretary-General to provide the Commission with necessary staff and facilities."

"II. *The General Assembly,*

"Recalling that it is among the purposes and principles of the United Nations to develop friendly relations based on respect for the principle of equal rights and self-determination of peoples,

"Recalling further that under Article 14, the Gen-

eral Assembly may recommend measures for the peaceful adjustment of any situation regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations,

"Considering that inadequate realization of the right to self-determination not only undermines the basis of these friendly relations as defined in the Charter but also creates conditions which may prevent further realization of the right itself,

"Believing that such a situation is contrary to the purposes and principles of the United Nations and that its peaceful rectification is therefore a matter of immediate concern,

"Decides to establish a Commission consisting of _____ with the following terms of reference:

"(1) The Commission shall examine any situation resulting from alleged denial or inadequate realization of the right of self-determination, which falls within the scope of Article 14 of the Charter and to which the Commission's attention is drawn by any ten Members of the United Nations;

"(2) The Commission shall provide its good offices for the peaceful rectification of any situation it is required to examine;

"(3) If within six months no adjustment of the situation can be effected to the satisfaction of the parties concerned the Commission shall report the facts with appropriate recommendations to the General Assembly;

"Requests the Secretary-General to provide the Commission with the necessary staff and facilities."

V. DEVELOPMENT OF THE WORK OF THE UNITED NATIONS FOR WIDER OBSERVANCE OF, AND RESPECT FOR, HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS THROUGHOUT THE WORLD

336. At the ninth session of the Commission the representative of the United States of America submitted three draft resolutions relating respectively to annual reports on human rights, studies on specific aspects of human rights and advisory services (E/2447, paragraphs 263-272). After a brief discussion, which was mainly on the proposal concerning annual reports, the Commission decided to transmit the draft resolutions together with amendments thereto and the records of the discussion in the Commission to the Economic and Social Council, with a request that these documents be transmitted to Member States and to specialized agencies for their comments. The Council by resolution 501 C (XVI) decided to transmit the documents to Member States and specialized agencies with a request for their comments, if possible by 1 October 1953.

337. At its eighth session on 28 November 1953, the General Assembly adopted resolution 739 (VIII) by which it requested the Economic and Social Council to ask the Commission (a) to consider at its tenth session the three draft resolutions of the United States of America, and "to prepare, if possible, to supplement the provisions of the Covenants on Human Rights, recommendations thereon, in order that these recommendations may be considered by the Economic and Social Council at its eighteenth session", and (b) to take account of the comments made by the Member

States and specialized agencies and of the views expressed on the subject at the eighth session of the General Assembly (A/C.3/SR.503-511 and 525-527). By resolution 510 (XVI) of 7 December 1953, the Council transmitted the resolution of the Assembly to the Commission.

338. Pursuant to resolution 501 C (XVI) of the Council, comments were received from the Governments of Afghanistan, Belgium, Burma, Byelorussian SSR, Chile, Denmark, France, Pakistan, Philippines, Sweden, Ukrainian SSR, United Kingdom of Great Britain and Northern Ireland, and the United States of America (E/CN.4/690 and Add.1-12), and from two specialized agencies, namely, the International Labour Organisation and UNESCO (E/CN.4/691 and Add.1). The Government of Luxembourg and the World Health Organization indicated that they had no comments to make.

339. At the 476th meeting of the Commission the representative of the United States of America presented the three draft resolutions in revised form (E/CN.4/L.266/Rev.3, L.267/Rev.2 and L.268/Rev.1). The United States representative regretted that because of the time consumed by the Commission in completing other items on its agenda the Commission had no time to discuss the United States proposals in detail. The draft resolutions had been revised in the light of numerous constructive suggestions. Certain

delegations had stated that they preferred to submit amendments when the resolutions were discussed in detail. The United States representative felt that the essence of the programme contained in the proposals was already under way. Reports of a somewhat different character were already published in the *Yearbook on Human Rights*. Studies, such as those projected by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, were in process. Some of these, in the opinion of her delegation, were too ambitious, but others in the field of political and religious rights deserved special attention. Certain projects in the field of technical assistance, particularly those concerning the status of women and discrimination and minorities, had been authorized by the General Assembly at its eighth session. In fact, great strides had been taken along the lines suggested by the United States resolutions since they had been introduced at the Commission's ninth session. At its present session, the Commission had inevitably concentrated on implementing its work on the covenants, giving consideration to the report of the Sub-Commission on prevention of Discrimination and Protection of Minorities, and acting on the item on self-determination. It was to be hoped that at the Commission's next session, now that the Commission had completed its work on the draft covenant, there would be ample time to give full consideration to the United States proposals as well as other items on the Commission's agenda.

340. The revised resolutions, said the United States representative, combined the best features of many proposals for action in the field of human rights and incorporated many suggestions of governments, specialized agencies and non-governmental organizations. They outlined a programme which would be subject to continuing improvement and development and, when adopted, would enable the Commission to move forward in a manner originally intended for the promotion of human rights and fundamental freedoms.

Biennial reports
(E/CN.4/L.266/Rev.3)

341. The draft resolution was as follows:

The Commission on Human Rights

Recommends that the Economic and Social Council request the General Assembly to adopt the following resolution:

"The General Assembly,

"1. *Considering* that by Articles 55 and 56 of the Charter the Members of the United Nations have pledged to take joint and separate action to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

"2. *Considering* that the Universal Declaration of Human Rights sets forth the goals toward which all Members of the United Nations should strive, both by their own efforts and through international co-operation, in the promotion of human rights and that the Declaration has inspired governments and peoples in the writing of their constitutions and laws and in the preparation of international conventions for the protection of human rights,

"3. *Desiring* to advance as rapidly as possible respect for, and observance of human rights and fundamental freedoms and to stimulate Member governments to press forward toward attaining the goals set forth in the Universal Declaration of Human Rights,

"4. *Desiring* to obtain from each Member of the United Nations information on developments and progress achieved in the field of human rights and measures taken to safeguard human liberty in its metropolitan area and non-self-governing territories,

"5. *Bearing in mind* the special responsibilities of other organs of the United Nations and of the specialized agencies in the promotion of human rights and the facilities the latter may have for obtaining necessary information from their Members,

"(1) *Recommends:*

"(a) That each Member transmit biennially to the Secretary-General a report on developments and progress achieved in the field of human rights and measures taken to safeguard human liberty in its metropolitan area and non-self-governing territories, such report to make reference to any relevant portions of reports already submitted to another organ of the United Nations or to a specialized agency;

"(b) That in respect of rights coming within the purview of the specialized agencies, the latter transmit biennially to the Secretary-General a report on a topical basis summarizing the information contained in the reports which they receive from their Members, together with an analysis of this information;

"(c) That these reports from Members and the specialized agencies be submitted in such manner as is recommended by the Commission on Human Rights with the approval of the Economic and Social Council; and

"(d) That these reports deal in particular with the right or group of rights currently selected for study by the Commission on Human Rights;

"(2) *Calls the attention* of each Member government to the advisability of setting up an advisory body, composed of experienced and competent persons, to assist their government in the preparation of its biennial report;

"(3) *Requests* the Secretary-General to prepare a brief summary and analysis of the biennial reports upon a topical basis;

"(4) *Recommends* that the Economic and Social Council request the Commission on Human Rights (a) to consider these biennial reports, the Secretary-General's summary and analysis and the reports of the specialized agencies at the same time that it considers the specific subject or group of subjects currently selected for study in accordance with procedures to be established by the Commission with the approval of the Economic and Social Council, and (b) to transmit to the Economic and Social Council such comments and conclusions on the reports and the subject or subjects under study as it deems appropriate;

"(5) *Recommends* that the Economic and Social Council make suitable arrangements with the specialized agencies to co-operate in the full realization of the aims defined in this resolution and to avoid duplication of effort; and

"(6) *Recommends* that the Economic and Social Council report as appropriate to the General Assembly on the information received from

Members and the specialized agencies pursuant to this resolution and the comments and conclusions of the Commission on Human Rights concerning this information and the studies of specific aspects of human rights undertaken by the Commission."

342. In the preamble, paragraph 2, "international covenants" had been changed to "international conventions" to denote a broader and more inclusive term. Changes in paragraph 4 of the preamble were intended to emphasize the importance of reporting on "progress" achieved in the field of human rights and also to stress that reports should refer to non-self-governing territories as well as to the metropolitan area of States.

343. In operative paragraph 1 (a), in response to many suggestions, reports were called for "biennially" instead of annually. Changes in the same paragraph repeated the emphasis in the preamble on "progress" in human rights and also on the importance of reporting on non-self-governing territories as well as on the metropolitan area of States.

344. In operative paragraph 1 (b) it was specified that the reports from the specialized agencies should be prepared on a "topical basis" and that an "analysis" of information rather than mere comments should be made.

345. A new operative paragraph 1 (a) suggested that procedures for the submission of reports would have to be worked out by the Commission on Human Rights with the approval of the Economic and Social Council.

346. Changes introduced into operative paragraph 4 were aimed at tying together the various types of material to be considered by the Commission on Human Rights: biennial reports, the Secretary-General's summary and analysis and reports of the specialized agencies and also linking these to the specific subject or group of subjects currently selected for study under the terms of the resolution contained in E/CN.4/L.268/Rev.1.

347. Operative paragraph 6 was new and was added in response to suggestions that both the General Assembly and Economic and Social Council should be kept informed of the results of the project.

Studies of specific aspects of human rights
(E/CN.4/L.268/Rev.1)

348. The draft resolution was as follows:

The Commission on Human Rights,

Recommends that the Economic and Social Council request the General Assembly to adopt the following resolution:

"The General Assembly,

"Desiring to strengthen the work of the United Nations for wider observance of, and respect for, human rights and fundamental freedoms on a world-wide basis,

"Desiring to have the Commission on Human Rights give special attention in future sessions to studies of specific aspects of human rights,

"Bearing in mind the special responsibilities of the specialized agencies as regards certain human rights,

"1. *Recommends* that the Economic and Social Council request the Commission on Human Rights

"(a) To initiate a series of studies of specific aspects of human rights on a world-wide basis and stress in these studies general developments, progress achieved and measures taken to safeguard human liberty; and

"(b) Subject to the approval of the Economic and Social Council, to select specific subjects for study, provided that no subject shall be selected which is under study by another organ of the United Nations or by the specialized agencies;

"2. *Requests* the Secretary-General to appoint as an expert adviser for each subject selected by the Commission for study, a person of high standing and of recognized competence in the particular subject, who shall:

(a) Prepare the study of the subject in his own name and under his own responsibility, utilizing published material and written statements necessary for the study, with such assistance from the Secretariat as he may require; and

(b) Assist the Commission in its consideration of the study;

"3. *Authorizes* the expert advisers, in the preparation of their studies, to have access to the following sources of information:

"(a) Information transmitted to the United Nations by Member States;

"(b) Other information made available to the United Nations, especially by the specialized agencies and non-governmental organizations having consultative status with the Economic and Social Council;

"4. *Recommends* that the Economic and Social Council:

"(a) Make suitable arrangements with the specialized agencies to co-operate in carrying out this resolution and to avoid duplication of effort; and

"(b) Arrange for the expert advisers to have access to the same information provided the Commission on Human Rights with respect to communications concerning human rights under Economic and Social Council resolution 75 (V), as amended."

349. A redraft of operative paragraph 1 made the Economic and Social Council responsible for the decision to request the Commission on Human Rights to initiate a series of studies. The same idea was emphasized in paragraph 1 (b) where the approval of the Council was required in the selection of specific subjects for study.

350. In operative paragraph 1 (b), the addition of the phrase "and stress in these studies general developments, progress achieved and measures taken to safeguard human liberty" linked together the proposal for biennial reports and the proposal for specific studies and once more emphasized the importance of noting progress achieved.

351. Operative paragraph 3 was a simplification of the original text while operative paragraph 4 specified that the expert advisers should have the same privileges in the matter of access to communications as was at present enjoyed by the Commission under Economic and Social Council resolution 75 (V) as amended.

352. The draft resolution was as follows:

The Commission on Human Rights,

Recommends that the Economic and Social Council request the General Assembly to adopt the following resolutions:

The General Assembly,

Considering that by Articles 55 and 56 of the United Nations Charter the Members of the United Nations have pledged themselves to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion,

Recognizing that technical assistance, by the international interchange of technical knowledge through international co-operation among countries, represents one of the means by which it is possible to promote the human rights objectives of the United Nations Charter and the Universal Declaration of Human Rights,

Taking note of resolution 633 (VII) of the General Assembly which requests the Secretary-General to elaborate a programme of action for the development of domestic information in under-developed countries,

Taking note of resolution 729 (VIII) of the General Assembly approving the decision of the Economic and Social Council authorizing the Secretary-General to render, at the request of Member States, services which do not fall within the scope of existing technical assistance programmes, in order to assist these States in promoting and safeguarding the rights of women,

Taking note of resolution 730 (VIII) of the General Assembly authorizing the Secretary-General to render, at the request of any State Member of the United Nations, technical advice and other services which do not fall within the scope of existing technical assistance programmes, in order to assist the government of that State within its territory in the eradication of discrimination or in the protection of minorities or both,

Taking account of the arrangements previously established by the General Assembly concerning the regular technical assistance programme and the advisory services of the United Nations (resolutions 200 (III), 248 (III), 305 (IV), 418 (V) and 518 (VI)),

Considering that the specialized agencies, within their competence and by virtue of their regular programmes of technical assistance, are already rendering important services to their Members with a view to ensuring the effective observance of human rights,

A. Authorizes the Secretary-General,

1. Subject to the directions of the Economic and Social Council, to make provision for the following services, with the co-operation of the specialized agencies where appropriate and without duplication of their existing services, and in consultation with non-governmental organizations having consultative status, with respect to the subjects listed in paragraph E below:

(a) To appoint experts to provide advisory services at the request of governments which show the need for them;

(b) To enable suitably qualified persons to observe, and familiarize themselves with, the experience and practice of other countries;

(c) To enable suitably qualified persons who cannot receive professional training in their country to receive appropriate training in foreign countries having the necessary facilities for such training; and

(d) To plan and conduct seminars; and

2. To include in his budgetary estimates of the United Nations the sums necessary for carrying out an effective operational programme based on the provision of the above services;

B. Requests the Secretary-General to undertake the performance of the services as provided in A.1 above, in agreement with the governments concerned, on the basis of requests received from governments and in accordance with the following policies:

1. The kind of service to be rendered to each country under A.1 (a) shall be requested by the government concerned;

2. The selection of the persons under A.1 (b) and (c) shall be made by the Secretary-General on the basis of proposals received from governments, which shall indicate their preferences with regard to host countries, and those persons shall be acceptable to the host countries; and

3. The amount of services and the conditions under which they are to be rendered shall be decided by the Secretary-General with due regard to the greater needs of the under-developed areas and in conformity with the principle that each requesting government shall be expected to assume responsibility, as far as possible, for all or a considerable part of the expenses connected with the services furnished to it, either by making a contribution in cash, or in the form of services for the purposes of the programme being carried out;

C. Requests the Secretary-General to report regularly to the Commission on Human Rights and as appropriate to the Commission on the Status of Women on the measures which he takes in compliance with the terms of this resolution, and to request these Commissions to formulate recommendations from time to time concerning the continued action required to carry on these services;

D. Recommends that the specialized agencies continue to develop their technical assistance services with a view to aiding Members to further the effective observance of human rights;

E. Selects the following as subjects to which the above services would be applicable:

(a) Improvement of procedures under criminal and civil law;

(b) Increased participation in national and community civic affairs;

(c) Promoting and safeguarding the rights of women;

(d) Abolishing slavery and institutions and practices akin thereto;

(e) Prevention of discrimination and the protection of minorities; and

(f) Establishment of non-governmental and governmental bodies for the protection of basic human rights;

F. Invites the specialized agencies to communicate to the Economic and Social Council, for transmission to the Commission on Human Rights, any observations which they may find appropriate on

the above services and on any new measures of assistance which they may deem necessary with a view to assisting Members in furthering the effective observance of human rights; and

"G. Urges international and national non-governmental organizations, universities, philanthropic foundations and other private groups to supplement this United Nations programme with similar programmes designed to further research and studies, the exchange of information and assistance in the field of human rights."

353. Paragraphs 4 and 5 of the Preamble were new and took into account the discussion in the General Assembly at its eighth session.

354. Operative paragraph E simplified and revised suggestions for subjects in which technical services would be applicable. The previous reference to technical assistance relating to "the establishment and improvement of techniques of mass information media including such facilities as news agencies" had been deleted since such technical assistance was currently under discussion in the Council.

355. The representative of the United States stated that while she would welcome any comments on the revised proposals in the limited time remaining, she would be content if they received full consideration at the next session of the Commission and were included in the report of the current session.

356. The representative of Uruguay inquired of the Chairman whether it was to be assumed that the revised United States proposals would have a place on the agenda of the eleventh session of the Commission. He welcomed the statement of the United States representative that a full consideration of the proposal should be deferred until the next session. His delegation had always considered that the completion of the covenants had urgent priority on the Commission's programme. The United States proposals should not be considered as a substitute for or in contradiction of the covenants but rather as complementary to them, and had particular significance for those States which would not become parties to the covenants. If the United States proposals were considered after and not before the covenants were transmitted to the General Assembly, their complementary character would be established.

357. The Chairman, replying to the question of the representative of Uruguay, gave assurances that the United States proposals would be on the agenda of the Commission's eleventh session.

VI. MEMBERSHIP OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND THE PROTECTION OF MINORITIES

363. At its ninth session the Commission elected twelve persons as members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/2447, paragraphs 223 to 225), subject to the consent of their governments. The Secretary-General was advised by *note verbale* dated 17 July 1953 (E/CN.4/699) that the Government of India regret their inability to approve the selection of Mr. M. R. Masani. In a letter dated 31 March 1954 (E/CN.4/699/Add.1), Mrs. Oswald B. Lord, a member of the Sub-Commission, submitted her resignation owing to the pressure of other work. As a consequence there

358. The representative of the Union of Soviet Socialist Republics considered that the formal position had been established that the United States resolutions were not now before the Commission for substantive discussion. Consequently, he had limited himself to a brief statement on the fact that he did not agree with the United States representative's contention that certain decisions on human rights adopted in the United Nations were seemingly in conformity with the trend indicated in the above-mentioned United States draft resolutions. He also wished to maintain his appraisal of the resolutions submitted at the Commission's ninth session according to which the draft resolutions were designed to divert the Commission and the United Nations from their task, especially from their main task of completing the covenants and, in a number of instances, the draft resolutions were in conflict with the provisions of the Charter, in particular with Article 2, paragraph 7.

359. The representative of Greece regretted that there had been no time to discuss the United States proposals but suggested that the Secretary-General might be requested to distribute them to governments of Member States and request comments which would provide a more satisfactory basis for consideration at the eleventh session. Other representatives, however, pointed out that the original proposals had already been distributed and comments had been received, that the new revisions did not introduce any significant substantive changes, and that in any case governments would all receive the revised texts in the course of normal distribution. The representative of Greece, therefore, did not press his suggestion in a formal resolution and it was agreed that the United States proposals would be included in the Commission's report.

360. The United States representative stated that her Government would be glad to communicate the three draft resolutions with an explanation of the changes in the text to Members of the United Nations.

361. The representative of France requested that the study of the French proposal concerning periodic reports submitted previously, which was listed under item 6 of the agenda of the tenth session, should be carried over to the next session together with that of the United States proposals.

362. The representative of France also stressed the great services rendered by the *Yearbook on Human Rights*, which was an excellent example of international co-operation.

were two vacancies in the membership of the Sub-Commission.

364. The Commission at its tenth session requested (E/CN.4/SR.452 and 458) the members of the Commission to submit their nominations of candidates for election to the two vacancies. Two nominations were received (E/CN.4/704). At its 469th meeting the Commission elected Mr. Philip Halpern (United States of America) and Mr. Arcot Krishnaswami (India) as members of the Sub-Commission, subject to the consent of their governments.

VII. REPORT OF THE SIXTH SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

365. By resolution 502 H (XVI) of 3 August 1953, the Economic and Social Council requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its sixth session:

“(a) To undertake further consideration, in the light of the discussions in the Commission on Human Rights and in the Council, of the general work programme developed by the Sub-Commission at its fifth session and amended and approved by the Commission on Human Rights at its ninth session;

“(b) To consider, as regards proposed studies of discrimination, which of the studies should be undertaken by specialized agencies or other bodies concerned and which directly by the Sub-Commission in collaboration with the Secretary-General;

“(c) To formulate specific proposals, including procedures to be followed, for the carrying out of studies of discrimination, indicating which studies should be undertaken immediately;

“(d) To continue its work regarding the protection of minorities rights; and

“(e) To report the above matters to the tenth session of the Commission on Human Rights.”

366. The report of the sixth session of the Sub-Commission (E/CN.4/703) constituted item 9 of the Commission's agenda. In this report, the Sub-Commission submitted a number of recommendations to the Commission for consideration and adoption.

367. The Commission discussed item 9 in its 452nd, and 453rd to 474th meetings.

A. Procedure followed

368. The Sub-Commission had adopted resolutions on:

Appreciation of the work of the Special Rapporteur (E/CN.4/703, resolution A);

Study of discrimination in education (E/CN.4/703, resolutions B and G (par. 1) and annex I, draft resolution A);

Study of discrimination in employment and occupation (E/CN.4/703, resolutions C and G);

Future work programme of the Sub-Commission in the field of prevention of discrimination (E/CN.4/703, resolution D);

Measures to be taken for the cessation of any advocacy of national, racial, or religious hostility that constitutes an incitement to violence (E/CN.4/703, resolution E);

Study of the present position as regards minorities throughout the world (E/CN.4/703, resolution F and draft resolution B);

Future work on the protection of minorities (E/CN.4/703, resolution H and draft resolution D);

Collaboration between the Sub-Commission and the specialized agencies (E/CN.4/703, resolution I); and

Measures to expedite the work of the Sub-Commission (E/CN.4/703, resolution J and draft resolution C).

369. At its 452nd meeting the Commission decided, by 9 votes to none, with 7 abstentions, to hold a general debate on the Sub-Commission's report. At the conclusion of the general debate (E/CN.4/SR.456), the Commission examined the various draft resolutions

submitted by the Sub-Commission (E/CN.4/703, annex I), considering simultaneously, in the case of each draft resolution, the corresponding resolutions which had been adopted by the Sub-Commission. The Commission then examined other draft resolutions submitted by its members, together with the corresponding resolutions which had been adopted by the Sub-Commission. The Commission also considered a draft resolution relating to the future sessions of the Sub-Commission.

B. General debate

370. The general discussion in the Commission (E/CN.4/SR.454-456) was directed principally to the various draft resolutions which had been submitted by the Sub-Commission. However, certain points were raised which concerned the Sub-Commission's whole programme of work.

371. A number of members were of the opinion that the report of the Sub-Commission contained constructive proposals for action in an important field. At the same time, certain decisions which the Sub-Commission had made were criticized by some members and defended by others.

372. In particular, the Sub-Commission's proposals to make use of special rapporteurs or independent experts to prepare preliminary studies, and its view that in appropriate circumstances such rapporteurs or experts should be remunerated, were criticized on the following grounds: that their adoption would constitute a marked departure from the methods normally used by United Nations organs; that the Sub-Commission, which was composed of experts, seemed to be shifting its responsibilities onto other experts; that the suggested procedure might eventually result in considerable cost to the United Nations, as other bodies would no doubt wish to employ the same system; and that a general rule on the non-payment of honoraria to rapporteurs of United Nations bodies had been laid down by the General Assembly in resolution 677 (VII).

373. In support of the proposals, on the other hand, it was argued that the Sub-Commission had only envisaged the use of special rapporteurs or experts in certain cases where it considered such a procedure absolutely necessary; that the Sub-Commission, having only twelve members, could not be expected to include persons with the necessary time and qualifications to undertake all the highly specialized studies entrusted to it; and that it was in no way improper for the Sub-Commission to ask for exceptions to be made to the general principle which the General Assembly had adopted in cases where remuneration was necessary if the Sub-Commission was to accomplish its task. The principle that all work should be remunerated was also involved in support of the proposals.

374. Some members of the Commission expressed disapproval of the Sub-Commission's decision to postpone further work with regard to the preparation of a definition of the term "minority". They considered that the Sub-Commission's proposal to embark on a study of the present position of minorities in need of special protective measures without a definition of minorities, or at least some precise criteria for determining what was and what was not a minority, seemed to be a rash step; and suggested that more work on the defini-

tion was clearly necessary if the suggested further studies were not to run the risk of being useless, if not dangerous. On the other hand, it was pointed out that the Sub-Commission had decided to alter its method of work, as regards the protection of minorities, only after the Commission had, on three separate occasions, referred back to the Sub-Commission for further study a draft resolution containing a proposed definition of minorities. It was pointed out further that the Sub-Commission had not completely abandoned its efforts to formulate a definition of minorities, but had in fact adopted a tentative definition which in its view would permit a study of the present position of minorities throughout the world to be initiated.

375. A third criticism of the work of the Sub-Commission related to its apparent aspiration to function, in certain matters, independently of its parent body, the Commission on Human Rights. The view was expressed, in particular, that the Sub-Commission's request that it might be permitted to report direct to the Economic and Social Council seemed premature if not unwarranted. It was pointed out, however, that in certain circumstances, as in the case when the Commission did not have the time to examine the Sub-Commission's reports, the work of the latter body might be seriously hampered unless it were permitted to submit its recommendations directly to the Economic and Social Council.

C. Study of discrimination in education

376. In draft resolution A, the Sub-Commission requested the Commission on Human Rights to note its resolution B, on the study of discrimination in education (E/CN.4/703, para. 97) and to request the Secretary-General "to forward to the governments concerned all requests for information or for comments by the Sub-Commission's Special Rapporteur on Discrimination in Education, pursuant to the terms of the resolution".

377. Resolution B of the Sub-Commission was as follows:

"STUDY OF DISCRIMINATION IN EDUCATION

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

"Considering the resolution adopted at its fifth session to initiate a study of discrimination in the field of education and considering that this resolution was approved by the Commission on Human Rights at its ninth session and by the Economic and Social Council at its sixteenth session (502 H (XVI)),

"Considering also that the Secretary-General and the specialized agencies are in a position to provide valuable assistance in collecting, clarifying and summarizing the material required for such a study,

"Recalling that the Sub-Commission decided at its fifth session that a special rapporteur should help it prepare this study and for that purpose asked him to submit concrete recommendations concerning practical action on the part of the Sub-Commission; that this decision to appoint a special rapporteur was approved by the Commission on Human Rights at its ninth session and by the Economic and Social Council in resolution 502 H (XVI); and that the special rapporteur thus appointed was unable to complete the preparatory work, which the Sub-Commission considers essential;

"Decides that its special study on discrimination in education should be carried out in three stages:

- "I. Collection, analysis and verification of material;
- "II. Production of a report;
- "III. Recommendations for action.

"I

"Collection, analysis and verification of material

"The main sources of material will be the following:

(a) governments; (b) the Secretary-General; (c) specialized agencies; (d) non-governmental organizations; [(e) writings of recognized scholars and scientists];⁷ though the collection of material should not be limited to these sources.

"Summaries of material dealing with each country will be prepared and forwarded to the governments concerned for comment and supplementary data.

"II

"Production of a report

"(a) Nature of the report

"(i) It should be undertaken on a global basis and with respect to all the grounds of discrimination condemned by the Universal Declaration of Human Rights, but special attention should be given to instances of discrimination that are typical of general tendencies and instances where discrimination has been successfully overcome.

*"(ii) The report should be factual and objective and should deal with the *de facto* as well as the *de jure* situation regarding discrimination in education.*

"(iii) The report should point out the general trend and development of legislation and practices with regard to discrimination in education, stating whether their tendency is toward an appreciable elimination or reduction of discrimination, whether they are static, or whether they are retrogressive.

"(iv) The report should also point out the factors which in each instance have led to the discriminatory practices, pointing out those which are economic, social, political, or historic in character and those resulting from a policy evidently intended to originate, maintain or aggravate such practices.

"(v) The report should be drawn up not only to serve as a basis for the Sub-Commission's recommendations, but also with a view to educating world opinion.

"(vi) In drawing up the report full advantage should be taken of the conclusions already reached with respect to discrimination by other bodies of the United Nations or by the specialized agencies.

⁷ This modification was adopted by the Commission on Human Rights in its resolution III (see paragraph 418 below).

“(b) *Method of production*

“(i) A special rapporteur shall draw up a draft report along the lines laid down in paragraph (a), bearing in mind the observations made in the debates by members of the Sub-Commission during its fifth and sixth sessions. The rapporteur shall proceed with expedition with a view to submitting the report at the seventh session.

“Should he fail to complete his work for that date, he shall submit a progress report in which he shall give an account of the material assembled and of the methods adopted or which he intends to adopt in carrying out his work.

“(ii) In addition to the material and information which he is able to collect and which he shall embody in his report in the form of an analysis, the special rapporteur shall include such conclusions and proposals as he may judge proper to enable the Sub-Commission to make recommendations for action [to the Commission on Human Rights].⁸

“III

“*Recommendations for action*

“These shall be made following the adoption [substitute “consideration” for “adoption”]⁸ of the report by the Sub-Commission.

“*Expresses the hope* that the governments of Member and non-member States, particularly those whose statistics of education are not available to the United Nations, or UNESCO, will lend full assistance in collecting the information which will be required if the report is to be undertaken on a global basis as described in paragraph II (a) (i) of this resolution;

“*Also expresses the hope* that the Secretary-General and the specialized agencies, particularly UNESCO, will continue to furnish to the Sub-Commission and any bodies or persons collaborating in its study in implementation of this and previous resolutions of the Sub-Commission and Economic and Social Council resolution 502 (XVI), every possible assistance;

“*Recommends* to the Commission on Human Rights that it authorize the Secretary-General, if he deems such additional authorization necessary, to forward to the governments concerned all requests for information or for comments by the rapporteur, pursuant to the terms of this resolution.”

378. When examining the recommendations of the Sub-Commission directly relating to the study of discrimination in education, the Commission also took into account the first operative paragraph of resolution G of the Sub-Commission, on utilization of information relating to the protection of minorities in the special studies on discrimination in education, which was as follows:

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

“ . . .

⁸ This modification was adopted by the Commission on Human Rights in its resolution III (see paragraph 418 below).

“1. *Requests* the Special Rapporteur on Discrimination in Education, appointed under resolution B, to report on any facts that may come to his attention relevant to the question of the general trend and development of legislation and practices with regard to the teaching of minorities languages, the teaching of the cultural heritage of minorities in general, and the teaching in minorities languages; and, in examining this aspect, to take into account the general directives contained in the above-mentioned resolution B.”

379. The discussion of the study of discrimination in education in the Commission (E/CN.4/SR.457-459) was directed principally to the nature and scope of the task assigned by the Sub-Commission to the Special Rapporteur. Some members considered the study to be too broadly conceived, while others felt that certain limitations which the Sub-Commission had placed upon its Special Rapporteur should be removed. There was also a difference of opinion concerning the requests to the Special Rapporteur contained in the first operative paragraph of draft resolution G (see paragraph 378 above).

380. A number of amendments to draft resolution A were proposed by the representatives of Lebanon, the United Kingdom, and the United States respectively.

381. The representative of Lebanon proposed (E/CN.4/360) to add the words “which may be made” after the words “for information or for comments” in the operative paragraph of the draft resolution.

382. The representative of the United Kingdom proposed (E/CN.4/L.365) an amendment to the draft resolution which was as follows:

Insert a new paragraph after the paragraph beginning “*Having noted*” as follows:

“*Considers* that the study of discrimination in education should be carried out in the manner described in resolution B with the following modifications:

“*Section I:*

“Delete the word ‘main’ before ‘sources’;

“Delete the words ‘though the collection of material should not be limited to these sources.’

“*Section II:*

“(a) (i) Delete all after the words ‘Human Rights’.

“(a) (iv) Delete this sub-paragraph.

“(a) (v) Delete this sub-paragraph.

“(b) (ii) Line 4. Insert ‘general’ after ‘such’.

“Add at the end ‘to the Human Rights Commission’.

“*Section III:*

“Substitute ‘consideration’ for ‘adoption’.”

383. The representative of the United States of America proposed (E/CN.4/L.361/Rev.1) an amendment to the draft resolution which was as follows:

1. After the first paragraph add the following:

“*Considers* that the study of discrimination in education should be carried out in the manner described in resolution B, with the following modification:

“*Section I:*

“Add sub-paragraph ‘(e) writings of recognized scholars and scientists’”.

2. Add at the end of the present text the following two paragraphs:

“*Considers* that no confusion should be created between the study of discrimination in education and the study of specific questions relating to minorities, and therefore

“*Disapproves* the request made by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities in paragraph 1 of resolution G (E/CN.4/703, paragraph 200)”.

384. The Lebanese proposal did not give rise to any debate. The proposals of the representatives of the United States of America, on the other hand, led to a discussion in which all aspects of the Sub-Commission's decision relating to the study of discrimination in education, as set forth in resolution B (see paragraph 377 above) and the first operative paragraph of resolution G (see paragraph 378 above) were examined.

385. *Collection, analysis, and verification of material*: The United Kingdom representative's amendments relating to section I of resolution B, on the collection, analysis, and verification of material for the study of discrimination in education, were to delete the word “main” before “sources”, and to delete the words “that the collection of material should not be limited to these sources”. The United States representative proposed the addition to section I of the sub-paragraph, “(e) writings of recognized scholars and scientists”.

386. Some members of the Commission felt that the Sub-Commission had already given a complete list of the sources of material and that there was therefore no reason why these should be called the “main” sources or why the sentence “though the collection of material should not be limited to these sources” should be maintained. Other members felt that the amendments proposed by the United Kingdom representative would result in unduly limiting the material to be consulted by the Special Rapporteur, who in their view should rather be encouraged to study as much relevant material as possible.

387. With respect to the amendment to section I proposed by the representative of the United States of America there was no strong disagreement, although the view was expressed by one member of the Commission that it might have the effect of widening excessively the scope of the investigation which the Special Rapporteur was to undertake.

388. *Nature of the report*: The United Kingdom representative's amendments relating to section II (a) of resolution B, on the nature of the report on discrimination in education, were to delete all after the words “Human Rights” in sub-paragraph (a) (i), and to delete sub-paragraphs (a) (iv) and (a) (v).

389. It was the view of some members of the Commission that the Special Rapporteur should not be instructed to give special attention to “instances of discrimination that are typical of general tendencies and instances where discrimination has been successfully overcome”, nor to report on “the factors which in each instance had led to the discriminatory practices, pointing out those which are economic, social, political or historic in character and those resulting from a policy evidently intended to originate, maintain or aggravate such practices”.

390. The main objections to these instructions were (a) that a study along the lines proposed would not be compatible with Article 2, paragraph 7, of the Charter, particularly if special attention were given to particular cases of discrimination; (b) that such a study was likely to be very bulky and would overburden

the Special Rapporteur; and (c) that the Special Rapporteur would find the tasks assigned to him impossible to perform. It was pointed out that the study should serve for the formulation not of recommendations relating to a particular State and the particular conditions which might exist in that State, but of general recommendations calculated to improve the whole situation with regard to discrimination in education. Other members of the Commission, however, expressed the view that the Special Rapporteur could only proceed by a study of instances of existing discrimination, or instances where discrimination had been successfully overcome, and that he could only detect general tendencies by the study of such specific instances. They felt that it was difficult to see how the report could be factual and objective and could deal with the *de facto* as well as the *de jure* situation, if it did not contain references to specific instances of discrimination; and that any realistic and useful study of discrimination in education must take into account not only the facts but also the causes of discrimination. Further, they pointed out that all the instructions which the Sub-Commission had given its Special Rapporteur were in full conformity with the purposes and principles of the United Nations, as set forth in Article 1, paragraph 3, and Article 56 of the Charter.

391. The instruction of the Sub-Commission to its Special Rapporteur, that “the report should be drawn up not only to serve as a basis for the Sub-Commission's recommendations, but also with a view to educating world opinion”, was criticized by some members of the Commission, who felt that the objective of educating world opinion was beyond the limits of the Sub-Commission's competence and beyond the limits of any authorization which the Commission on Human Rights could give. It was however defended by other members, who pointed out that the most common type of discrimination, namely, that arising from ignorance and prejudice, could best be eliminated by educating world opinion.

392. *Method of production*: The United Kingdom representative's amendments relating to section II(b) of resolution B, on the method of production of the report on discrimination in education, were to insert the word “general” after “such” in line 4 of sub-paragraph (ii), and to add to the end of sub-paragraph (ii) the words “to the Human Rights Commission”.

393. The first of these amendments raised the same question concerning the conception of the report—whether its conclusions and recommendations were to be of a general or of a specific nature—which had been discussed in connexion with the amendments proposed to section II, sub-paragraphs (a) (i) and (iv). The second amendment also raised a question which had already been the subject of some debate—whether or not the Sub-Commission was to be encouraged in its apparent tendency to seek a certain degree of independence from its parent body.

394. *Recommendations for action*: The United Kingdom representative's amendment to section III of resolution B, on recommendations for action, was to substitute “consideration” for “adoption”. In explanation of this proposal, its sponsor pointed out that though the report would doubtless be excellent, it seemed unwise to give the impression that it would be adopted automatically. There was no conflict of views in the Commission on this amendment.

395. *Utilization of information relating to the protection of minorities in the special studies on the pre-*

vention of discrimination: The representative of the United States proposed (E/CN.4/L.361/Rev.2) the addition of the following paragraphs at the end of draft resolution A:

“*Considers* that no confusion should be created between the study of discrimination in education and the study of specific questions relating to minorities; and therefore

“*Decides* that the request to the Special Rapporteur in paragraph 1 of resolution G (E/CN.4/703, para. 200) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities should not be made.”

396. In explanation of her proposal, the representative of the United States expressed the view that the Special Rapporteur should confine himself to a general study of discrimination in education and should not take up the problem of minorities, which was of a different nature.

397. Some members of the Commission supported the proposal, considering that it would be a mistake to overburden the Special Rapporteur by asking him to give special attention to minorities problems in connexion with his study of discrimination in education. Others, however, pointed out that in fact the study of discrimination in education could not fail to lead to the examination of questions connected with the minorities problem, as the Special Rapporteur was bound to be confronted, in the course of his study, with instances of discrimination against minorities in the use of their own languages and cultural resources in education. Moreover, the Special Rapporteur was not being asked by the Sub-Commission to give special attention to these problems but only to report such facts relating thereto which might come to his notice in the course of his study. The experience of the League of Nations which had not found it possible to deal in different ways with the two problems of prevention of discrimination and protection of minorities, was cited; and it was pointed out that the Special Rapporteur himself had not objected to undertaking the additional task required of him by resolution G of the Sub-Commission.

398. *General views on the proposals:* Several members of the Commission expressed the view that the decisions taken by the Sub-Commission were unexceptionable, and that the various amendments which had been put forward were characterized by an exaggerated solicitude and an over-eagerness to offer guidance in matters of detail that might best be left to the Sub-Commission's own judgment. They pointed out that the Sub-Commission had formulated a practical programme, that it had given the Special Rapporteur all the necessary guidance, and that further specification was unnecessary at such an early stage, since the report on discrimination in education was not intended to be a goal in itself but would be merely only one of the sources on the basis of which the Sub-Commission would eventually draft its recommendations. Moreover, they saw no reason to criticize the Sub-Commission adversely before its work had got under way. Other members took the view that the terms of reference of a study of such wide character, especially as it was in the nature of a pilot project for further studies, were of importance and required the careful consideration of the Commission.

399. *Joint amendment submitted by China, Egypt, Pakistan and Philippines:* At the Commission's 458th

meeting, a joint amendment to draft resolution A of the Sub-Commission was put forward by the representatives of China, Egypt, Pakistan and the Philippines. As revised by its sponsors after a preliminary discussion (E/CN.4/L.367/Rev.1), the amendment proposed the insertion, before paragraph 2 of draft resolution A, of the following paragraph:

“*Invites* the attention of the Rapporteur on Discrimination in Education to the comments of Members of the Commission as contained in the relevant summary records.”

400. In defence of the joint amendment, its sponsors pointed out that the views expressed in the Commission, and the various amendments which had been proposed to draft resolution A, would provide valuable guidance for the Sub-Commission and the Special Rapporteur; that the adoption of the joint amendment would eliminate the need for any final decision on the texts before the Commission; and that the joint amendment gave the Special Rapporteur authority to take into account, within his terms of reference embodied in the Sub-Commission's resolution B, any views expressed by members of the Commission which he considered to be of sufficient weight to warrant his attention, without insisting that he must take all these views into account. Other members of the Commission, however, felt that it was not at all clear what comments the Special Rapporteur was expected to take into account, since he obviously could not be guided by all of them, and that the effect of the joint amendment, if adopted, could only be to confuse the Special Rapporteur by presenting him with the views of eighteen representatives instead of the opinion of the Commission. They suggested that the questions raised in the various amendments be settled by voting.

Decisions of the Commission

401. At its 459th meeting, the Commission voted on the various proposals before it.

402. The preamble of draft resolution A was adopted unanimously.

403. Paragraph 1 of the United States amendment was adopted unanimously.

404. The first United Kingdom amendment to section I of resolution B was rejected by 8 votes to 8, with 1 abstention.

405. The second United Kingdom amendment to section I of resolution B was rejected by 8 votes to 7, with 2 abstentions.

406. The first United Kingdom amendment to section II of resolution B was rejected by 9 votes to 7, with 1 abstention.

407. The second United Kingdom amendment to section II of resolution B was voted on in parts. The proposal to delete the words “in each instance” was rejected by 9 votes to 8. The proposal to delete the last phrase of sub-paragraph (a) (iv) was rejected by 9 votes to 7, with 1 abstention. The original United Kingdom proposal to delete sub-paragraph (a) (iv) in section II of resolution B was rejected by 10 votes to 7.

408. The third United Kingdom amendment to section II of resolution B was rejected by 10 votes to 6, with 1 abstention.

409. The fourth United Kingdom amendment to section II of resolution B, namely, the insertion of the word “general” after the word “such” in sub-

paragraph (b)(ii) of section II, was rejected in a roll-call vote by 9 votes to 8. The vote was as follows:

In favour: Turkey, United Kingdom, United States of America, Australia, Belgium, Egypt, France, Greece.

Against: Ukrainian SSR; USSR; Uruguay, Chile, China, India, Pakistan, Philippines, Poland.

Absent: Lebanon.

410. The fifth United Kingdom amendment to section II of resolution B was adopted by 11 votes to 3, with 3 abstentions.

411. The United Kingdom amendment to section III of resolution B was adopted unanimously.

412. The prefatory sentence, "Considers that the study of discrimination in education should be carried out in the manner described in resolution B, with the following modifications", was adopted unanimously.

413. The Lebanese amendment (E/CN.4/L.360) was adopted unanimously.

414. The second paragraph of draft resolution A, as amended, was adopted by 12 votes to 4, with 1 abstention.

415. The representative of the Union of Soviet Socialist Republics proposed that the second paragraph of the United States representative's second amendment to draft resolution A should be voted on before the first paragraph. The proposal was rejected by 7 votes to 5, with 5 abstentions.

416. The second United States amendment was then voted upon as a whole, and rejected by 8 votes to 7, with 2 abstentions.

417. In view of the decision taken by the Commission, the joint proposal of China, Egypt, Pakistan and the Philippines (E/CN.4/L.367/Rev.1) was withdrawn.

418. The resolution adopted by the Commission reads:

"III

"STUDY OF DISCRIMINATION IN EDUCATION"⁹

"The Commission on Human Rights,

"Having noted resolution B of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on the study of discrimination in education (E/CN.4/703, paragraph 97),

"Considers that the study of discrimination in education should be carried out in the manner described in resolution B with the following modifications:

"Section I:

"Add sub-paragraph '(e) Writings of recognized scholars and scientists'

"Section II:

"Add at the end 'to the Human Rights Commission'

"Section III:

"Substitute 'consideration' for 'adoption'

"Requests the Secretary-General to forward to the governments concerned all requests for informa-

⁹ Modifications to resolution B of the Sub-Commission, made in accordance with this resolution of the Commission, are indicated in the appropriate sections of resolution B reproduced in paragraph 377 above.

tion or for comments which may be made by the Sub-Commission's Special Rapporteur on Discrimination in Education, pursuant to the terms of the resolution."

D. Study of the present position as regards minorities throughout the world

419. In draft resolution B, the Sub-Commission requested the Commission to note its resolution F, on the study of the present position as regards minorities throughout the world (E/CN.4/703, para. 200), and to recommend to the Economic and Social Council "the appointment of an expert, preferably in consultation with the Chairman of the Sub-Commission, who will carry out the selective study on behalf of the Sub-Commission, present an interim report to the Sub-Commission at its seventh session, and complete the study in time for it to be in the hands of members of the Sub-Commission at least six weeks before the opening of its eighth session".

420. Resolution F of the Sub-Commission was as follows:

"STUDY OF THE PRESENT POSITION AS REGARDS MINORITIES THROUGHOUT THE WORLD

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

"Considering that one of its two main tasks, as defined by the Commission on Human Rights, is to undertake studies and to make recommendations concerning the protection of minorities,

"Having regard to resolution 502 B II (XVI) of the Economic and Social Council, by which the Council states that before recommendations concerning the application of special measures for the protection of minorities can be adopted it is necessary to undertake a more thorough study of the whole question, including definition of the term "minority" for the purpose of such recommendations,

"Considering that minorities differ vastly in origin, composition and character, and that it is, therefore, extremely difficult to arrive at a single general definition that is universally applicable,

"Considering further that on three separate occasions (at its third, fourth and fifth sessions), the Sub-Commission has submitted to the Commission a draft resolution containing a definition of minorities for purposes of protection by the United Nations, and that on each of the occasions when the Commission considered this draft resolution, it referred it back to the Sub-Commission for further study,

"1. Resolves to initiate a study of the present position as regards minorities throughout the world;

"2. Decides that for the purpose of such a study, and with no intention of determining which groups should receive special protection, the term minority shall include only those non-dominant groups in a population which possess and wish to preserve ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population; and that no further work on the problem of definition can serve any useful purpose at present;

"3. Decides further that in carrying out the study the following considerations shall be borne in mind:

"(i) There are among the nationals of many States distinctive population groups possessing ethnic, religious, or linguistic traditions or characteristics different from those of the rest of the

population, and among these are groups that need to be protected by special measures, national and international, so that they can preserve and develop their traditions or characteristics;

“(ii) Among minority groups not requiring protection are those seeking complete identity of treatment with the rest of the population, in which case their problems are covered by those articles of the Charter of the United Nations, the Universal Declaration of Human Rights and the draft international covenants on human rights that are directed towards the prevention of discrimination;

“(iii) It is most undesirable to hinder by any action spontaneous development of minority groups towards integration with the rest of the population of the country in which they live, which takes place when impacts such as those of a new environment, or that of modern civilization, produce a state of rapid racial, social, cultural, or linguistic evolution;

“(iv) It is highly desirable that minorities should settle down happily as citizens of the country in which they live, and therefore in any measures that may be taken for the protection of their special traditions and characteristics, including the study, nothing should be done that is likely to stimulate their consciousness of difference from the rest of the population;

“(v) Minorities must include a sufficient number of persons to preserve by themselves their traditions and characteristics;

“(vi) Account should be taken of the circumstances under which each minority group has come into existence, for example whether it owes its existence to a peace treaty or to voluntary immigration;

“4. *Decides* that the study should be selective in character and should aim at presenting a concise account of the position of every minority in need of special protection measures, including consideration of the present measures in force, so that the account will act as a guide for the Sub-Commission in deciding on the special measures necessary for the protection of minorities;

“5. *Requests* the Commission on Human Rights to recommend to the Economic and Social Council the appointment of an expert, preferably in consultation with the Chairman of the Sub-Commission, who will carry out the selective study on behalf of the Sub-Commission, present an interim report to the Sub-Commission at its seventh session, and complete the study in time for it to be in the hands of members of the Sub-Committee at least six weeks before the opening of its eighth session;

“6. *Requests* the Secretary-General, pending the appointment of the expert, to assemble, in collaboration with the specialized agencies and non-governmental organizations, relevant material for the selective study, including historical and geographical material, bearing in mind the points made in subparagraphs (iii) and (iv) of paragraph 3 above.”

421. The discussion of the study of the present position as regards minorities throughout the world (E/CN.4/SR.460-463) was directed principally to two main issues: the type of study proposed by the Sub-Commission, and the method envisaged. There was widespread opposition to the type of study which the Sub-Commission had suggested, and widespread op-

position as well to the Sub-Commission's view that the study should be entrusted to an expert.

422. *Examination of resolution F:* The Sub-Commission's resolution calling for a study of the present position as regards minorities throughout the world was criticized by several members of the Commission as being paradoxical: on the one hand, it contained a very limited and tentative definition of the term “minority”, indicating that the Sub-Commission might not itself know what a minority is; on the other hand, it called for an expert to study certain aspects of minorities, without any criterion to guide the selective character of the study. The Sub-Commission's decision, “that no further work on the problem of definition can serve any useful purpose at present”, was regretted in particular by some members who felt that they could not possibly agree with this point of view as they considered the preparation of a definition of the term “minority” to be one of the Sub-Commission's main responsibilities.

423. In defence of the Sub-Commission's decision, it was pointed out that although that body had twice, at earlier sessions, adopted a definition of the term “minority” and submitted it to the Commission on Human Rights, the Commission had rejected both attempts and in doing so had not given the Sub-Commission any guidance concerning the changes which it wished to see in the definition. It was also pointed out that the Sub-Commission had not completely abandoned all attempts to define the term “minority”, but had come to the conclusion that a definition could only be formulated after a comprehensive study had been completed; hence it had adopted a tentative definition for purposes of the study, and had only postponed further work on the definition until more precise data were available. The Sub-Commission had considered that its task was not the academic exercise of making a definition merely for the sake of having a definition, but the practical work of formulating recommendations concerning the protection of minorities who were actually in need of protection. Further, attention was drawn to the fact that the Commission itself, in adopting article 25 of the draft international covenant on civil and political rights, had recognized that it was possible to recommend special measures for the protection of minorities without first agreeing upon an exact definition of that term. Finally, it was stated that although it was difficult to arrive at a universally applicable legal definition of the term “minority,” in practice the meaning of the term was generally understood.

424. With respect to the tentative definition of minorities contained in resolution F, several members expressed critical views. In particular some members felt that certain provisions of paragraph 2 might result in eliminating from the definition certain national groups which should be given special protection; for example, the inclusion of only such groups as might “wish to preserve ethnic, religious, or linguistic traditions or characteristics” was subjective, since dominant groups which did not wish to extend equal rights to certain minorities would be able to justify their action by claiming that those groups did not wish to maintain their individual character. Others pointed out that an ill-considered choice of subjects for study could harm minorities by stressing their differences from the dominant group or awakening a consciousness of their status as minorities. Others felt that if the definition in operative paragraph 2 covered groups of immigrants,

it would create a delicate problem for countries of reception which were anxious to assimilate such groups. While recognizing that the Sub-Commission had endeavoured to meet these points in drafting resolution F, these members did not consider the results to be completely satisfactory.

At the 461st meeting the representative of Chile observed that the various concepts on which the Sub-Commission had based the tentative definition in question were to be found in three different paragraphs of resolution F rather than in one paragraph.

He felt that owing to this dispersal the definition lacked clarity, and that, since the conceptions which were to be included in it formed a single whole, it would be more logical for them to be stated in the same paragraph. He did not, however, wish to make a formal proposal to that effect, being satisfied with his remarks, which related solely to form, remaining a suggestion and being reported in the summary records where the Sub-Commission would have access to them if it attached any importance to them. In accordance with that suggestion, paragraph 2 of resolution F should be redrafted to read:

“ . . . shall include only those non-dominant groups in a population which possess ethnic, religious, or linguistic traditions or characteristics markedly different from those of the rest of the population and which in proportion to it include a sufficient number of persons who wish and are able to preserve by themselves their traditions and characteristics. Groups which have come into existence as the result of immigration shall not be included among such groups, unless legislation and administrative or private practices discriminating against them prevail in a State in which they exist”.

425. *Type of study envisaged by the Sub-Commission:* The main objections to the type of study envisaged by the Sub-Commission in resolution F related to its selective character; some members found it hard to see how such a study, dealing with every minority in need of special measures of protection, could be made, particularly in the absence of any criterion by which to judge why some minorities might need special protection and others might not; others considered that such an enquiry into local conditions as the Sub-Commission apparently had in mind, purporting as it did to pass judgment on governmental action, was contrary to Article 2, paragraph 7, of the Charter. On the other hand, some members were reluctant to disapprove any further study of the problem of minorities which might throw light upon so complex and difficult a subject.

426. *Appointment of an expert to carry out the study:* There was widespread criticism of the proposal of the Sub-Commission that an expert be appointed to carry out the selective study on behalf of the Sub-Commission. It was contended that this proposal attempted to introduce a new procedure into United Nations work, contrary to the accepted practice of entrusting studies either to members of the organ concerned or to the Secretariat; that no expert could possibly achieve the desired results; and that the Sub-Commission seemed to be evading one of its main responsibilities in requesting that an outside expert be called upon to do its work.

427. It was pointed out that should the proposal for the appointment of an independent expert be rejected, the Sub-Commission would have recourse to

other methods to implement resolution F; in fact, the Sub-Commission had already foreseen such a possibility and had provided against it by requesting the Secretary-General, pending the appointment of the expert, to assemble, in collaboration with the specialized agencies and non-governmental organizations, relevant material for the selective study, including historical and geographical material.

428. *Amendments to draft resolution B:* At the 461st meeting of the Commission, the representative of the United Kingdom submitted an amendment to draft resolution B, recalling resolution 502 B II (XVI) of the Economic and Social Council, asking the Sub-Commission to give further study to the whole question including the definition of the term “minority”, and to report thereon to the eleventh session of the Commission, and deciding that the study proposed in resolution F of the Sub-Commission should not be initiated at the present time.

429. The representative of Poland submitted an amendment (E/CN.4/L.369) to the United Kingdom amendment, proposing that the Sub-Commission be requested to include in its further study “the recommendations concerning the application of special measures for the protection of minorities.” After the amendments to draft resolution B had given rise to a prolonged discussion, the representatives of the United Kingdom and of Poland decided to withdraw their respective proposals.

Decisions of the Commissions

430. *Vote on draft resolution B:* When put to the vote at the Commission's 462nd meeting, the preamble of draft resolution B was adopted by 6 votes to 2, with 8 abstentions, but the operative part was rejected by 9 votes to 6, with 1 abstention. The Chairman stated that under rule 59 of the rules of procedure the rejection of the operative part entailed the rejection of the draft resolution as a whole.

431. As most members of the Commission felt that the Sub-Commission should not be left entirely without the guidance of its parent body in the important matter of the protection of minorities, a new proposal was put forward at the Commission's 463rd meeting, sponsored jointly by the representatives of Chile, China, Egypt, India, and Pakistan (E/CN.4/L.370), noting resolution F of the Sub-Commission and requesting the Sub-Commission “to give further study to the whole question, including the definition of the term ‘minority’, and to report thereon, together with any recommendations which it may be in a position to make concerning the application of special measures for the protection of minorities, to the eleventh session of the Commission on Human Rights”.

432. The representative of Belgium submitted amendments to the joint draft resolution (E/CN.4/L.371), proposing deletion of the paragraph noting resolution F, insertion of the words “of minorities” after the word “question”, and replacement of the words “the application of special measures for”, by the words “methods to ensure.”

433. *Vote on the joint draft resolution:* The joint draft resolution, and amendments thereto, were voted upon at the Commission's 463rd meeting.

434. The Belgian proposal to delete the preamble was rejected by 7 votes to 6, with 4 abstentions.

435. The sponsors of the joint draft resolution accepted an amendment suggested orally by the repre-

representative of the Philippines, to add to the preamble the words, "on the study of the present position as regards minorities throughout the world". The preamble, thus amended, was adopted by 7 votes to 6, with 4 abstentions.

436. The representative of Belgium withdrew his first amendment to the operative part of the draft resolution, since the adoption of the preamble had rendered it superfluous. The second Belgian amendment to the operative part was rejected by 10 votes to 7. The operative part of the joint draft resolution was adopted by 10 votes to 5, with 2 abstentions.

437. The joint draft resolution as a whole, as amended, was adopted by 10 votes to 6, with 1 abstention.

438. The resolution adopted by the Commission reads:

"IV

"STUDY OF THE PRESENT POSITION AS REGARDS MINORITIES THROUGHOUT THE WORLD

"The Commission on Human Rights,

"Having noted resolution F of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on the study of the present position as regards minorities throughout the world (E/CN.4/703, paragraph 200),

"Requests the Sub-Commission to give further study to the whole question including the definition of the term "minority" and to report thereon, together with any recommendations which it may be in a position to make concerning the application of special measures for the protection of minorities, to the eleventh session of the Commission on Human Rights."

E. Measures to expedite the work of the Sub-Commission

439. In draft resolution C, the Sub-Commission requested the Commission on Human Rights to note its resolution J, on measures to expedite the work of the Sub-Commission (E/CN.4/703, paragraph 225), and to draw the attention of the Economic and Social Council to the fact that, besides the studies relating to discrimination in education and in employment and occupation, and to the present position as regards minorities throughout the world, approved at its sixth session, the Sub-Commission is planning to undertake in 1955 one of the studies of discrimination mentioned in resolution D (E/CN.4/703, para.143), on its future programme of work in the field of prevention of discrimination, and that the Sub-Commission would presumably wish to appoint a Special Rapporteur or expert to do the preliminary work in connexion with that study. The Commission was asked to request the Council to ask the General Assembly to reconsider resolution 677, adopted at its seventh session, so far as concerns the payment of rapporteurs or independent experts who would prepare the special studies for the Sub-Commission and whose appointment the Sub-Commission considers absolutely essential for the execution of its work programme as approved by the Commission on Human Rights and by the Council; and further to request the Council to recommend that specific budgetary provision be made for the ensuing year for the payment of a rapporteur or independent expert for the conduct of the study to be selected at the seventh ses-

sion of the Sub-Commission, pursuant to resolution D adopted by the Sub-Commission at its sixth session, from among the subjects there set forth, and for the payment of an independent expert to prepare the study of the present situation as regards minorities.

440. Resolution J of the Sub-Commission was preceded by an explanatory statement, unanimously adopted by the Sub-Commission. The explanatory statement and the resolution were as follows (E/CN.4/703, paragraphs 218-225):

"In considering its 'future work' in accordance with Economic and Social Council resolution 502 H (XVI), the Sub-Commission has thought it necessary to analyse its possibilities of action in the light of its terms of reference, the experience of recent years, and criticisms made in superior bodies.

"According to the Sub-Commission's terms of reference, as laid down by the Commission on Human Rights and approved by the Economic and Social Council, its principal functions are 'to undertake studies, particularly in the light of the Universal Declaration of Human Rights, and to make recommendations to the Commission on Human Rights concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities'. The Sub-Commission's work is thus connected with the achievement of what, as may be seen from the preamble to the Charter and the provisions of Article 1, paragraph 3, and Articles 13, 55, 62 and 76, are among the most important purposes of the United Nations, the prevention of discrimination and generally the promotion of respect for human rights.

"The Sub-Commission has been criticized on various occasions for not having done all that could be hoped of it. The Sub-Commission believes that factors external to its intentions and powers have prevented its work from resulting in more positive action with respect both to discrimination and to the protection of minorities. At this time it wishes to emphasize the inadequacy of the financial means made available for the execution of its studies or recommendations.

"The Sub-Commission must make its recommendations to the Commission on Human Rights, which in turn must on many occasions request the approval of the Economic and Social Council, and when the resolutions involve expenditure, it must be hoped that the General Assembly will provide the necessary funds. In view of the fact that both the Sub-Commission and the Commission on Human Rights meet only once a year, it must be assumed that, when the dates of meeting are not synchronized, or when for one reason or another the higher body cannot deal with the matter in the session immediately following the session of the lower body, the process is sometimes excessively prolonged. On some occasions it has lasted for more than a year.

"Both because it is so directed by its terms of reference and because that is the most logical way of carrying out its task, the Sub-Commission has decided to undertake a series of basic studies relating to discrimination, and a study of the situation of minorities. The outcome has been a study of discrimination in education and another of discrimination in employment and occupation, both on a world-wide basis; and it is planned to undertake in future studies of discrimination with respect to political and religious rights,

immigration, emigration and other matters. This work programme has been approved by the Commission on Human Rights. Similarly, it has been decided to carry out a study of the 'present situation of minorities throughout the world'. The Sub-Commission considers that these studies are basic and a necessary preliminary to the formulation of definite recommendations on the way in which discrimination can be eliminated and minority groups protected, and consequently to any effective action by the principal organs of the United Nations on these matters.

"The Sub-Commission, which consists of twelve members and normally meets once a year for not more than four weeks, cannot carry out the whole of these studies to the full extent itself. Its task is to plan them, guide them, see that they are properly carried out, draw conclusions and make recommendations. But it cannot collect material and information, classify and analyse it selectively, arrange it, and in general do the whole of the preliminary work. Part of this task can be undertaken by the Secretariat of the United Nations or, where the subject falls within the scope of a specialized agency, by that specialized agency.

"In accordance with the provisions of paragraphs 4 and 6 of resolution 502 H (XVI) of the Economic and Social Council, the Sub-Commission has accepted the suggestion therein set forth that it should utilize to the full, where appropriate, the assistance of the specialized agencies. Thus, it has requested the International Labour Organisation to carry out the preparatory study of discrimination in employment and occupation, and has requested UNESCO to co-operate in carrying out the study of discrimination in education. It has also used the assistance and aid of the Secretariat of the United Nations for other studies. There are, however, some subjects which, on account of their special nature, are not directly related to the work of any specialized agency and which, even at the preliminary stage, require a definition which holds or may hold political implications and affect a sovereign State and which therefore the Secretariat, which is rightly anxious to maintain and preserve its neutrality and independence, cannot be called upon to undertake. In such cases, the Sub-Commission has decided to entrust this preliminary work, which requires devoted efforts and which it considers indispensable, either to one of its members or to an independent expert on the subject concerned who can devote his time and ability to it. In the case of the study of discrimination in education, the Sub-Commission appointed one of its members as Special Rapporteur, who, in accordance with the wishes expressed by the General Assembly in resolution 677 (VII), accepted the task without remuneration, and in the case of the study relating to the situation of minorities, it decided to ask the Economic and Social Council, through the Commission on Human Rights, to appoint an independent expert to deal with the matter. This seemed to the Sub-Commission to be the only effective way of carrying out its terms of reference and its programme.

"The Sub-Commission is of the opinion that responsible work of the kind which these studies imply and which requires whole time attention for several months, and even the substantial collaboration of third parties, should not be asked of any independent person without appropriate provision for remuneration. Accordingly the Sub-Commission has adopted the following resolution:

"RESOLUTION J

"MEASURES TO EXPEDITE THE WORK OF THE SUB-COMMISSION

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

"Considering that it is advisable to explore the means of securing prompt execution of its resolutions,

"Considering further that it is desirable for the higher bodies to have a suitable knowledge of the principal aspects of the Sub-Commission's future work in fulfilment of its terms of reference, and of the means it envisages for the purpose of carrying them out,

"1. Requests the Commission on Human Rights to study the means whereby execution of the Sub-Commission's resolutions relating to its normal work programme could be expedited—as, for example, by setting aside adequate time, as it did at its last session, to review the Sub-Commission's work, or by considering whether, in certain cases, the Sub-Commission might appropriately report to the Economic and Social Council directly, as did the Sub-Commission on Freedom of Information and of the Press in accordance with resolution 197 (VIII) of the Economic and Social Council;

"2. Draws the attention of the Commission on Human Rights and, through it, of the Economic and Social Council to the fact that, besides the studies relating to discrimination in education and in employment and occupation, and to the situation of minorities, approved at the present session, the Sub-Commission is planning to undertake in 1955 one of the studies on discrimination mentioned in the resolution on its future programme of work in the field of prevention of discrimination (resolution D), and that the Sub-Commission would presumably wish to appoint a special rapporteur or expert to do the preliminary work in connexion with that study;

"3. Requests the Commission on Human Rights and, through it, the Economic and Social Council to ask the General Assembly to reconsider resolution 677, adopted at its seventh session, so far as concerns the payment of rapporteurs or independent experts who would prepare the special studies for the Sub-Commission and whose appointment the Sub-Commission considered absolutely essential for the execution of its resolution as approved by the Commission on Human Rights and by the Council.

"4. Further requests the Commission on Human Rights to recommend that specific budgetary provision be made for the ensuing year for the payment of a rapporteur or independent expert for the conduct of the study to be selected at the seventh session of the Sub-Commission, pursuant to resolution D from among the subjects there set forth, and for the payment of an independent expert to prepare the study of the present situation of minorities (resolution F)."

441. *Discussion of draft resolution C:* The discussion in the Commission (E/CN.4/SR.463-466) centred upon the action to be taken on the Sub-Commission's request that the General Assembly be asked to reconsider resolution 677 (VII). A formal decision on the Sub-Commission's request that the Commission should set aside adequate time to review the Sub-Commission's work was not considered necessary,

as the Commission itself could take that request into account every time the Sub-Commission's report figured on its agenda; neither was a formal decision taken on the question whether it was appropriate to authorize the Sub-Commission to report directly to the Economic and Social Council, as it was felt that the necessity for such action had not yet arisen.

442. Several members of the Commission criticized draft resolution C on the grounds that the Sub-Commission's recommendation was premature and not fully warranted. They pointed out that the General Assembly had been almost unanimous in adopting resolution 677 (VII), which had been inspired by questions of principle rather than by financial considerations, and that it was hardly reasonable to ask the General Assembly to reconsider such a decision on the basis of a single case which was, in their view, only hypothetical.

443. On the other hand, it was pointed out that the Sub-Commission's decision was not as hypothetical as it at first appeared to be; the Sub-Commission would have to appoint a special rapporteur to do the preliminary spadework on whichever of the three studies of discrimination the Sub-Commission decided to undertake in 1955, since none of the subjects contemplated was of direct concern to any specialized agency or belonged to their exclusive sphere of competence. Moreover, the reason that the Sub-Commission wished the General Assembly to take a decision concerning the payment of rapporteurs before the study contemplated for 1955 was undertaken was that it wanted to avoid the possibility that its work might be delayed for a year; if the Sub-Commission should ask the General Assembly to reconsider its resolution 677 (VII) only after the Sub-Commission had chosen one of the three topics for study in 1955, the General Assembly would not be able to take a decision until its tenth session in 1955. It would therefore be better for the General Assembly to take a decision at its ninth session in 1954, so that the Sub-Commission would know that decision when it met in 1955.

444. *Amendments to draft resolution C:* Two amendments to draft resolution C were introduced at the 465th meeting of the Commission. The first, submitted by the representative of the United Kingdom (E/CN.4/L.372), proposed to delete, in paragraph 1 of the draft resolution, the words "to the present situation as regards minorities throughout the world, approved at its seventh session", and to substitute the following: "the study of the whole question of minorities, including the definition of the term 'minority,' which the Sub-Commission is requested by resolution IV of the Commission on Human Rights to undertake". The second, submitted jointly by the representatives of the Philippines and Uruguay (E/CN.4/L.373), proposed to replace paragraphs 2 and 3 of the draft resolution by the following:

"Requests the Economic and Social Council to transmit to the General Assembly resolution J of the Sub-Commission, entitled 'Measures to expedite the work of the Sub-Commission' (E/CN.4/703, paragraph 225) and to invite its attention to the request contained in operative paragraphs 3 and 4 thereof".

445. The United Kingdom representative, in submitting his amendment, explained that it had been devised solely for the purpose of harmonizing the terms of draft resolution C with the decisions which the

Commission had taken on previous draft resolutions. Some members of the Commission, however, felt that the amendment gave rise to the false impression that the Commission had specifically rejected the Sub-Commission's proposed study of the present situation as regards minorities throughout the world, whereas in fact it had only rejected the proposal that the study should be carried out by an expert. In order to meet this objection the United Kingdom representative accepted an amendment proposed orally by the representative of Greece (E/CN.4/SR.465), to delete the words "of the whole question of minorities, including the definition of the term 'minority'".

Decisions of the Commission

446. At its 466th meeting, the Commission voted on the various proposals before it.

447. The preamble of draft resolution C was adopted by 10 votes to none, with 6 abstentions.

448. The United Kingdom amendment, as amended by Greece, was adopted by 12 votes to 3, with 2 abstentions.

449. Paragraph 1, as amended, of the operative part of draft resolution C was adopted by 15 votes to none, with 2 abstentions.

450. The Philippine-Uruguayan joint amendment was adopted by 8 votes to 7, with 2 abstentions.

451. Draft resolution C as a whole, as amended, was adopted by 8 votes to 6, with 3 abstentions.

452. The resolution adopted by the Commission reads:

"V

"MEASURES TO EXPEDITE THE WORK OF THE SUB-COMMISSION¹⁰

"The Commission on Human Rights,

"Having noted resolution J of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on measures to expedite the work of the Sub-Commission (E/CN.4/703, paragraph 225),

"1. Draws the attention of the Economic and Social Council to the fact that, besides the studies relating to discrimination in education and employment and occupation, and the study which the Sub-Commission is requested by resolution IV (see paragraph 438 of this report) of the Commission on Human Rights to undertake, the Sub-Commission is planning to undertake in 1955 one of the studies on discrimination mentioned in resolution D (E/CN.4/703, paragraph 143), on its future programme of work in the field of prevention of discrimination, and that the Sub-Commission would presumably wish to appoint a Special Rapporteur to do the preliminary work in connexion with that study;

"2. Requests the Economic and Social Council to transmit to the General Assembly resolution J of the Sub-Commission entitled "Measures to expedite the work of the Sub-Commission" (E/CN.4/703, paragraph 225) and to invite its attention to the request contained in operative paragraphs 3 and 4 thereof."

¹⁰ A draft resolution on this subject for consideration by the Economic and Social Council appears in annex IV of this report as draft resolution B.

F. Future work of the Sub-Commission relating to the protection of minorities

453. In draft resolution D, the Sub-Commission requested the Commission on Human Rights to note its resolution H, on future work on the protection of minorities (E/CN.4/703, paragraph 200), and to approve the decision set forth in that resolution.

454. Resolution H of the Sub-Commission was as follows:

"FUTURE WORK ON THE PROTECTION OF MINORITIES

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

"Recalling the draft resolution entitled 'Interim measures to be taken for the protection of minorities', prepared by the Sub-Commission at its fourth session and considered by the Commission on Human Rights at its ninth session,

"Considering the observations made and amendments suggested relating to this draft resolution,

"Considering further draft resolution E, adopted at its fifth session, by which it proposed that governments be recommended to review their national legislation and administrative practices with a view, *inter alia*, to 'taking effective measures for the protection of minorities, if any',

"Considering that this recommendation was referred back to the Commission on Human Rights and to the Sub-Commission by resolution 502 B II (XVI) of the Economic and Social Council,

"Considering that differences of opinion arose when the recommendation was discussed in the Economic and Social Council,

"1. *Decides* to include in the Sub-Commission's programme of future work consideration of the matters dealt with in the draft resolution adopted at its fourth session and entitled 'Interim measures to be taken for the protection of minorities' and in the portion of the draft resolution of its fifth session entitled 'Abolition of discriminatory measures' which referred to the taking of effective measures for the protection of minorities;

"2. *Requests* the Commission on Human Rights to approve this decision."

455. The discussion of the draft resolution, which took place at the 466th meeting, was directed to the question whether it was in fact necessary for the Commission to take any action, since the draft resolution merely requested the Commission to approve the inclusion, in the programme of future work of the Sub-Commission, of matters which it had itself referred to the Sub-Commission for continued consideration.

456. In support of the draft resolution, it was pointed out that the Sub-Commission had merely been complying with the dictates of courtesy in informing the Commission that consideration of the matters referred to in resolution H had not been resumed and would not be resumed for some time; not, in fact, until the study on the present position as regards minorities throughout the world had been completed.

Decisions of the Commission

457. Draft resolution D was adopted unanimously.

458. The resolution adopted by the Commission reads:

"VI

"FUTURE WORK OF THE SUB-COMMISSION RELATING TO THE PROTECTION OF MINORITIES

"The Commission on Human Rights,

"Having noted resolution H of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on future work on the protection of minorities (E/CN.4/703, paragraph 200),

"Approved the decision of the Sub-Commission to include in its programme of future work consideration of the matters dealt with in the draft resolution adopted at its fourth session entitled 'Interim measures to be taken for the protection of minorities', and in the portion of the draft resolution of its fifth session entitled 'Abolition of discriminatory measures' which referred to the taking of effective measures for the protecting of minorities."

G. Study of discrimination in employment and occupation

459. Resolution C of the Sub-Commission, on the study of discrimination in employment and occupation (E/CN.4/703, para. 123) was as follows:

"STUDY OF DISCRIMINATION IN EMPLOYMENT AND OCCUPATION

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

"Recalling that the item entitled 'Consideration of the procedure to be followed in studying discrimination in the field of employment and occupation' had been placed on the agenda of its sixth session in accordance with the work programme adopted by it at its fifth session, approved by the Commission on Human Rights at its ninth session, and noted by the Economic and Social Council in resolution 502 H (XVI),

"Recalling further that the Secretary-General was requested, in collaboration with the ILO, to prepare and submit to the sixth session of the Sub-Commission suggestions concerning the procedure to be followed in the preparation of the study of this item,

"Noting, from the interim report of the Secretary-General (E/CN.4/Sub.2/156), that collaboration between the Secretary-General and the ILO has not yet resulted in the formulation of the suggestions requested by the Sub-Commission,

"Noting further, from the statement of the representative of the ILO, that that specialized agency is willing to undertake the study of discrimination in the field of employment and occupation, and that it will pursue this study with the greatest care and expedition,

"Having regard to resolution 502 H (XVI), in which the Council expressed the belief that 'future studies which fall within the scope of specialized agencies should normally be carried out by the specialized agencies, or other bodies directly concerned' and requested the Sub-Commission at its sixth session, *inter alia*, 'to consider, as regards proposed studies of discrimination, which of the studies should be undertaken by specialized agencies or other bodies concerned, and which directly by the Sub-Commission in collaboration with the Secretary-General',

"Considering that resolution 502 H (XVI) was intended to expedite the work of the Sub-Commission

sion by enlisting the assistance of specialized agencies and other bodies directly concerned,

"1. *Expresses* its appreciation of the readiness of the ILO to co-operate with the United Nations in this field;

"2. *Considers* that the preparatory study of discrimination in the field of employment and occupation should be undertaken by the ILO, with the collaboration of the Secretary-General of the United Nations;

"3. *Invites* the attention of the ILO to the general principles adopted by the Sub-Commission to guide the special rapporteur in the preparation of the study of discrimination in the field of education, as an indication of the type of study which would be of assistance to the Sub-Commission;

"4. *Stresses* the importance of taking full advantage of the materials collected and studies carried out with respect to discrimination by the United Nations and its specialized agencies, as well as of the assistance which might be provided by non-governmental organizations directly interested in employment and occupation, and in preventing and abolishing discrimination;

"5. *Hopes* that, in view of the previous studies of the ILO relating to discrimination in employment and occupation, the study will be completed by the ILO and submitted to the Secretary-General in time for consideration by the Sub-Commission at its seventh session;

"6. *Invites* the Secretary-General, other specialized agencies, and non-governmental organizations, to place at the disposal of the ILO and the Sub-Commission all materials available to them relating to discrimination in employment and occupation;

"7. *Places* on the provisional agenda of the seventh session of the Sub-Commission the following item: 'Study of discrimination in the field of employment and occupation.'

460. The Sub-Commission did not submit a draft resolution on resolution C to the Commission on Human Rights. The Commission nevertheless examined the question in connexion with a draft resolution submitted by the representative of the United States of America (E/CN.4/L.363). The draft resolution proposed that the Commission note resolution C of the Sub-Commission, and recommend to the Council that it (a) approve the proposed study of discrimination in employment and occupation; (b) extend an invitation to the International Labour Organisation to undertake the proposed study; and (c) invite the Secretary-General, other specialized agencies, and non-governmental organizations to place at the disposal of the International Labour Organisation material available to them relating to discrimination in employment and occupation.

461. The Commission had before it, in considering this question, the text of a letter dated 26 March 1954 (E/CN.4/L.364) from the International Labour Office to the Secretary-General, stating that the Governing Body of the International Labour Office had examined resolution C of the Sub-Commission at its 124th session and had taken the following decisions:

"(a) That the Office should undertake for the autumn session of the Governing Body a preparatory study of discrimination in the field of employment and occupation with the collaboration of the

Secretary-General of the United Nations and should submit to that session suggestions for the completion of the study and any further ILO action which may be appropriate;

"(b) That in the meantime the Director-General should submit to the Governing Body, at its next session, a proposed outline of the study to be undertaken and preliminary proposals concerning the procedure to be followed in dealing with this question;

"(c) That the Governing Body should reserve until the autumn session its views concerning the most appropriate form of future co-operation with the United Nations in regard to this matter and to the nature of the report to be made to the seventh session of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities."

462. The debate in the Commission (E/CN.4/SR.466-470) centred around the draft resolution submitted by the representative of the United States. Some members did not understand why the Commission had been asked to take a decision in the matter, as they considered it sufficient for the Commission merely to take note of resolution C of the Sub-Commission. On the one hand, it was thought that if the matter was to be referred to the Council for consideration, the Commission should at least express its approval of resolution C; and, on the other hand, it was believed that further approval of resolution C by the Commission and of the Council was unnecessary since the study contemplated therein had already been approved at the previous session of the Commission and of the Council. In reply to these observations, the representative of the United States stated that her draft resolution had been submitted in order to stress the fact that, under Article 63 of the Charter, the Economic and Social Council was the body responsible for coordinating the relations between the specialized agencies and organs of the United Nations. In her view, the Sub-Commission's recommendations to the ILO should therefore have been made through the Council, and not directly. Moreover, she considered that subparagraph (a) of the United States draft directly expressed approval of the proposed study.

463. Three main questions arose in the Commission with regard to the substance of the draft resolution: (a) the question of the scope of the study; (b) the question of the role to be played by the ILO in the preparation of the study; and (c) the question of the position of the Secretary-General with regard to certain aspects of the study.

464. *Scope of the study:* The representative of Uruguay submitted an amendment (E/CN.4/L.376/Rev.1) to the United States draft resolution, the purpose of which was to stress that the study of discrimination in employment and occupation was to be global in nature, covering Non-Self-Governing and Trust Territories as well as metropolitan countries. However, observations were made by other members who pointed out that there was no need to refer specifically to Non-Self-Governing or Trust Territories since the study was to be undertaken on a universal basis. The representative of Uruguay, nevertheless, felt that explicit reference to so important a matter should be included in any resolution on the subject which the Commission would adopt and he submitted a revised text of his amendment which in its final form (E/CN.4/L.376/Rev.2) proposed to add at the end of paragraph (a)

of the United States draft resolution the words: "that study to be carried out on a global basis in accordance with article 2, paragraph 2, of the Universal Declaration of Human Rights". The amendment proposed by Uruguay in E/CN.4/L.376/Rev.1 was incorporated in an amendment submitted by the Polish representative to sub-paragraph (a) of the United States draft resolution (see paragraph 471 below).

465. *Role to be played by ILO:* During the discussion some representatives raised objections to the idea that ILO's study, as envisaged in resolution C of the Sub-Commission, would merely be preliminary to a study carried out by the Sub-Commission itself; they felt that ILO should carry out the whole of the proposed study, not only gathering all relevant materials but drawing conclusions from those materials and taking any further action which it considered to be appropriate. To this point the reply was made that the Sub-Commission had never suggested that ILO should not formulate its own conclusions if it so wished, and that in fact the Sub-Commission had been advised that ILO was prepared not only to assemble materials but also to draw conclusions therefrom. When the Sub-Commission received ILO's report, however, it would be free to formulate its own conclusions and recommendations, which might or might not coincide with those of ILO.

466. Some representatives felt that the Sub-Commission should have interpreted operative paragraph 4 of resolution 502 H (XVI) of the Economic and Social Council more literally; this paragraph lays down the principle "that future studies which fall within the scope of specialized agencies or other bodies should normally be carried out by the specialized agencies or other bodies directly concerned". In their view, the study of discrimination in employment and occupation should have been left entirely to ILO. On the other hand, it was pointed out that under paragraph 6 of the same resolution the Sub-Commission had been given an explicit prerogative "to consider . . . which of the studies should be undertaken by specialized agencies or other bodies directly concerned and which directly by the Sub-Commission in collaboration with the Secretary-General". It had made use of this prerogative in expressing the view that the ILO should carry out the study, but in doing so it had not divested itself of its own responsibility to prepare recommendations on the question of discrimination for consideration by the Commission and the Council.

467. *Position of the Secretary-General:* Two questions were raised concerning the position of the Secretary-General with regard to the proposed study. The first was whether, if the Commission adopted the United States draft resolution, the Secretary-General would find it possible to include the cost of publication of the study in the 1955 budget, or whether the cost could be absorbed in the normal appropriation for United Nations publications. The second was whether the Secretary-General considered it necessary for the Commission to ask the Council to invite him to make available to the Sub-Commission or to ILO material relating to discrimination in employment and occupation.

468. The representative of the Secretary-General replied, in answer to the first question, that a request for funds to defray the cost of publishing the study would be made by the Secretary-General to the General Assembly at the appropriate time; and, in answer

to the second question, that the Secretary-General felt that it would be his obvious duty to put at the disposal either of a specialized agency or of an organ of the United Nations engaged in a study of discrimination in employment and occupation any pertinent material relating thereto which he might have in his possession, and that he did not think it would be necessary for either the Commission or the Council to adopt any resolution authorizing him to do so.

469. *Amendments to the United States draft resolution:* In addition to the amendment proposed by the representative of Uruguay (see para. 464 above) amendments to the United States draft resolution were put forward by the representatives of Poland (E/CN.4/L.373) and the United Kingdom (E/CN.4/L.377).

470. *Preamble:* The representative of the United Kingdom proposed the insertion of three paragraphs after the preambular paragraph of the United States draft resolution, reading as follows:

"*Recalling* that the Economic and Social Council in its resolution 502 H (XVI) has expressed its belief that future studies which fall within the scope of specialized agencies or other bodies should normally be carried out by the specialized agencies or other bodies directly concerned,

"*Recognizing* that the study of discrimination in the field of employment falls within the scope of the ILO and should accordingly be undertaken by the ILO,

"*Noting* that the Governing Body of the ILO has already been informed of the views of the Sub-Commission regarding the scope of such a study,".

471. *Sub-paragraph (a) of the operative paragraph:* The representative of the United Kingdom proposed (E/CN.4/L.377) the deletion of sub-paragraph (a) of the operative paragraph of the United States draft resolution. On the other hand, the representative of Poland proposed (E/CN.4/L.375 and E/CN.4/SR.470) that sub-paragraph (a) be replaced by the following:

"(a) Approve resolution C of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/703, para. 123) concerning the procedure which the Sub-Commission proposes to follow for its study of the question of discrimination in the field of employment and occupation, that study to be carried out also in Trust and Non-Self-Governing Territories".

472. *Sub-paragraph (b) of the operative paragraph:* The representatives of the United Kingdom and Poland each submitted a substitute text for sub-paragraph (b) of the operative paragraph of the United States draft resolution. The United Kingdom draft (E/CN.4/L.377) read as follows:

"(b) Invite the ILO to undertake a study of discrimination in the field of employment and occupation, and to keep the Sub-Commission informed, through the Secretary-General, of the action taken."

The Polish draft (E/CN.4/L.375) read as follows:

"(b) Extend an invitation to the International Labour Organisation to undertake, in collaboration with the Secretary-General, a preparatory study of the question of discrimination in the field of employment and occupation, in conformity with paragraphs

2, 3 and 5 of resolution C of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/703, para. 123), and to submit that study to the Secretary-General in time for its consideration by the Sub-Commission at its seventh session."

473. *Sub-paragraph (c) of the operative paragraph:* The representative of Poland submitted an amendment (E/CN.4/L.375) to sub-paragraph (c) of the operative paragraph of the United States draft resolution, proposing the insertion of the words "and of the Sub-Commission on Prevention of Discrimination and Protection of Minorities" after the words "International Labour Organisation".

Decisions of the Commission

474. The Commission voted on the United States draft resolution, and the various amendments which had been proposed thereto, at its 470th meeting.

475. The preamble of the United States draft resolution (E/CN.4/L.363) was adopted by 13 votes to 1, with 3 abstentions.

476. The first United Kingdom amendment, adding three additional preambular paragraphs (see paragraph 470 above), was adopted by 8 votes to 5, with 4 abstentions.

477. The Polish amendment to sub-paragraph (a) (see para. 471 above) which was orally revised by adding the following text at the end: "that study to be carried out also in Trust and Non-Self-Governing Territories", was declared by the Chairman as rejected after the original text was put to a vote separately and rejected by 8 votes to 6, with 3 abstentions.

478. The United Kingdom proposal, to delete sub-paragraph (a), was adopted by 10 votes to 3, with 4 abstentions.

479. The Polish amendment, proposing a new text for sub-paragraph (b) which was orally revised in accordance with the suggestion of the representative of the Philippines that reference should be made not only to paragraphs 2, 3 and 5, but also to paragraph 4, of resolution C of the Sub-Commission, (see paragraph 472 above) was rejected by 8 votes to 6, with 3 abstentions.

480. The revised Uruguayan amendment (E/CN.4/L.376/Rev.2), which had been offered as an amendment to the United Kingdom substitute text for sub-paragraph (b), was adopted by 13 votes to none, with 4 abstentions.

481. The United Kingdom amendment to sub-paragraph (b), as amended, was adopted by 11 votes to 3, with 3 abstentions.

482. The Polish amendment to sub-paragraph (c) (see paragraph 473 above) was rejected by 8 votes to 8, with 1 abstention.

483. Sub-paragraph (c) of the United States draft resolution (E/CN.4/L.363) was adopted by 11 votes to none, with 6 abstentions.

484. The United States draft resolution as a whole, as amended, was adopted by 11 votes to 3, with 3 abstentions.

485. The resolution adopted by the Commission reads:

"VII

"STUDY OF DISCRIMINATION IN EMPLOYMENT AND OCCUPATION

"The Commission on Human Rights,

"Having noted resolution C of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on the study of discrimination in employment and occupation (E/CN.4/703, para. 123),

"Recalling that the Economic and Social Council in its resolution 502 H (XVI) has expressed its belief that future studies which fall within the scope of specialized agencies or other bodies should normally be carried out by the specialized agencies or other bodies directly concerned,

"Recognizing that the study of discrimination in the field of employment falls within the scope of the International Labour Organisation and should accordingly be undertaken by the ILO,

"Noting that the Governing Body of the International Labour Office has already been informed of the views of the Sub-Commission regarding the scope of such a study,

"Recommends that the Economic and Social Council:

"(a) Invite the International Labour Organisation to undertake a study of discrimination in the field of employment and occupation, that study to be carried out on a global basis in accordance with article 2, paragraph 2, of the Universal Declaration of Human Rights; and to keep the Sub-Commission informed, through the Secretary-General, of the action taken; and

"(b) Invite the Secretary-General, other specialized agencies, and non-governmental organizations to place at the disposal of the International Labour Organisation material available to them relating to discrimination in employment and occupation."

H. Future programme of work of the Sub-Commission in the field of prevention of discrimination

486. Resolution D of the Sub-Commission, on the future work programme of the Sub-Commission in the field of prevention of discrimination (E/CN.4/703, para. 143) was as follows:

"FUTURE WORK PROGRAMME OF THE SUB-COMMISSION IN THE FIELD OF PREVENTION OF DISCRIMINATION

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

"Having considered the memorandum by the Secretary-General (E/CN.4/Sub.2/153),

"1. Decides to include the following item in the agenda of its seventh session:

"Procedure to be followed in carrying out studies of discrimination in the matter of (a) political rights mentioned in the Universal Declaration of Human Rights; (b) religious rights and practices; and (c) emigration, immigration and travel,

"2. Considers, in the light of paragraphs 4 and 6 (b) of resolution 502 H (XVI) of the Economic and Social Council, that the studies contemplated in the preceding paragraph should be undertaken directly by the Sub-Commission itself in collaboration with the Secretary-General of the United Nations;

"3. Appoints three of its members who, in consultation with the Secretary-General, shall respec-

tively prepare and submit to the Sub-Commission at its seventh session proposals concerning the procedure to be followed in these studies;

"These members shall be:

"(a) *Mr. Santa Cruz*, to deal with discrimination in the matter of political rights;

"(b) *Mr. Halpern*, to deal with discrimination in the matter of religious rights and practices;

"(c) *Mr. Inglés*, to deal with discrimination in the matter of emigration, immigration and travel;

"4. *Requests* the said members to include in their proposals preliminary suggestions concerning existing sources of information and concerning United Nations organs and specialized agencies, as well as non-governmental organizations, which might collaborate in such studies;

"5. *Resolves* to consider, at its seventh session, in the light of the preliminary work carried out by its three members and of any other relevant circumstances, which further study of discrimination should be undertaken in 1955."

487. The Sub-Commission did not submit a draft resolution on resolution D to the Commission on Human Rights. The Commission nevertheless examined (E/CN.4/SR.471-472) the resolution in connexion with a draft resolution submitted by the representative of the United States (E/CN.4/L.362).

488. The United States draft resolution called upon the Commission to note resolution D of the Sub-Commission, to approve the programme of work contained therein subject to certain modifications, and to recommend to the Sub-Commission that the study of discrimination in the matter of religious rights and practices be undertaken as promptly as possible.

489. The modifications to resolution D proposed by the representative of the United States were as follows:

Amend paragraph 1 to read as follows:

"1. *Decides* to include the following item in the agenda of its seventh session:

"Procedure to be followed in carrying out studies of discrimination in the matter of (a) political rights as provided in article 21 of the Universal Declaration of Human Rights, (b) religious rights and practices as provided in article 18 of the Universal Declaration of Human Rights, (c) emigration and the right to return to one's country as provided in paragraph 2 of article 13 of the Universal Declaration of Human Rights,"

"Paragraph 3:

(a) Add "as provided in article 21 of the Universal Declaration of Human Rights";

(b) Add "as provided in article 18 of the Universal Declaration of Human Rights";

(c) Delete "immigration and travel" and substitute "and the right to return to one's country as provided in paragraph 2 of article 13 of the Universal Declaration of Human Rights".

490. Widely divergent views on the United States draft resolution were expressed by various members of the Commission. In support of the proposal, it was stated that its sole intention was to provide precise directives to the Sub-Commission which would assist that organ in carrying out its work, that the suggested modifications would enable the Sub-Commission to speed up its programme because they simplified and

facilitated its work, and that the reference to article 18 of the Universal Declaration of Human Rights in connexion with a study of discrimination in the matter of religious rights and practices merely emphasized the importance which should be attached to the question of freedom of religion. It was further felt that the subject of immigration was not appropriate for study by the Sub-Commission, and it was recalled that, after detailed discussion during the drafting of the Universal Declaration, it had been decided not to include "immigration" in the declaration. On the other hand, some members pointed out that each of the proposed modifications had been rejected by the Sub-Commission after full consideration at its sixth session; that it was premature for the Commission to discuss the questions raised in resolution D before the Sub-Commission had made up its own mind on them; that the limitations which would be placed upon the Sub-Commission if the Commission adopted the proposed resolution would hinder, rather than advance, its work; and that if any of the three studies envisaged by the Sub-Commission should be given priority, it should be the study of discrimination in the matter of political rights rather than discrimination in the matter of religious rights and practices.

491. Several members of the Commission expressed a preference for leaving resolution D of the Sub-Commission as it stood, without any modification.

492. At the Commission's 472nd meeting the representative of the United States accepted a suggestion of the French representative that she withdraw her draft resolution. In place thereof, she submitted a new proposal (E/CN.4/L.380), drawing the attention of the Sub-Commission "to the observations made upon the plan proposed for the studies provided for by the Sub-Commission's resolution D and to the debate on the United States proposal relating to the subject (E/CN.4/L.362)".

493. Some members of the Commission considered that there was no need for such a decision by the Commission, as it was to be expected that members of the Sub-Commission would normally examine the entire record of the Commission's debates. Other members felt, however, that it would do no harm for the Commission to draw attention to particular parts of the record which it desired the Sub-Commission to take into account.

Decision of the Commission

494. The United States draft resolution (E/CN.4/L.380) was adopted by 11 votes to none, with 6 abstentions.

495. The resolution adopted by the Commission reads:

"VIII

"FUTURE PROGRAMME OF WORK OF THE SUB-COMMISSION IN THE FIELD OF PREVENTION OF DISCRIMINATION

"The Commission on Human Rights

"Draws the attention of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the observations made upon the plan proposed for the studies provided for by the Sub-Commission's resolution D, and to the debate on the United States proposal relating to the subject (E/CN.4/L.362 and E/CN.4/SR.471-472)".

I. Collaboration between the Sub-Commission and the specialized agencies

496. Resolution I of the Sub-Commission, on collaboration between the Sub-Commission and the specialized agencies (E/CN.4/703, paragraph 208), was as follows:

"COLLABORATION BETWEEN THE SUB-COMMISSION AND THE SPECIALIZED AGENCIES

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

"Considering the diversity and complexity of social conditions which give rise to discrimination and to minority problems,

"Considering further the advantages which the Sub-Commission, in performing its task of recommending measures for prevention of discrimination and protection of minorities, can draw from any impartial and scholarly investigation and description of such social conditions,

"Having noted the wide range of activities of some of the specialized agencies, notably UNESCO, in this field,

"Requests the Commission on Human Rights to request the Economic and Social Council:

"(a) To invite UNESCO and other specialized agencies to give special attention to the Sub-Commission's programme of work when selecting fields and subjects for research, with a view to facilitating and supplementing the studies to be undertaken by the Sub-Commission; and

"(b) To this end, to authorize the Secretary-General to provide direct means of contact between the Sub-Commission and UNESCO and other specialized agencies."

497. The Sub-Commission did not submit a draft resolution on resolution I to the Commission on Human Rights. The Commission nevertheless examined (E/CN.4/SR.472) the resolution in connexion with a draft resolution submitted jointly by the representatives of the Philippines and the United States of America (E/CN.4/L.359/Rev.1).

498. The joint draft resolution called upon the Commission to note resolution I of the Sub-Commission, and to request the Economic and Social Council:

"(a) To invite UNESCO and other specialized agencies to give special attention to the Sub-Commission's programme of work when selecting fields and subjects for research, with a view to facilitating and supplementing the studies to be undertaken by the Sub-Commission; and

"(b) To this end, in relation to studies approved by the Council, to authorize the Secretary-General to provide direct means of contact between the Sub-Commission and whatever specialized agency or agencies have been invited by the Council to cooperate with respect to such approved study."

499. In support of the joint proposal, it was stated that it merely reproduced the terms of the operative sections of the Sub-Commission's resolution I, amended slightly in order to take into account observations made by members of the Commission and by the representative of the UNESCO during the general debate. It was also pointed out that the draft resolution, if adopted, would have the effect of avoiding detailed debates, such as those held in the Commission, by formalizing

the future relations between the Sub-Commission and the specialized agencies.

500. Some delegations expressed misgivings with regard to the proposed action, particularly inasmuch as specialized agencies would be asked to give special priority, which in their view was implied in the words "special attention", to items in the Sub-Commission's programme of work. The sponsors stated that the intention was not to ask the specialized agencies to give special priority to matters falling within the Sub-Commission's programme of work but only such special attention as might be necessary to ensure the closest co-ordination between the work of the Sub-Commission and the specialized agencies in the field of prevention of discrimination. In order to dispel the doubts which had been expressed, however, they withdrew the word "special" from the text of the draft resolution.

Decisions of the Commission

501. The joint Philippine-United States draft resolution was voted upon in parts.

502. The preambular paragraph was adopted by 16 votes to none, with 1 abstention.

503. Sub-paragraph (a) of the operative part was adopted by 15 votes to none, with 2 abstentions.

504. Sub-paragraph (b) was adopted by 14 votes to none, with 3 abstentions.

505. The joint draft resolution as a whole was adopted by 15 votes to none, with 2 abstentions.

506. The resolution adopted by the Commission reads:

"IX

"COLLABORATION BETWEEN THE SUB-COMMISSION AND THE SPECIALIZED AGENCIES

"The Commission on Human Rights,

"Having noted resolution I of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on collaboration between the Sub-Commission and the specialized agencies (E/CN.4/703, paragraph 208),

"Requests the Economic and Social Council:

"(a) To invite UNESCO and other interested specialized agencies to give attention to the Sub-Commission's programme of work when selecting fields and subjects for research, with a view to facilitating and supplementing the studies to be undertaken by the Sub-Commission; and

"(b) To this end, in relation to studies approved by the Council, to authorize the Secretary-General to provide direct means of contact between the Sub-Commission and whatever specialized agency or agencies have been invited by the Council to cooperate with respect to such approved study."

J. Report of the sixth session of the Sub-Commission

507. At its 472nd meeting, on 12 April 1954, the Commission unanimously adopted draft resolution E, submitted by the Sub-Commission (E/CN.4/703, annex I), as follows:

"REPORT OF THE SIXTH SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

"The Commission on Human Rights

"Takes note of the report of the sixth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/703 and Corr.1)."

K. Future sessions of the Sub-Commission

508. At its 473rd-474th meetings the Commission discussed the following draft resolution submitted by the representatives of Chile and Uruguay (E/CN.4/L.374):

"The Commission on Human Rights,

"Considering that the prevention of discrimination is of fundamental importance to the efforts of the United Nations to promote the effective observance of human rights,

"Bearing in mind the necessity of allowing the Sub-Commission on Prevention of Discrimination and Protection of Minorities more time properly to complete the study of the important problems entrusted to it,

"Requests the Economic and Social Council to authorize the Sub-Commission to hold yearly sessions of up to six weeks' duration."

509. The representative of China submitted a number of amendments (E/CN.4/L.382): to insert in the first paragraph after the words "prevention of discrimination", the words "and protection of minorities"; to amend the end of the second paragraph to read "to study the important problems entrusted to it"; and to replace in the operative paragraph the words "yearly sessions of up to six weeks' duration" by the words "its seventh session for not less than four weeks".

510. In support of the joint proposal it was stated that everyone recognized that the work entrusted to the Sub-Commission was of fundamental importance, and the proposal was aimed at making it possible for it to carry out its task within a reasonable time without too much delay. The heavy agenda of the Sub-Commission required more time than the three weeks envisaged in Council resolution 502 A (XVI). There was every reason for the Commission to provide for the most favourable conditions for the Sub-Commission to fulfil its obligations and to do its task in the most effective manner. While recognizing the importance of the work of the Sub-Commission some members felt that the Commission should not make such a far-reaching request to the Council. Opinion was divided concerning the actual workload of the Commission at its next session; some thought that it would be heavier in the following session. Other members considered that from the experience of the Commission itself, long sessions did not necessarily lead to the best results. Moreover, members of the Sub-Commission, who were elected as experts, might be unable to attend extended sessions owing to their other duties.

511. Several members felt that for practical reasons the Commission should only make recommendations covering the next session of the Sub-Commission and leave itself free to make further recommendations as the occasion arose. It was better, in the view of some members, to fix the period at four weeks. Some mem-

bers even felt that the period should not exceed four weeks in order not to encourage prolongation of the session, which had often taken place in the case of other organs. One suggestion was to provide for "not less than four and not more than six weeks" as this would take account of any emergency which might require that the Sub-Commission meet longer than four weeks to complete its work. It was nevertheless contended that the draft resolution would not necessarily result in the Sub-Commission meeting for the full six weeks. The Sub-Commission could be relied upon to complete its work as expeditiously as possible and not to utilize all the time allotted to it. Another point of view was that the matter should be left to the Council, which would take account of the views expressed in the Commission and provide for a session of the Sub-Commission in the light of the over-all programme of conferences.

512. A statement was made by the representative of the Secretary-General concerning the financial implications of the draft resolution (see annex VI). On this question certain members felt that undue importance should not be placed on the very small expenditure involved since it would enable the Sub-Commission to accomplish positive results in its work. Other members felt that financial implications should not be lightly disregarded and the Council should be left free to decide on the implications in the light of the over-all budgetary situation. One point of view which was expressed was that the Fifth Committee of the General Assembly should see to it that the small increase was absorbed in the over-all budget of the United Nations without increasing that budget and that measures of economy should under no circumstances be applied to the Sub-Commission.

Decisions of the Commission

513. The first amendment of China was accepted by the sponsors of the draft resolution and the first paragraph as thus revised was adopted by 16 votes to none with one abstention.

514. The second amendment of China was adopted by 7 votes to none with 6 abstentions and the second paragraph of the draft resolution as thus amended was adopted by 11 votes to none with 5 abstentions.

515. The third Chinese amendment to replace the words "yearly sessions of up to six weeks' duration" by the words "its seventh session for not less than four weeks" in the operative paragraph of the draft resolution was voted on in parts. The words "not less than" were rejected by 5 votes to 4 with 5 abstentions. The rest of the amendment was rejected by 9 votes to 7 with 1 abstention.

516. The operative paragraph of the joint draft resolution was adopted by 9 votes to 6 with 2 abstentions.

517. The joint draft resolution as amended was adopted in a roll-call vote by 9 votes to 5 with 3 abstentions. The vote was as follows:

In favour: Chile, Egypt, India, Pakistan, Philippines, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics and Uruguay;

Against: Australia, Belgium, France, United Kingdom of Great Britain and Northern Ireland and United States of America;

Abstentions: China, Greece and Turkey.

518. The resolution adopted by the Commission reads:

“XI

“FUTURE SESSIONS OF THE SUB-COMMISSION¹¹

“*The Commission on Human Rights,*

“*Considering* that the prevention of discrimination and protection of minorities are of fundamental importance to the efforts of the United Nations to promote the effective observance of human rights,

“*Bearing in mind* the necessity of allowing the Sub-Commission on Prevention of Discrimination and Protection of Minorities more time to study the important problems entrusted to it,

“*Requests* the Economic and Social Council to authorize the Sub-Commission to hold yearly sessions of up to six weeks’ duration.”

VIII. COMMUNICATIONS

519. The 453rd meeting was held in private to receive (item 22 (a) of the agenda) the confidential list of communications (HR/Communications List No. 4) and observations from governments (HR/Communications Nos. 40-52), prepared by the Secretary-General in accordance with Economic and Social Council resolutions 75 (V), 192 A (VIII), 275 B (X) and 454 (XIV). Non-confidential lists of communications (E/CN.4/CR.23 and Add.1), dealing with the principles involved in the promotion of universal respect for and observance of human rights, had already been circulated to the members of the Commission. The non-confidential list contained summaries of 387 communications received during the period 1 April 1953 to 12 February 1954. The confidential list contained summaries of or references to 9,524 communications received during the period of 13 March 1953 to 31 December 1953. Of this total 7,850 alleged violations of freedom of religion and 1,343 concerned allegations of violations of human rights on political grounds. Other communications principally alleged discrimination and violations of rights of minorities (25), violations of trade union rights (30), denial of the right to a fair trial (45), cruel and inhuman treatment and punishment of persons accused

of crimes (12), violations of property rights (10), denial of the right of self-determination (44) and the practice of forced labour (27). The remaining communications related to a variety of subjects such as right of asylum, family and marriage rights, right to a nationality, genocide, prisoners of war, refugees, slavery, freedom of movement, just and favourable conditions of work, freedom of information and of the press, the right to work, arbitrary detention, privacy of correspondence, old age rights, the status of women, freedom of assembly, just and favourable remuneration and retroactive application of the law.

520. The Commission decided by 10 votes to none, with 7 abstentions, to take note of the distribution of the lists of communications. It also agreed, without objection, to the motion of the representative of Uruguay to make public the summary record of the meeting. Certain members deplored the restriction imposed on the Commission by resolutions of the Economic and Social Council. It was pointed out that existing rules inhibited the Commission from referring to the sender of a communication the reply of the State concerned, even where the reply sought to indicate what domestic remedies were available to him.

IX. NEXT SESSION OF THE COMMISSION

521. At the 477th meeting the representative of France submitted a draft resolution (E/CN.4/L.385) concerning the meeting place of the next session of the Commission. The attention of the Commission was drawn to General Assembly resolution 790 (VIII) requesting organs of the United Nations to adhere to the pattern of conferences established for 1954-1957. The draft resolution was adopted by 8 votes to 1, with 6 abstentions.

522. The resolution adopted by the Commission reads:

“XII

“PLACE OF MEETING OF THE NEXT SESSION OF THE COMMISSION

“*The Commission on Human Rights*

“*Recommends* to the Economic and Social Council to decide that the Commission on Human Rights shall meet at Geneva in 1955.”

X. ADOPTION OF THE REPORT OF THE TENTH SESSION OF THE COMMISSION TO THE ECONOMIC AND SOCIAL COUNCIL

523. The Commission considered at the 477th-479th meetings the draft report of its tenth session (E/CN.4/L.366 and Add.1-13) and adopted it unanimously.

¹¹ A draft resolution on this subject for consideration by the Economic and Social Council appears in annex IV as draft resolution E.

ANNEXES

Annex I

Draft international covenants on human rights¹

A

DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The States Parties hereto,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free men enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under responsibility to strive for the promotion and observance of the rights recognized in this Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples and all nations shall have the right of self-determination, namely, the right freely to determine their political economic, social and cultural status.

2. All States, including those having responsibility for the administration of Non-Self-Governing and Trust Territories and those controlling in whatsoever manner the exercise of that right by another people, shall promote the realization of that right in all their territories, and shall respect the maintenance of that right in other States, in conformity with the provisions of the United Nations Charter.

3. The right of peoples to self-determination shall also include permanent sovereignty over their natural wealth and resources. In no case may a people be

¹In this annex footnote references are given to the documents relating only to those articles which were considered at the tenth session of the Commission. In the case of articles considered at previous sessions the document references will be found in the relevant footnotes in annex I of the reports of those sessions of the Commission.

deprived of its own means of subsistence on the grounds of any rights that may be claimed by other States.

PART II

Article 2

1. Each State Party hereto undertakes to take steps, individually and through international co-operation, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in this Covenant by legislative as well as by other means.

2. The State Parties hereto undertake to guarantee that the rights enunciated in this Covenant will be exercised 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.

Article 3

The States Parties to the Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in this Covenant.

Article 4

The State Parties to this Covenant recognize that in the enjoyment of those rights provided by the State in conformity with this Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in this Covenant may be interpreted as implying for any State, group or person, any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in this Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Work being at the basis of all human endeavour, the States Parties to the Covenant recognize the right

to work, that is to say, the fundamental right of everyone to the opportunity, if he so desires, to gain his living by work which he freely accepts.

2. The steps to be taken by a State Party to this Covenant to achieve the full realization of this right shall include programmes, policies and techniques to achieve steady economic development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the Covenant recognize the right of everyone to just and favourable conditions of work, including:

- (a) Safe and healthy working conditions;
- (b) Remuneration which provides all workers as a minimum with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular, women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; and
 - (ii) A decent living for themselves and their families; and
- (c) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay.

Article 8

The States Parties to the Covenant undertake to ensure the free exercise of the right of everyone to form and join local, national and international trade unions of his choice for the protection of his economic and social interests.

Article 9

The States Parties to the Covenant recognize the right of everyone to social security.

Article 10

The States Parties to the Covenant recognize that:

1. Special protection should be accorded to motherhood and particularly to maternity during reasonable periods before and after childbirth; and
2. Special measures of protection, to be applied in all appropriate cases, within and with the help of the family, should be taken on behalf of children and young persons, and in particular they should not be required to do work likely to hamper their normal development. To protect children from exploitation, the unlawful use of child labour and the employment of young persons in work harmful to health or dangerous to life should be made legally actionable; and
3. The family, which is the basis of society, is entitled to the widest possible protection. It is based on marriage, which must be entered into with the free consent of the intending spouses.

Article 11

The States Parties to the Covenant recognize the right of everyone to adequate food, clothing and housing.

Article 12

The States Parties to the Covenant recognize the right of everyone to an adequate standard of living and the continuous improvement of living conditions.

Article 13

1. The States Parties to the Covenant, realizing that health is a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity, recognize the right of everyone to the enjoyment of the highest attainable standard of health.

2. The steps to be taken by the States Parties to the Covenant to achieve the full realization of this right shall include those necessary for:

- (a) The reduction of infant mortality and the provision for healthy development of the child;
- (b) The improvement of nutrition, housing, sanitation, recreation, economic and working conditions and other aspects of environmental hygiene;
- (c) The prevention, treatment and control of epidemic, endemic and other diseases;
- (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 14

1. The States Parties to the Covenant recognize the right of everyone to education, and recognize that education shall encourage the full development of the human personality, the strengthening of respect for human rights and fundamental freedoms and the suppression of all incitement to racial and other hatred. It shall promote understanding, tolerance and friendship among all nations, racial, ethnic or religious groups, and shall further the activities of the United Nations for the maintenance of peace and enable all persons to participate effectively in a free society.

2. It is understood:

- (a) That primary education shall be compulsory and available free to all;
- (b) That secondary education, in its different forms, including technical and professional secondary education, shall be generally available and shall be made progressively free;
- (c) That higher education shall be equally accessible to all on the basis of merit and shall be made progressively free;
- (d) That fundamental education for those persons who have not received or completed the whole period of their primary education shall be encouraged as far as possible.

3. In the exercise of any functions which they assume in the field of education, the States Parties to the Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians, to choose for their children schools other than those established by the public authorities which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious education of their children in conformity with their own convictions.

Article 15

Each State Party to the Covenant which, at the time of becoming a party to this Covenant, has not been able

to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory primary education free of charge for all.

Article 16

1. The States Parties to the Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications.

2. The steps to be taken by the States Parties to this Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

PART IV

Article 17²

1. The States Parties to this Covenant undertake to submit in conformity with this part of the Covenant reports concerning the progress made in achieving the observance of the rights recognized herein.

2. (a) All reports shall be submitted to the Secretary-General of the United Nations for the Economic and Social Council;

(b) Any State Party which is also a member of a specialized agency shall at the same time transmit, in respect of matters falling within the purview of that agency, a copy of its report, or relevant extracts therefrom, as appropriate, to that agency.

Article 18³

1. The States Parties shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council after consultation with the States Parties to this Covenant and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under this Covenant.

3. Where relevant information has already previously been furnished to the United Nations or to any specialized agency by any State Party it will not be necessary to reproduce that information but a precise reference to the information so furnished will suffice.

Article 19⁴

Pursuant to its responsibilities under the Charter in the field of human rights, the Economic and Social

² Article 60 of the draft covenant prepared at the seventh session, E/2447, annex I, section D; E/CN.4/L.325, 326, 326/Rev.1, 327, 329, 331, 378; E/CN.4/SR.420-423, and paragraphs 78-97 of this report.

³ Article 61 of the draft covenant prepared at the seventh session, E/2447, annex I, section D; E/CN.4/675, paragraph 11; E/CN.4/L.328, 331, 378; E/CN.4/SR.423, and paragraphs 98-106 of this report.

⁴ Article 62 of the draft covenant prepared at the seventh session, E/2447, annex I, section D; E/CN.4/675, paragraphs 12, 13 and 31; E/CN.4/L.325, 331, 378; E/CN.4/SR.424, and paragraphs 110-121 of this report.

Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of this Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 20⁵

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or as appropriate for information the reports concerning human rights submitted by States, and those concerning human rights submitted by the specialized agencies.

Article 21⁶

The States Parties directly concerned and the specialized agencies may submit comments to the Economic and Social Council on any general recommendation under article 20 or reference to such general recommendation in any report of the Commission or any documentation referred to therein.

Article 22⁷

The Economic and Social Council may submit from time to time to the General Assembly, with its own reports, reports summarizing the information made available by the States Parties to the Covenant directly to the Secretary-General and by the specialized agencies under Article . . . indicating the progress made in achieving general observance of these rights.

Article 23⁸

The Economic and Social Council may bring to the attention of the international organs concerned with technical assistance or of any other appropriate international organ any matters arising out of the reports referred to in this part of the Covenant which may assist such organs in deciding each within its competence, on the advisability of international measures likely to contribute to the progressive implementation of this Covenant.

Article 24⁹

The States Parties to the Covenant agree that international action for the achievement of these rights includes such methods as conventions, recommendations, technical assistance, regional meetings and technical meetings and studies with governments.

⁵ Article 63 of the draft covenant prepared at the seventh session, E/2447, annex I, section D; E/CN.4/L.325, 331, 378; E/CN.4/SR.424, and paragraphs 122-132 of this report.

⁶ Article 64 of the draft covenant prepared at the seventh session, E/2447, annex I, section D; E/CN.4/L.325, 331, 378; E/CN.4/SR.424, and paragraphs 133-139 of this report.

⁷ Article 65 of the draft covenant prepared at the seventh session, E/2447, annex I, section D; E/CN.4/675, paragraph 32; E/CN.4/L.331, 378; E/CN.4/SR.424, and paragraph 140 of this report.

⁸ Article 66 of the draft covenant prepared at the seventh session, E/2447, annex I, section D; E/CN.4/675, paragraph 33; E/CN.4/L.331, 378; E/CN.4/SR.424, and paragraphs 141-147 of this report.

⁹ Article 67 of the draft covenant prepared at the seventh session, E/2447, annex I, section D; E/CN.4/675, paragraph 34; E/CN.4/L.330, 331/Add.1, 378; E/CN.4/SR.424-426, and paragraphs 148-162 of this report.

Article 25¹⁰

Nothing in this Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies, which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in this Covenant.

PART V

Article 26¹¹

1. This Covenant shall be open for signature and ratification or accession on behalf of any State Member of the United Nations or of any non-member State to which an invitation has been extended by the General Assembly.

2. Ratification of or accession to this Covenant shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as twenty States have deposited such instruments, the Covenant shall come into force among them. As regards any State which ratifies or accedes thereafter the Covenant shall come into force on the date of the deposit of its instrument of ratification or accession.

3. The Secretary-General of the United Nations shall inform all Members of the United Nations, and other States which have signed or acceded, of the deposit of each instrument of ratification or accession.

Article 27¹²

The provisions of the Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 28¹³

The provisions of the present Covenant shall extend to or be applicable equally to a signatory metropolitan State and to all the territories, be they Non-Self-Governing, Trust, or Colonial Territories, which are being administered or governed by such metropolitan State.

Article 29¹⁴

1. Any State Party to the Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendments to the States Parties to the Covenant with a request that

¹⁰ Article 69 of the draft covenant prepared at the seventh session, E/2447, annex I, section D; E/CN.4/L.331/Add.1, 378; E/CN.4/SR.426, and paragraphs 167-170 of this report.

¹¹ Article 70 of the draft covenant of the seventh session, E/2447, annex I, section E; E/2447, annex II, section C; E/CN.4/678, paragraphs 3-7, 678/Corr.1 (English only); E/CN.4/L.347, 358, 378; E/CN.4/SR.450; paragraphs 243, 307-315 and annex II, section B of this report.

¹² E/2447, annex II, section B; E/1721, A/Corr.F.2121; E/CN.4/651, 696; E/CN.4/L.340, 340/Corr.1, 343, 344, 358, 378; E/CN.4/SR.437-441, 450, and paragraphs 243, 244-261 of this report.

¹³ E/2447, annex I, section C, E/CN.4/L.358, 378; E/CN.4/SR.451, and paragraph 243 of this report.

¹⁴ Article 73 of the draft covenant of the seventh session, E/2447, annex I, section E; E/2447, annex II, section C; E/CN.4/678, paragraphs 10-12; E/CN.4/L.358, 378; E/CN.4/SR.450-451, and paragraphs 243, 316-321 of this report.

they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one-third of the States favours such a conference the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Such amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the Covenant in accordance with their respective constitutional processes.

3. When such amendments come into force they shall be binding on those Parties which have accepted them, other Parties being still bound by the provisions of the Covenant and any earlier amendment which they have accepted.

B

DRAFT COVENANT ON CIVIL AND POLITICAL RIGHTS

The States Parties hereto,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free men enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under responsibility to strive for the promotion and observance of the rights recognized in this Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples and all nations shall have the right of self-determination, namely, the right freely to determine their political, economic, social and cultural status.

2. All States, including those having responsibility for the administration of Non-Self-Governing and Trust Territories and those controlling in whatsoever manner the exercise of that right by another people, shall promote the realization of that right in all their territories, and shall respect the maintenance of that right in other States, in conformity with the provisions of the United Nations Charter.

3. The right of peoples to self-determination shall also include permanent sovereignty over their natural wealth and resources. In no case may a people be

deprived of its own means of subsistence on the grounds of any rights that may be claimed by other States.

PART II

Article 2

1. Each State Party hereto undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in this Covenant, 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.

2. Where not already provided for by existing legislative or other measures, each State undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of this Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in this Covenant.

3. Each State Party hereto undertakes :

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity ;

(b) To develop the possibilities of judicial remedy and to ensure that any person claiming such a remedy shall have his right thereto determined by competent authorities, political, administrative or judicial ;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in this Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties hereto may take measures derogating from their obligations under this Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the Covenant availing itself of the right of derogation shall inform immediately the other States Parties to the Covenant, through the intermediary of the Secretary-General, of the provisions from which it has derogated, the reasons by which it was actuated and the date on which it has terminated such derogation.

Article 5

1. Nothing in this Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at

the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in this Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any Contracting State pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. No one shall be arbitrarily deprived of his life. Everyone's right to life shall be protected by law.

2. In countries where capital punishment exists, sentence of death may be imposed only as a penalty for the most serious crimes pursuant to the sentence of a competent court and in accordance with law not contrary to the principles of the Universal Declaration of Human Rights or the Convention on the Prevention and Punishment of the Crime of Genocide.

3. Any one sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

4. Sentence of death shall not be carried out on a pregnant woman.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation involving risk, where such is not required by his state of physical or mental health.

Article 8

1. No one shall be held in slavery ; slavery and the slave trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labour ;

(b) The preceding sub-paragraph shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court ;

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include :

(i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court ;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors ;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community ;

(iv) Any work or service which forms part of normal civic obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that such court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or deprivation of liberty shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity.

2. Accused persons shall be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons.

3. The penitentiary system shall comprise treatment directed to the fullest possible extent towards the reformation and social rehabilitation of prisoners.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12

1. Subject to any general law of the State concerned which provides for such reasonable restrictions as may be necessary to protect national security, public safety, health or morals or the rights and freedoms of others, consistent with the other rights recognized in this Covenant:

(a) Everyone legally within the territory of a State shall, within that territory, have the right to (i) liberty of movement and (ii) freedom to choose his residence;

(b) Everyone shall be free to leave any country, including his own.

2. (a) No one shall be subjected to arbitrary exile;

(b) Subject to the preceding sub-paragraph, anyone shall be free to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the rea-

sons against his expulsion and to have his case reviewed by and be represented for the purpose before the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and public may be excluded from all or part of a trial 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 interest of justice; but any judgment rendered in a criminal case or in a suit at law shall be pronounced publicly except where the interest of juveniles otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly in a language which he understands and in detail of the nature and cause of the accusation against him;

(b) To have adequate time and facilities for the preparation of his defence;

(c) To defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case where he does not have sufficient means to pay for it;

(d) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(f) Not to be compelled to testify against himself, or to confess guilt.

3. In the case of juveniles, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

4. In any case where by a final decision a person has been convicted of a criminal offence and where subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly-discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did

not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequently to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to maintain or to change his religion, or belief, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to maintain or to change his religion or belief.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in the foregoing paragraph carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall be such only as are provided by law and are necessary, (1) for respect of the rights or reputations of others, (2) for the protection of national security or of public order, or of public health or morals.

Article 20

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this

right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

Article 21

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of this right by members of the armed forces or of the police.

3. Nothing in this article shall authorize States Parties to the International Labour Convention of 1948 on Freedom of Association and Protection of the Right to Organize, to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 22

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. The legislation of the States Parties to this Covenant shall be directed towards equality of rights and responsibilities for the spouses as to marriage, during marriage and at its dissolution. In the last-mentioned case the law shall lay down special measures for the protection of any children of the marriage.

Article 23

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 of this Covenant and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) Of access, on general terms of equality, to public service in his country.

Article 24

All persons are equal before the law. The law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 25

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Article 26

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

PART IV

Article 27

1. There shall be established a Human Rights Committee (hereinafter referred to as "the Committee"). It shall consist of nine members and shall carry out the functions hereinafter provided.

2. The Committee shall be composed of nationals of the States Parties to the Covenant who shall be persons of high moral standing and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having a judicial or legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 28

1. The members of the Committee shall be elected from a list of persons possessing the qualifications prescribed in article 27 and nominated for the purpose by the States Parties to the Covenant.

2. Each State Party to the Covenant shall nominate at least two and not more than four persons. These persons may be nationals of the nominating State or of any other State Party to the Covenant.

3. A person shall be eligible to be renominated.

Article 29

1. At least three months before the date of each election of the Committee, other than an election to fill a vacancy declared in accordance with article 33, the Secretary-General of the United Nations shall address a written request to the States Parties to the Covenant inviting them to submit their nominations within two months.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, and shall submit it to the International Court of Justice and to the States Parties to the Covenant.

3. The Secretary-General of the United Nations shall request the International Court of Justice to fix the time of elections for members of the Committee and to elect such members from the list referred to in the preceding paragraph and in accordance with the conditions set out in this part of the Covenant.

Article 30

1. The Committee may not include more than one national of the same State.

2. In the election of the Committee consideration shall be given to equitable geographical distribution of

membership and to the representation of the different forms of civilization.

3. The quorum laid down in article 25, paragraph 3, of the Statute of the International Court of Justice shall apply for the holding of the elections.

4. The persons elected shall be those who obtain the largest number of votes and an absolute majority of the votes of all the members of the International Court of Justice.

Article 31

1. The members of the Committee shall be elected for a term of five years. They shall be eligible for re-election if renominated. However, the terms of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the President of the International Court of Justice.

2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of this Covenant.

Article 32

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations who shall then declare the seat of such member to be vacant.

2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

Article 33

1. When a vacancy is declared in accordance with article 32 the Secretary-General of the United Nations shall notify each State Party to the Covenant, which may, if it is necessary, within one month, with a view to election to the vacant seat on the Committee, complete its list of available nominees to four persons.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the International Court of Justice and the States Parties to the Covenant. The election for the vacancy shall then proceed in accordance with articles 29 and 30.

3. A member of the Committee elected to replace a member whose term of office has not expired, shall hold office for the remainder of that term. Provided that if such term of office will expire within six months after declaration of the vacancy in accordance with article 32, no nomination shall be requested and no election shall be held to fill that vacancy.

Article 34

1. Subject to the provisions of article 32, a member of the Committee shall remain in office until a successor has been elected. But if the Committee has, prior to the election of his successor, begun to consider a case,

he shall continue to act in that case, and his successor shall not act in it.

2. A member of the Committee elected to fill a vacancy declared in accordance with article 32 shall not act in any case in which his predecessor had acted, unless the quorum provided in article 39 cannot be obtained.

Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide having regard to the importance of the Committee's responsibilities.

Article 36

1. The Secretary of the Committee shall be a high official of the United Nations, elected by the Committee from a list of three names submitted by the Secretary-General of the United Nations.

2. The candidate obtaining the largest number of votes and an absolute majority of the votes of all the members of the Committee shall be declared elected.

3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the Committee and its members; the staff shall be part of the United Nations Secretariat.

Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet:

- (a) At such times as it deems necessary;
- (b) When any matter is referred to it under article 40;
- (c) When convened by its Chairman or at the request of not less than five of its members.

3. The Committee shall meet at the Headquarters of the United Nations or at Geneva.

Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will exercise his powers impartially and conscientiously.

Article 39

1. The Committee shall elect its Chairman and Vice-Chairman for the period of one year. They may be re-elected. The first Chairman and the first Vice-Chairman shall be elected at the initial meeting of the Committee.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:

- (a) Seven members shall constitute a quorum;
- (b) Decisions of the Committee shall be made by a majority vote of the members present; if the votes are equally divided the Chairman shall have a casting vote;
- (c) If a State refers a matter to the Committee under article 40,

(i) Such State, the State complained against, and any State Party to this Covenant whose national is concerned in such matter may make submissions in writing to the Committee;

(ii) Such State and the State complained against shall have the right to be represented at the hearing of the matter and to make submissions orally;

(d) The Committee shall hold hearings and other meetings in closed session.

Article 40

1. If a State Party to the Covenant considers that another State Party is not giving effect to a provision of the Covenant, it may, by written communication, bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall afford the complaining State an explanation or statement in writing concerning the matter, which should include, to the extent possible and pertinent, references to domestic procedures and remedies taken, or pending, or available in the matter.

2. If the matter is not adjusted to the satisfaction of both Parties within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Secretary of the Committee, and to the other State.

3. Subject to the provisions of article 41 below, in serious and urgent cases the Committee may, at the request of the complaining State, deal expeditiously with the matter on receipt of that request in accordance with the powers conferred on it by this part of the Covenant and after notifying the States concerned.

Article 41

Normally, the Committee shall deal with a matter referred to it only if available domestic remedies have been invoked and exhausted in the case. This shall not be the rule where the application of the remedies is unreasonably prolonged.

Article 42

In any matter referred to it the Committee may call upon the States concerned to supply any relevant information.

Article 43

1. Subject to the provisions of article 41, the Committee shall ascertain the facts and make available its good offices to the States concerned with a view to a friendly solution of the matter on the basis of respect for human rights as recognized in this Covenant.

2. The Committee shall in every case, and in no event later than eighteen months after the date of receipt of the notice under article 40, draw up a report which will be sent to the States concerned and then communicated to the Secretary-General of the United Nations for publication.

3. If a solution within the terms of paragraph 1 of this article is reached the Committee shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached the Committee shall draw up a report on the facts and state its opinion as to whether the facts found disclose a breach by the State concerned of its obligations under

the Covenant. If the report does not represent in whole or in part the unanimous opinion of the members of the Committee, any member of the Committee shall be entitled to attach to it a separate opinion. The written and oral submissions made by the Parties to the case in accordance with article 39, paragraph 2 (c), shall be attached to the report.

Article 44

The Committee may recommend to the Economic and Social Council that the Council request the International Court of Justice to give an advisory opinion on any legal question connected with a matter of which the Committee is seized.

Article 45

The Committee shall submit to the General Assembly, through the Secretary-General or the United Nations, an annual report on its activities.

Article 46

The States Parties to this Covenant agree that any State Party complained of or lodging a complaint may, if no solution has been reached within the terms of article 43, paragraph 1, bring the case before the International Court of Justice after the report provided for in article 43, paragraph 3, has been drawn up.

Article 47

The provisions of this Covenant shall not prevent the States Parties to the Covenant from submitting to the International Court of Justice any dispute arising out of the interpretation or application of the Covenant in a matter within the competence of the Committee.

Article 48

1. The States Parties to this Covenant, including those who are responsible for the administration of any Non-Self-Governing Territory undertake to submit reports annually to the Committee on the measures taken by them to meet the obligations set forth in article 1 of this Covenant.

2. The States Parties to this Covenant who are responsible for the administration of any Non-Self-Governing Territory, undertake, through elections, plebiscites or other recognized democratic means, preferably under the auspices of the United Nations, to determine the political status of such territory, should the Committee make a proposal to that effect and such proposal be adopted by the General Assembly. Such decision shall be based on evidence of the desire of the inhabitants of such territory as expressed through their political institutions or parties.

3. The States Parties to this Covenant shall report to the Committee any violation of the right laid down in paragraph 3 of article 1.

PART V

Article 49¹⁵

1. The States Parties to this Covenant undertake to submit a report on the legislative or other measures,

¹⁵ E/CN.4/L.315, 332, 333, 334, 335, 378; E/CN.4/SR.426-430, and paragraphs 172-205 of this report.

including judicial remedies, which they have adopted and which give effect to the rights recognized herein (a) within one year of the entry into force of the Covenant for the State concerned and (b) thereafter whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the State Parties.

2. Reports shall indicate factors and difficulties, if any, affecting the progressive implementation of article 22, paragraph 4, of this Covenant.

3. All reports shall be submitted to the Secretary-General of the United Nations for the Economic and Social Council which may transmit them to the Commission on Human Rights for information, study and, if necessary, general recommendations.

4. The specialized agencies shall receive such parts of the reports concerning the rights as fall within their respective fields of activity.

5. The States Parties directly concerned, and the above agencies may submit to the Economic and Social Council observations on any general recommendation that may be made in accordance with paragraph 3 of this article.

Article 50¹⁶

Nothing in this Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies, which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in this Covenant.

PART VI

Article 51¹⁷

1. This Covenant shall be open for signature and ratification or accession on behalf of any State Member of the United Nations or of any non-member State to which an invitation has been extended by the General Assembly.

2. Ratification of or accession to this Covenant shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as twenty States have deposited such instruments, the Covenant shall come into force among them. As regards any State which ratifies or accedes thereafter the Covenant shall come into force on the date of the deposit of its instrument of ratification or accession.

3. The Secretary-General of the United Nations shall inform all Members of the United Nations, and other States which have signed or acceded, of the deposit of each instrument of ratification or accession.

Article 52¹⁸

The provisions of the Covenant shall extend to all parts of federal States without any limitations or exceptions.

¹⁶ E/CN.4/L.335/Add.1, 336, 337, 378; E/CN.4/SR.430-431, and paragraphs 206-214 of this report.

¹⁷ See footnote 11 of this annex.

¹⁸ See footnote 12 of this annex.

Article 53¹⁹

The provisions of the present Covenant shall extend to or be applicable equally to a signatory metropolitan State and to all the territories, be they Non-Self-Governing, Trust, or Colonial Territories, which are being administered or governed by such metropolitan State.

Article 54²⁰

1. Any State Party to the Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendments to the States Parties to the Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and

voting upon the proposal. In the event that at least one-third of the States favours such a conference the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Such amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the Covenant in accordance with their respective constitutional processes.

3. When such amendments come into force they shall be binding on those Parties which have accepted them, other Parties being still bound by the provisions of the Covenant and any earlier amendment which they have accepted.

Annex II

Proposals and amendments relating to reservations

A

PROPOSALS AND AMENDMENTS RELATING TO PROVISIONS ON RESERVATIONS

I. Draft article proposed by the representative of the United Kingdom of Great Britain and Northern Ireland and amendments thereto

(a) Text of the draft article (E/CN.4/L.345 and Add.1.)

"1. Any State may, on depositing its instrument of acceptance to this Covenant, make a reservation to the extent that any law in force in its territory is in conflict with, or to the extent that its law does not give effect to a particular provision of, part III of this Covenant. Any reservation made shall be accompanied by a statement of the law or laws to which it relates.

"2. As soon as the period of two years mentioned in article 70 (3)²¹ has elapsed, the Secretary-General of the United Nations shall, subject to paragraph 5 of this article, circulate a copy of all reservations received by him to all States which have by the date of circulation deposited an instrument of acceptance with or without reservation.

"3. Copies of reservations received after the expiry of the period mentioned in article 70 (3)²¹ shall, subject to paragraph 5 of this article, forthwith be circulated by the Secretary-General to all States which, by the date of circulation, have deposited an instrument of acceptance with or without reservation or, if on that date the Covenant has entered into force, to all States parties thereto.

"4. A reservation shall be deemed to be accepted if not less than two-thirds of the States to whom copies have been circulated in accordance with this article accept or do not object to it within a period of three months following the date of circulation.

¹⁹ See footnote 13 of this annex.

²⁰ See footnote 14 of this annex.

²¹ The provision here referred to is paragraph 3 of the text submitted by the representative of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.347) which appears in section B of this annex.

"5. If an instrument of acceptance accompanied by a reservation to any part of this Covenant not mentioned in paragraph 1 of this article is deposited by any State, the Secretary-General shall invite such State to withdraw the reservation. Unless and until the reservation is withdrawn, the instrument of acceptance shall be without effect and the procedure provided in this article shall not be followed with respect to such instrument or the reservation or reservations accompanying it.

"6. Any State making a reservation in accordance with this article may withdraw that reservation either in whole or in part at any time after its acceptance, by a notice addressed to the Secretary-General; such notice shall take effect on the date of its receipt; and a copy of such notice shall be circulated by the Secretary-General to all States parties hereto.

"7. It is understood that, in order to achieve the application to the fullest extent of the provisions of this Covenant, any State making a reservation in accordance with this article should take, as soon as may be practicable, such steps as will enable it to withdraw the reservation either in whole or in part."

(b) Text of amendments proposed by the representative of the Union of Soviet Socialist Republics (E/CN.4/L.349)

1. Draft paragraph 1 as follows: "Any State may, either at the time of signature of the present Covenant followed by acceptance, i.e., ratification, or at the time of acceptance, make reservations with regard to any of the provisions contained therein. If reservations are made the Covenant shall, in relations between the States which have made the reservations and all other States Parties to the Covenant, be deemed to be in force in respect of all its provisions except those with regard to which the reservations have been made".

2. In paragraph 2, delete the words: "As soon as the period of two years mentioned in article 70 (3)²¹ has elapsed", and the words: "subject to paragraph 5 of this article".

3. Delete paragraphs 3, 4 and 5.

(c) *Text of amendment proposed by the representative of France (E/CN.4/352)*

In paragraph 4 replace the words "three months" by the words "one year".

II. *Draft article proposed jointly by the representatives of China, Egypt, Lebanon and the Philippines and amendments thereto*

(a) *Text of the draft article (E/CN.4/L.351)*

"1. Any State, at the time of its signature subsequently confirmed by ratification, or at the time of its ratification or acceptance, may make any reservation compatible with the object and purpose of the Covenant.

"2. Any State Party may object to any reservation on the ground that it is incompatible with the object and purpose of the Covenant.

"3. Should there be a dispute as to whether or not a particular reservation is compatible with the object and purpose of the Covenant, and it cannot be settled by special agreement between the States concerned, the dispute may be referred to the International Court of Justice by the reserving State or by any State Party objecting to the reservation.

"4. Unless a settlement is reached in accordance with paragraph 3, any State Party objecting to the reservation may consider that the reserving State is not a party to the Covenant, while any State Party which accepts the reservation may consider that the reserving State is a party to the Covenant.

"5. Any State making a reservation in accordance with paragraph 1, or objecting to a reservation in accordance with paragraph 2, may at any time withdraw the reservation or objection by a communication to that effect addressed to the Secretary-General of the United Nations."

(b) *Text of amendments proposed by the representative of the Union of Soviet Socialist Republics (E/CN.4/L.353)*

1. In paragraph 1, replace the words "any reservation compatible with the object and purpose of" by the words "reservations with regard to any of the provisions contained in".

2. Replace paragraph 2 by the following: "If reservations are made, the Covenant shall be deemed to be in force, in relations between the States which have made the reservations and all other States Parties to the Covenant, in respect of all its provisions except those with regard to which the reservations have been made".

3. Delete paragraphs 3 and 4 and in paragraph 5 replace the words "or objecting to a reservation in accordance with paragraph 2 may at any time withdraw the reservation or objection" by the words "may at any time withdraw it".

III. *Draft article proposed jointly by the representatives of Chile and Uruguay*

Text of draft article (E/CN.4/L.354)

"No State Party to this Covenant may make reservations in respect of its provisions."

B

AMENDMENTS TO ARTICLE 26 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND TO ARTICLE 51 OF THE DRAFT COVENANT ON CIVIL AND POLITICAL RIGHTS CONNECTED WITH THE PROVISIONS ON RESERVATIONS²²

I. *Text of amendment for a substitute article proposed by the representative of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.347)*

"1. Any State Member of the United Nations or any State so invited by the General Assembly of the United Nations may become a party to this Covenant by:

- (a) Signature followed by acceptance;
- (b) Acceptance.

"2. Acceptance shall be effected by the deposit of a formal instrument with the Secretary-General.

"3. This Covenant shall bear the date of its approval by the General Assembly. It shall enter into force as soon as twenty instruments of acceptance have been deposited, either without reservation or with reservation accepted in accordance with article , provided that it shall in no circumstances enter into force until a period of two years following such date of approval has elapsed.

"4. Instruments of acceptance deposited after the date of the entry into force of this Covenant shall take effect on the date of their deposit, or, if accompanied by a reservation, on the date of the acceptance of that reservation in accordance with article .

"5. If within a period of four years following the date of approval of this Covenant by the General Assembly the Covenant has not entered into force, the Secretary-General shall compile a full report for transmission to the General Assembly."

II. *Text of amendment proposed by the representative of India (E/2447, annex II, section C)*

In paragraph 2 of article 26 of the draft covenant on economic, social and cultural rights and of article 51 of the draft covenant on civil and political rights, delete the words "among them" after the words "shall come into force".

²² These articles were based on the text of article 70 of the draft covenant of the seventh session, E/2447, annex I, section E.

Annex III

Proposal for the Establishment of an Office of the United Nations High Commissioner (Attorney-General) for Human Rights

The following proposal, which has been revised, was submitted by the representative of Uruguay to the seventh session of the Commission (E/1992, annex VII)

Article 1

1. The primary responsibility for ensuring the effective implementation of the personal rights and freedoms (civil and political) referred to in articles . . . and recognized in this Covenant shall be vested in each State Party hereto with respect to all individuals within its jurisdiction.

2. There shall be established a permanent organ, known as "The United Nations High Commissioner (Attorney-General) for Human Rights", to exercise the functions hereinafter provided with respect to the implementation of the provisions of this Covenant and the supervision of its observance.

3. The functions conferred by this Covenant upon the organ established under paragraph 2 of this article **are without prejudice** to the functions and powers of organs of the United Nations established by the Charter, or of their subsidiary organs, or of organs of the specialized agencies referred to in Article 57 of the Charter.

Article 2

1. The United Nations High Commissioner for Human Rights or Attorney-General (hereinafter referred to as High Commissioner (Attorney-General)) shall be appointed by the General Assembly of the United Nations upon the recommendation of the States Parties to this Covenant from among persons of high moral character and recognized competence and independence who possess, in the countries of which they are nationals, the qualifications required for appointment to the highest judicial offices.

2. At least three months before the date of the opening of the session of the General Assembly at which the appointment of the High Commissioner (Attorney-General) is to be made, the Secretary-General of the United Nations shall address a written communication to the States Parties to this Covenant inviting them to submit their nominations within a period of two months.

3. Each State Party to this Covenant may nominate one or two persons possessing the qualifications described in paragraph 1 of this article. These persons may be nationals of the nominating States or of any other States.

4. The Secretary-General shall prepare a panel of the persons thus nominated and submit it to the States Parties of this Covenant together with an invitation to designate representatives to a meeting called for the purpose of deciding upon a recommendation on the appointment of the High Commissioner (Attorney-General). The Secretary-General shall fix the date and make all arrangements necessary for such a meeting.

5. The recommendation of the States Parties to this Covenant shall be made by a two-thirds majority vote of the representatives present and voting. The quorum shall consist of two-thirds of the said States.

The names of all persons obtaining a two-thirds majority of the votes shall be communicated by the Secretary-General to the General Assembly.

6. The appointment shall be made by a two-thirds majority vote of the members of the General Assembly present and voting.

7. The High Commissioner (Attorney-General) shall, before taking up his duties, make a solemn declaration before the General Assembly that he will exercise his functions impartially and in accordance with the dictates of his conscience.

8. The term of office of the High Commissioner (Attorney-General) shall be five years and the High Commissioner shall be eligible for reappointment.

Article 3

1. The High Commissioner (Attorney-General) shall collect and examine information with regard to all matters relevant to the observance and enforcement by the States Parties to this Covenant of the rights and freedoms recognized herein. This information shall include reports, transmitted by the States Parties to this Covenant, laws and regulations, judicial decisions, records of parliamentary debates, writings in periodicals and in the Press and communications from international and national organizations and from individuals.

2. States Parties to this Covenant shall transmit to the High Commissioner (Attorney-General) at times agreed with him, periodic reports on the implementation of the provisions of this Covenant in the territory under their jurisdiction. Such reports shall include the text of relevant laws, administrative regulations, international agreements to which the said States are parties and significant judicial and administrative decisions.

3. The High Commissioner (Attorney-General) may, at times agreed with the States Parties concerned, conduct on-the-spot studies and inquiries on matters concerning the implementation of this Covenant.

Article 4

The High Commissioner (Attorney-General) may at any time initiate consultations with the States Parties to this Covenant on any case or situation which, in his opinion, may be inconsistent with the obligations assumed by that State Party under the Covenant and make to any State Party such suggestions and recommendations as he may deem appropriate for the effective implementation of this Covenant.

Article 5

1. The High Commissioner (Attorney-General) shall receive and examine complaints of alleged violations of this Covenant which may be submitted to him by individuals, groups of individuals, national and international non-governmental organizations and inter-governmental organizations.

2. No action shall be taken by the High Commissioner (Attorney-General) on any complaint which:

(a) Is anonymous;

(b) Contains abusive or improper language; however, specified charges of improper conduct, levelled at

individuals or bodies of persons, shall not be considered to constitute abusive or improper language;

(c) Does not refer to a specific violation of this Covenant by a State Party to the detriment of an individual or a group of individuals who, at the time of the alleged violation, were within the jurisdiction of the said State;

(d) Is manifestly inconsequential;

(e) Emanates from a national organization but does not relate to a violation allegedly committed within the jurisdiction of the State to which that organization belongs.

3. Complaints received from organizations, whether national or international, shall not require the authorization of the individuals or groups against whom the alleged violation was committed.

4. The Secretary-General of the United Nations shall communicate to the High Commissioner (Attorney-General) any complaint of an alleged violation of this Covenant or any information relating to such an alleged violation which may be received by him or by any other organ of the United Nations.

Article 6

1. Subject to the provisions of paragraph 2 of article 5, the High Commissioner (Attorney-General) may conduct such preliminary investigations as he may consider appropriate of the merits of a complaint with a view to deciding whether the object or the character of the complaint justifies further action by aim.

2. In conducting the preliminary investigations the High Commissioner (Attorney-General) may call for the assistance of the competent governmental agencies of the State Party concerned. He may also seek the assistance of such non-governmental organizations as may be familiar with the local conditions and the general issues involved.

Article 7

1. Subject to the provisions of paragraph 2 of article 5, the High Commissioner (Attorney-General) shall have full discretion to decide with respect to any complaint received by him of an alleged violation of this Covenant:

(a) Not to take action;

(b) To defer taking action until such time as he may deem appropriate;

(c) To take action.

The High Commissioner (Attorney-General) shall inform the author of the complaint of his decision.

2. In case the High Commissioner (Attorney-General) decides to take action, he may decide to undertake negotiations with the State Party concerned with respect to the complaint received by him of an alleged violation of this Covenant in a territory within the jurisdiction of the said State. The High Commissioner (Attorney-General) may refer the complaint to the Human Rights Committee if in his opinion such negotiations are not likely to result in a satisfactory solution or have not resulted in a satisfactory solution.

3. In making his decision under this article the High Commissioner (Attorney-General) shall give due consideration to the availability and the use made by the alleged victim of the violation of domestic remedies, including means of enforcement, to the availability and

the use made of diplomatic remedies or of procedures established by United Nations organs or specialized agencies or of other available procedures provided by international agreement.

Article 8

The following provisions shall apply in cases where the High Commissioner (Attorney-General) has decided to take action as provided in paragraph 2 of article 7:

1. The High Commissioner (Attorney-General) shall communicate the complaint to the State Party concerned and ask for its observations thereon within such time-limit as the High Commissioner (Attorney-General) may recommend.

2. The High Commissioner (Attorney-General) shall fully investigate the case on the receipt of the observations of the State Party concerned or on the expiration of the time-limit recommended by him for the submission of such observations.

3. States Parties to this Covenant shall place at the disposal of the High Commissioner (Attorney-General), upon his request, such information as they may possess regarding the case.

4. The High Commissioner (Attorney-General) shall be entitled to conduct an inquiry within the territory under the jurisdiction of the State Party concerned, which shall afford all facilities necessary for the efficient conduct of the inquiry.

5. The High Commissioner (Attorney-General) shall have the right to summon and hear witnesses and to call for the production of documents and other objects pertaining to the case.

Article 9

When the High Commissioner (Attorney-General) has decided to take action on a complaint as provided in paragraph 1 of article 7 he may call upon the State Party concerned to comply with such provisional measures as he may deem necessary and desirable in order to prevent an aggravation of the situation.

Article 10

1. The High Commissioner (Attorney-General) will make every effort to settle the object of a complaint on which he has decided to take action as provided in paragraph 1 of article 7 through negotiation and conciliation.

2. The High Commissioner (Attorney-General) shall notify in writing to the State Party concerned his intention to enter into negotiations with respect to a given complaint and request the State Party to designate representatives for the purpose of such negotiations. The High Commissioner (Attorney-General) shall fix in consultation with the State Party concerned the date and place of such negotiations.

3. The High Commissioner (Attorney-General) shall inform the author of the complaint of the results of the negotiations.

Article 11

1. The High Commissioner (Attorney-General) shall seize the Human Rights Committee of his accusation by a notice given to the Secretary-General of the United Nations and to the State Party concerned.

Such notice shall indicate the provision of the Covenant the violation of which is alleged and shall be accompanied by all relevant documents.

2. The High Commissioner (Attorney-General) shall have the right to be present or to be represented at all hearings and other meetings which the Committee may hold on the complaint and to make submissions to the Committee orally or in writing. He shall receive communication of all documents, including the minutes of meetings relating to the case and may, in conformity with the rules of procedure of the Committee, examine such witnesses or experts as may appear before the same.

3. The High Commissioner (Attorney-General) may at any time, by a notice given to the Secretariat of the Committee and the State Party concerned, withdraw the complaint from the agenda of the Committee. Upon the receipt of such notice of withdrawal the Committee shall cease to consider the complaint.

Article 12

The High Commissioner (Attorney-General) shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 13

1. The High Commissioner (Attorney-General) shall appoint his staff subject to such financial provisions and administrative regulations as the General Assembly may approve in this respect.

2. The High Commissioner (Attorney-General) may, in consultation with the States Parties concerned, appoint regional commissioners who shall, under his direction and supervision, assist him in the performance of his functions with respect to a given region.

3. The paramount consideration of the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standard of efficiency, integrity and competence. Due regard shall be given to the importance to recruiting the staff from nationals of the States Parties to the Covenant.

Article 14

1. In the performance of their duties the High Commissioner (Attorney-General) and his staff shall

not seek or receive instructions from any government or from any other authority or any organization. They shall refrain from any action incompatible with their position or the independent discharge of their functions as established by this Covenant.

2. The States Parties to this Covenant undertake to respect the exclusively international character of the responsibilities of the High Commissioner (Attorney-General) and his staff and not to seek to influence them in discharge of their responsibility.

Article 15

The High Commissioner (Attorney-General) shall enjoy diplomatic privileges and immunities. Members of his staff shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions.

Article 16

The High Commissioner (Attorney-General) shall reside at the permanent seat selected by him.

Article 17

1. The High Commissioner (Attorney-General) shall receive a salary and allowances commensurate with the importance and dignity of his office. The salary and the allowances shall be fixed by the General Assembly of the United Nations and may not be lowered during the High Commissioner's (Attorney-General's) term of office. They shall be free of all taxes.

2. The General Assembly shall fix the conditions under which a retirement pension may be accorded to the High Commissioner (Attorney-General).

3. The expenses incurred by the exercise by the High Commissioner (Attorney-General) of his functions under this Covenant shall be borne by the United Nations in such manner as shall be decided by the General Assembly.

Note. Additional provisions may be added to this draft proposal, or the existing provisions amended accordingly, to apply to the implementation of so-called economic, social and cultural rights, provided, however, that these rights have been adopted, with a greater or lesser degree of precision, in final form, and provided further, that they shall be implemented gradually and with the utmost regard to reality.

Annex IV

Draft resolutions for the Economic and Social Council

A

INCLUSION IN THE DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS OF PROVISIONS REGARDING RESERVATIONS²⁴

The Economic and Social Council,

Noting the resolution of the Commission on Human Rights (E/2573, paragraph 305) on the question of reservations,

Transmits to the General Assembly, at its ninth session, the proposals and amendments (E/2573, annex

²⁴ See resolution I of the Commission in paragraph 305, paragraphs 262-305, and annex II of this report.

II) together with the pertinent summary records of the discussion (E/CN.4/SR.441-449) in the Commission on the problem of the admissibility or non-admissibility of reservations to the covenants on human rights and the effect to be attributed to them.

B

MEASURES TO EXPEDITE THE WORK OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES²⁵

The Economic and Social Council,

²⁵ See resolution V of the Commission in paragraph 452, and paragraphs 439-452 of this report.

Having noted the resolution of the Commission on Human Rights (E/2573, paragraph 452) on measures to expedite the work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Transmits to the General Assembly resolution J of the Sub-Commission on Prevention of Discrimination and Protection of Minorities entitled "Measures to expedite the work of the Sub-Commission" (E/CN.4/703, paragraph 225 and E/2573, paragraph 440) and invites the Assembly's attention to the request contained in operative paragraphs 3 and 4 thereof.

C

STUDY OF DISCRIMINATION IN EMPLOYMENT AND OCCUPATION²⁶

Noting the resolution of the Commission on Human Rights (E/2573, paragraph 485) on the study of discrimination in employment and occupation,

Invites the International Labour Organisation to undertake a study of discrimination in the field of employment and occupation, that study to be carried out on a global basis in accordance with article 2, paragraph 2, of the Universal Declaration of Human Rights, and to keep the Sub-Commission on Prevention of Discrimination and Protection of Minorities informed through the Secretary-General, of the action taken; and

Invites the Secretary-General, other specialized agencies, and non-governmental organizations to place at the disposal of the International Labour Organisation material available to them relating to discrimination in employment and occupation.

D

COLLABORATION BETWEEN THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES AND THE SPECIALIZED AGENCIES²⁷

The Economic and Social Council,

Having noted the resolution of the Commission on Human Rights (E/2573, paragraph 506) on collaboration between the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Invites UNESCO and other interested specialized agencies to give their attention to the Sub-Commission's programme of work when selecting fields and subjects for research, with a view to facilitating and supplementing the studies to be undertaken by the Sub-Commission; and

Authorizes the Secretary-General, to this end, in relation to studies approved by the Council, to provide direct means of contact between the Sub-Commission and whatever specialized agency or agencies have been invited by the Council to co-operate with respect to such approved study.

E

FUTURE SESSIONS OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES²⁸

The Economic and Social Council,

²⁶ See resolution VII of the Commission in paragraph 485, paragraphs 459-485, and annex VI, section B of this report.

²⁷ See resolution IX of the Commission in paragraph 506, and paragraphs 496-506 of this report.

²⁸ See resolution XI of the Commission in paragraph 518, paragraphs 508-518, and annex VI, section C, of this report.

Having noted the resolution of the Commission on Human Rights (E/2573, paragraph 518) on the future sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Decides to authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to hold yearly sessions of up to six weeks' duration.

F

RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT FOR THE RIGHT OF PEOPLES AND NATIONS TO SELF-DETERMINATION²⁹

The Economic and Social Council,

Noting the resolution of the Commission on Human Rights (E/2573, paragraph 335) on recommendations concerning international respect for the right of peoples and nations to self-determination,

Noting further that the Commission considered that its recommendations were not exhaustive and that it has decided to retain the item on the agenda of its next session,

Transmits to the General Assembly the following draft resolutions of the Commission on Human Rights for consideration and adoption:

I

The General Assembly

Noting that the right of peoples and nations to self-determination as affirmed in the two draft covenants completed by the Human Rights Commission includes "permanent sovereignty over their natural wealth and resources",

Believing it necessary to have full information at its disposal regarding the actual extent and character of this sovereignty,

Decides to establish a Commission consisting of to conduct a full survey of the status of this basic constituent of the right to self-determination with recommendations, where necessary, for its strengthening;

Invites the Regional Economic Commission and the specialized agencies to co-operate with the Commission in its task;

Requests the Commission to report to the twentieth session of the Economic and Social Council;

Requests the Secretary-General to provide the Commission with necessary staff and facilities.

II

The General Assembly,

Recalling that it is among the purposes and principles of the United Nations to develop friendly relations based on respect for the principle of equal rights and self-determination of peoples,

Recalling further that under Article 14, the General Assembly may recommend measures for the peaceful adjustment of any situation regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations,

Considering that inadequate realization of the right to self-determination not only undermines the basis of these friendly relations as defined in the Charter but

²⁹ See resolution II of the Commission in paragraph 335, paragraphs 322-335, and annex VI, section D, of this report.

also creates conditions which may prevent further realization of the right itself,

Believing that such a situation is contrary to the purposes and principles of the United Nations and that its peaceful rectification is therefore a matter of immediate concern,

Decides to establish a Commission consisting of the representatives of _____ with the following terms of reference:

1. The Commission shall examine any situation resulting from alleged denial or inadequate realization of the right of self-determination, which falls within the scope of Article 14 of the Charter and to which the Commission's attention is drawn by any ten Members of the United Nations;

2. The Commission shall provide its good offices

for the peaceful rectification of any situation it is required to examine;

3. If within six months no adjustment of the situation can be effected to the satisfaction of the parties concerned the Commission shall report the facts with appropriate recommendations to the General Assembly.

Requests the Secretary-General to provide the Commission with the necessary staff and facilities.

G

REPORT OF THE TENTH SESSION OF THE COMMISSION ON HUMAN RIGHTS

The Economic and Social Council,

Takes note of the report of the tenth session of the Commission on Human Rights (E/2573).

Annex V

List of documents before the Commission at its tenth session

1. DOCUMENTS ISSUED IN THE GENERAL SERIES			
E/CN.4/165 and Corr.1	Report of the Secretary-General on the situation (fifth session) with regard to communications concerning human rights	E/CN.4/530 and Add.1	Memorandum by the Secretary-General on measures of implementation
165/Add.1	Communication from the deputy permanent representative of the Union of South Africa to the United Nations	535 and Add.1	Note by the Secretary-General on the development of the work of the United Nations for wider observance of, and respect for, human rights and fundamental freedoms throughout the world
362 and Add.1	Summarized documentation on measures for the benefit of aged persons and on their standard of living	554	Text of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950
367, Corr.1 and Add.1	Study by the Secretary-General of the legal validity of the undertakings concerning minorities	554/Add.1	Text of the Protocol of 20 March 1952 to the European Convention for the Protection of Human Rights and Fundamental Freedoms
511 and Rev.1 (English only)	Note by the Secretary-General on the relevant decisions of the Economic and Social Council and the Commission on the Status of Women dealing with the freedom to choose a spouse, etc.	554/Add.2	Status of ratifications, declarations and notifications to the European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocol thereto
512	Memorandum by the Secretary-General on the draft declaration on the rights of the child	590 and Add.1-5	Note by the Secretary-General on existing procedures for periodic reporting to specialized agencies
517	Memorandum by the Secretary-General on annual reports on human rights	647	Memorandum by the Secretary-General concerning the <i>Yearbook on Human Rights</i>
518 and Rev.1 (English only)	Note by the Secretary-General concerning old-age rights (welfare of the aged)	651	The federal clause: report by the Secretary-General
519 and Add.1	Memorandum by the Secretary-General on local Human Rights Committees	652	Definition and protection of political groups: note by the Secretary-General
520 and Add.1	Memorandum by the Secretary-General on the right of asylum	653	Injuries suffered by groups through the total or partial destruction of their media of culture and their historical monuments: note by the Secretary-General
521 and Corr.1 (English only)	Note by the Secretary-General concerning the international court of human rights	672	Memorandum by the Secretary-General concerning review of the human rights programme
522	Memorandum by the Secretary-General concerning the <i>Yearbook on Human Rights</i>	673	Memorandum by the Secretary-General concerning the provisions of the draft covenant on economic, social and cultural
524	Memorandum by the Secretary-General on the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950		

	rights as drafted at the eighth session	E/CN.4/700	Note by the Secretary-General on recommendations to governments concerning the application of special measures for the protection of minorities
E/CN.4/674	Memorandum by the Secretary-General concerning the provisions of the draft covenant on civil and political rights, as drafted at the eighth session	701	Note by the Secretary-General on procedure for handling communications concerning human rights
675	Memorandum by the Secretary-General on recommendations concerning international respect for the right of peoples to self-determination	702 and Add.1-6	Observations of non-governmental organizations received by the Secretary-General in pursuance of resolution 501 B (XVI) of the Economic and Social Council
676 and Add.1	Note by the Secretary-General on recommendations concerning international respect for the right of peoples to self-determination	703 and Corr.1 (English only)	Report of the sixth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights
677	Memorandum by the Secretary-General on the question of reservations	704	Memorandum by the Secretary-General on the Membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities: Nominations of candidates submitted by members of the Commission on Human Rights
678 and Corr.1 (English only)	Memorandum by the Secretary-General concerning the final clauses	705	Report of the tenth session of the Commission on Human Rights to the Economic and Social Council
681	Memorandum by the Secretary-General on General Assembly resolution 644 (VII) concerning racial discrimination in Non-Self-Governing Territories	INF/6	Arrangements for the tenth session of the Commission on Human Rights
684	Letter from UNESCO on the right to participate in cultural life	CR.23 and Add.1	Non-confidential list of communications dealing with the principles involved in the promotion of universal respect for and observance of human rights, received by the United Nations from 1 April 1953 to 12 February 1954, prepared by the Secretary-General
690 and Add.1-12	Comments of Member States received by the Secretary-General under Economic and Social Council resolution 501 C (XVI)	SR.411-479	Summary records of the plenary meetings of the tenth session of the Commission
691 and Add.1	Observations of the specialized agencies received by the Secretary-General pursuant to Economic and Social Council resolution 501 C (XVI)	E/1721	Report by the Secretary-General on the federal and colonial clauses
692 and Add.1-2	Observations of the specialized agencies received by the Secretary-General pursuant to Economic and Social Council resolution 501 B (XVI)	E/1900	Memorandum by the Secretary-General presented to the twelfth session of the Economic and Social Council on development of a twenty-year programme for achieving peace through the United Nations, containing observations on, <i>inter alia</i> , point 8 relating to wider observance and respect for human rights and fundamental freedoms, paragraphs 25-61
693	Note by the Secretary-General on review of programme and establishment of priorities	E/2447	Report of the ninth session of the Commission on Human Rights
694 and Add.1-7 and Add.2/Corr.1 (English only)	Observations of governments received by the Secretary-General pursuant to Economic and Social Council resolution 501 B (XVI)	E/AC.7/SR.250-256	Summary records of the meetings of the Social Committee of the Economic and Social Council transmitted to the Commission by Economic and Social Council resolution 502 B II (XVI)
695	Provisional agenda of the tenth session of the Commission	A/2219	Report of the Committee on Information from Non-Self-Governing Territories to the General Assembly (seventh session)
696	Memorandum by the Secretary-General on the draft international covenants on human rights and measures of implementation	A/2296	Report of the Fourth Committee of the General Assembly (sev-
697	Note by the Secretary-General on recommendations concerning international respect for the right of peoples and nations to self-determination		
698	Note by the Secretary-General on development of the work of the United Nations for wider observance of, and respect for, human rights and fundamental freedoms throughout the world		
699 and Add.1	Notes by the Secretary-General on membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities		

	enth session) on questions concerning Non-Self-Governing territories		Egypt, India and Lebanon (E/CN.4/L.316) to the revised United States draft article on the right of property (E/CN.4/L.313/Rev.1)
A/C.4/SR.260-262	Official records of the meetings of the Fourth Committee of the General Assembly (seventh session) dealing with information from Non-Self-Governing territories	E/CN.4/L.319	Poland: amendment to the Philippine amendment (E/CN.4/L.314) to the United States draft article on the right of property (E/CN.4/L.313)
A/C.3/SR.503-511, 518-521, 523-529	Official records of the meetings of the Third Committee of the General Assembly (eighth session) transmitted to the Commission by General Assembly resolutions 737-739 (VIII)	L.320 and Corr.1 L.321 and Corr.1 (Spanish only)	Chile: draft article on the right of property Report of the Sub-Committee of the Commission on the right of property
A/CONF.2/21	Memorandum by the Legal Department of the Secretariat of the United Nations on the application of the federal State article to the draft convention on the status of refugees	L.322	France: amendment to the draft article on the right of property proposed by the Sub-Committee (E/CN.4/L.321)
A/INF/55	Report by the Secretary-General on the fourth anniversary of the proclamation of the Universal Declaration of Human Rights	L.323 L.324	United States of America: amendments to the draft article on the right of property proposed by the Sub-Committee (E/CN.4/L.321) Uruguay: amendment for inclusion of a new article, in the draft covenant on economic, social and cultural rights, on the right of petition between articles 61 and 62 of the system of periodic reports (E/2447, annex I, section D)
2. DOCUMENTS ISSUED IN THE LIMITED SERIES³⁰			
E/CN.4/L.266/Rev.3	United States of America: draft resolution on biennial reports on human rights		
L.267/Rev.2	United States of America: draft resolution on human rights technical assistance	L.325	United Kingdom of Great Britain and Northern Ireland: amendments to articles 60, 62, 63, 64, 66 and 68 of the system of periodic reports (E/2447, annex I, section D) relating to the draft covenant on economic, social and cultural rights
L.268/Rev.1	United States of America: draft resolution on studies of specific aspects of human rights		
L.311	Observations on the draft international covenants on human rights and measures of implementation received under resolution 501 B (XVI) of the Economic and Social Council	L.326	Uruguay: amendment to the amendments proposed by the United Kingdom to article 60 (E/CN.4/L.325)
L.312	Note by the Secretary-General on the right of property	L.326/Rev.1	Chile, Egypt, India, Lebanon, Philippines, Uruguay: revised amendment to the amendments proposed by the United Kingdom to article 60 (E/CN.4/L.325)
L.313 and Rev.1	United States of America: proposed article, for the draft covenant on economic, social and cultural rights, on the right of property	L.327	Philippines: amendment to the amendment of Uruguay (E/CN.4/L.326) to the amendments proposed by the United Kingdom to article 60 (E/CN.4/L.325)
L.314	Philippines: amendment to the United States draft article on the right of property (E/CN.4/L.313)	L.328	Philippines: amendment to article 61
L.315	Note by the Secretary-General on the question of the applicability of the provisions relating to the Human Rights Committee and the system of periodic reports to the two draft covenants	L.329	Chile, Egypt, France, Greece, India, Lebanon, Philippines, United Kingdom, Uruguay: amendment to the amendments proposed by the United Kingdom to article 60 (E/CN.4/L.325)
L.316	Egypt, India and Lebanon: amendment to the revised United States draft article on the right of property (E/CN.4/L.313/Rev.1)	L.330 L.331 and Add.1	Poland: amendment to article 67 Texts of articles relating to the system of periodic reports adopted by the Commission for inclusion in the draft covenant on economic, social and cultural rights
L.317	Chile and Uruguay: amendment to the revised United States draft article on the right of property (E/CN.4/L.313/Rev.1)		
L.318	United States of America: amendment to the amendment of	L.332	Working paper submitted by the Philippines: draft of an article for the draft covenant on civil and political rights concerning reporting by States Parties

³⁰ All references to the "Sub-Commission" refer to the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

E/CN.4/L.333	Chile, China, Egypt, India, Lebanon, Philippines, Uruguay: draft of a new article 49 for the draft covenant on civil and political rights		the United Kingdom (E/CN.4/L.345)
L.334	France: Amendments to the draft of a new article 49 proposed by Chile, China, Egypt, India, Lebanon, Philippines and Uruguay (E/CN.4/L.333)	E/CN.4/L.350	Belgium: amendment to the draft reservations article proposed by the United Kingdom (E/CN.4/L.345)
L.335	Texts of new articles 49 and 50 adopted by the Commission for inclusion in the draft covenant on civil and political rights	L.351	China, Egypt, Lebanon and the Philippines: draft article on reservations
L.336 and Corr.1 (Russian only)	Belgium and France: draft of a new article 50 for the draft covenant on civil and political rights	L.352	France: amendment to the draft reservations article proposed by the United Kingdom (E/CN.4/L.345)
L.337 and Corr.1 (Russian only)	Belgium and Philippines: amendment to the draft of a new article 50 proposed by Belgium and France (E/CN.4/L.336)	L.353	Union of Soviet Socialist Republics: amendment to the draft reservations article proposed by China, Egypt, Lebanon and the Philippines (E/CN.4/L.351)
L.338	France: draft article relating to applicability of the Human Rights Committee procedure to the draft covenant on economic, social and cultural rights	L.354	Chile and Uruguay: draft article on reservations
L.339 and Rev.1	Chile and Uruguay: draft article relating to the applicability of the Human Rights Committee procedure to the draft covenant on economic, social and cultural rights	L.355	Chile and Uruguay: draft resolution on the question of reservations
L.340 and Corr.1	Union of Soviet Socialist Republics: draft article relating to federal States for inclusion in both draft covenants	L.356	Pakistan: amendment to the draft resolution on the question of reservations proposed by Chile and Uruguay (E/CN.4/L.355)
L.341	Chile, Egypt, Philippines and Uruguay: draft article on right of petition for the draft covenant on civil and political rights	L.357	Belgium: amendment to the amendment by Pakistan (E/CN.4/L.356) to the draft resolution on reservations proposed by Chile and Uruguay (E/CN.4/L.355)
L.341/Rev.1	Chile, Egypt, India, Philippines and Uruguay: revised draft article on right of petition for the draft covenant on civil and political rights	L.358	Texts of the final clauses adopted by the Commission for inclusion in both draft covenants and text of the resolution of the Commission on the question of reservations
L.342 and Rev.1	France: draft article on the right of petition for the draft covenant on civil and political rights	L.359	Philippines: draft resolution on collaboration between the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the specialized agencies
L.343	Egypt: draft resolution on the federal clause	L.359/Rev.1	Philippines and United States of America: revised draft resolution on collaboration between the Sub-Commission and the specialized agencies
L.344	Belgium: amendment to the draft federal clause proposed by Australia and India (E/2447, annex II, section B)	L.360	Lebanon: amendment to draft resolution A of the Sub-Commission on the study of discrimination in education (E/CN.4/703, annex I)
L.345 and Add.1	United Kingdom of Great Britain and Northern Ireland: draft reservations article	L.361 and Rev.1-2 and Rev.2/Corr.1 (French only)	United States of America: amendment to draft resolution A of the Sub-Commission on the study of discrimination in education (E/CN.4/703, annex I)
L.346	France: amendment to draft federal clause proposed by Australia and India (E/2447, annex II, section B)	L.362	United States of America: draft resolution on future programme of work of the Sub-Commission in the field of discrimination (E/CN.4/703, paragraph 143)
L.347	United Kingdom of Great Britain and Northern Ireland: amendment to article 70 of the final clauses (E/2447, annex I, section E)	L.363	United States of America: draft resolution on the study of discrimination in employment and occupation (E/CN.4/703, paragraph 123)
L.348	Belgium: draft reservations to article 72 of the final clauses (E/2447, annex I, sections C and E)	L.364	Letter dated 26 March 1954 from the International Labour Office to the Secretary-General concerning the study of discrimina-
L.349	Union of Soviet Socialist Republics: Amendment to the draft reservations article proposed by		

	tion in employment and occupation (E/CN.4/703, paragraph 123)	E/CN.4/L.377	United Kingdom: amendments to the draft resolution on the study of discrimination in employment and occupation proposed by the United States of America (E/CN.4/L.363)
E/CN.4/L.365	United Kingdom: amendments to draft resolution A, of the Sub-Commission on study of discrimination in education (E/CN.4/703, annex I)	L.378	Suggestions for arrangements of the provisions of the draft covenants submitted by the Rapporteur
L.366 and Add.1-13	Draft report of the tenth session of the Commission on Human Rights to the Economic and Social Council	L.379	Proposal by the Belgian expert relating to the draft report of the tenth session of the Commission on Human Rights to the Economic and Social Council
L.367 and Rev.1	China, Egypt, Pakistan, Philippines: amendment to draft resolution A of the Sub-Commission on the study of discrimination in education (E/CN.4/703, annex I)	L.380	United States of America: draft resolution on future programme of work of the Sub-Commission in the field of discrimination (E/CN.4/703, paragraph 143)
L.368	United Kingdom: amendments to draft resolution B of the Sub-Commission on the study of the present position as regards minorities throughout the world (E/CN.4/703, annex I)	L.381	Chile, China, Egypt, India, Pakistan, Philippines: draft resolution relating to recommendations concerning international respect for the right of peoples and nations to self-determination
L.369	Poland: amendment to the amendments by the United Kingdom to draft resolution B of the Sub-Commission on the study of the present position as regards minorities throughout the world (E/CN.4/L.368)	L.381/Add.1	Statement of financial implications of the draft resolutions proposed by Chile, China, Egypt, India, Pakistan and the Philippines (E/CN.4/L.381)
L.370	Chile, China, Egypt, India, Pakistan: draft resolution on the study of the present position as regards minorities throughout the world	L.382	China: amendment to draft resolution on the future sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities proposed by Chile and Uruguay (E/CN.4/L.374)
L.371	Belgium: amendments to the draft resolution on the study of the present position as regards minorities throughout the world, proposed by Chile, China, Egypt, India and Pakistan (E/CN.4/L.370)	L.383	Texts of resolutions adopted by the Commission relating to the report of the sixth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
L.372	United Kingdom: amendment to draft resolution C on measures to expedite the work of the Sub-Commission (E/CN.4/703, annex I)	L.384	Egypt, France, Philippines and Uruguay: observations for inclusion in the report of the tenth session of the Commission regarding the procedure to be followed for the adoption of the covenants
L.373	Philippines and Uruguay: amendment to draft resolution C on measures to expedite the work of the Sub-Commission (E/CN.4/703, annex I)	L.385	France: draft resolution relating to the place of meeting of the eleventh session (1955) of the Commission on Human Rights
L.374	Chile and Uruguay: draft resolution on the future sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities	A/C.3/L.366 L.372/Rev.1 L.374 L.388	Documents transmitted to the Commission by General Assembly resolution 737 (VIII)
L.374/Add.1	Statement of financial implications of the draft resolution proposed by Chile and Uruguay (E/CN.4/L.374)		
L.375	Poland: amendment to the draft resolution on the study of discrimination in employment and occupation proposed by the United States of America (E/CN.4/L.363)		
L.376 and Rev.1-2	Uruguay: amendment to the draft resolution on the study of discrimination in employment and occupation proposed by the United States of America (E/CN.4/L.363)	55	Women's International League for Peace and Freedom (Category B): Observations on communications, right of petition, capital punishment, right to read, racism and right to exploit freely natural wealth World Jewish Congress (Category B). Comments on the proposals concerning annual reports and studies on specific aspects of hu-
			3. DOCUMENTS ISSUED IN THE NON-GOVERNMENTAL ORGANIZATIONS SERIES
		E/CN.4/NGO.54	

E/CN.4/NGO.56

man rights submitted to the Commission on Human Rights at its ninth session by the representative of the United States of America

World Union for Progressive Judaism (Category B). Comments on the proposals concerning annual reports and advisory services presented to the Commission on Human Rights at its ninth session by the representative of the United States of America

57 World's Alliance of Young Men's Christian Associations (Category B). Comments on the pro-

E/CN.4/NGO.58

posals concerning annual reports, studies of specific aspects of human rights, and advisory services, presented to the Commission on Human Rights at its ninth session by the representative of the United States of America

International Catholic Child Bureau (Category B). Draft declaration on the rights of the child

59 Joint Committee of International Teachers' Federations (Register). Suggested charter of the rights of the child

Annex VI

**Financial implications of decisions of the Commission
(Prepared by the Secretariat)**

A. THE ESTABLISHMENT OF A HUMAN RIGHTS COMMITTEE³¹

1. The draft covenant on civil and political rights provides for the establishment of a Human Rights Committee, to consist of nine members (see article 27). Articles 27 through 30 provide, *inter alia*, that the members shall be of high moral standing and recognized competence in the field of human rights, to be elected by the International Court of Justice from a list of persons nominated by the States Parties to the covenant, the list to be submitted to the Court by the Secretary-General. Article 35 states that members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide commensurate with the importance and responsibility of the Committee.

2. Under the provisions of General Assembly resolutions 231 (III) and 459 (V), the members of the Committee would be entitled to travel expenses and a subsistence allowance while the Committee is in session. Accordingly, on the assumption that the Committee would hold its first meeting at Headquarters for a period of four weeks, the estimated costs to the United Nations would be as follows:

	\$	\$
Return travel of nine members at an average cost of \$650.....	5,850	
Subsistence allowance for nine members at \$25 per day for 28 days.....	6,300	12,150
	2,950	
Printing of report: 100 pages in English and French		2,950
TOTAL		\$15,100

3. The payment of a fee to each member of the Committee, in addition to a subsistence allowance (which would then be at the rate of \$12.50 per day), would require the specific approval of the General Assembly.

4. Since the extent of the Committee's work cannot be foreseen at this time the Secretary-General considers that the Secretariat should be able to absorb any additional workload within its existing establishment, at least during the early stages of the Committee's

activities. It is assumed that the Secretary to the Committee would also be provided from the existing establishment.

B. STUDY OF DISCRIMINATION IN EMPLOYMENT AND OCCUPATION³²

1. The Secretary-General's collaboration can be provided within the existing establishment, but financial implications for the United Nations budget would arise in connexion with translation and production of the report.

2. It is understood that the ILO would submit its report in either English or French and, circumstances permitting, would also attempt to provide a translation into the other language. The likelihood is therefore, assuming a report of some 300 pages in length, that the workload for the United Nations would be limited to translation and production of the Spanish text and production in the other two languages. The cost of the Spanish text, if separately calculated, would be \$2,100; that of production in the other two languages, \$600.

C. FUTURE SESSIONS OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES³³

1. The resolution requests the Economic and Social Council to authorize the Sub-Commission to hold yearly sessions of up to six weeks' duration. In 1952 and prior years, the Sub-Commission met for a period of two to three weeks. The 1954 meeting was held for a period of four weeks.

2. The financial implications of a meeting of six weeks' duration are shown below, together with a comparison of the costs of a three weeks' session.

	<i>6 weeks' session</i>	<i>3 weeks' session</i>
Travel and subsistence of members (transportation at \$650 and subsistence at \$25 per day)	\$21,600	\$15,300
Consultants (representative of Commission on Status of Women) (transportation at \$650 and subsistence at \$25 per day)	1,250	950
TOTAL	\$22,850	\$16,250

³² See resolution VII of the Commission in paragraph 485 and draft resolution C in annex IV of this report.

³³ See resolution XI of the Commission in paragraph 518 and draft resolution E in annex IV of this report.

³¹ See annex I, section B, part IV of this report.

3. The documentation requirements in respect of the three weeks' session have been provided from the existing establishment. However, it is not clear at this time whether the documentation requirements of a six-week session can be covered in the same manner or whether additional funds would be required.

D. RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT FOR THE RIGHT OF PEOPLES AND NATIONS TO SELF-DETERMINATION³⁴

1. The first draft resolution calls for the establishment by the General Assembly of a commission to conduct a full survey of the status of the permanent sovereignty of peoples and nations over their natural wealth and resources. Assuming that the commission would consist of representatives of governments, would meet at Headquarters and would be composed of members of permanent delegations, no expenses in respect of the members would be incurred by the United Nations. Necessary staff and facilities, including documentation services, would be provided by the Secretary-

³⁴ See resolution II of the Commission in paragraph 335 and draft resolution F in annex IV of this report.

General; any requirement for additional funds would be put to the General Assembly at an appropriate time.

2. The second draft resolution calls for the establishment by the General Assembly of a commission whose terms of reference would include the examination of any situation resulting from denial or inadequate realization of the right of self-determination, and the provision of good offices for the peaceful rectification of any situation it is required to examine. Expenses for the members of this commission, which it is also assumed would consist of representatives of governments, would arise only if the commission met away from Headquarters or undertook field visits. In such event funds would be required for travel and, in the case of field visits, for *per diem* of members, for travel and *per diem* of assisting Secretariat officials and possibly for temporary assistance and miscellaneous expenses as well.

3. The costs which might arise in connexion with this commission cannot be estimated in advance, and the Secretary-General, in the event that the commission were established, would request authority, under the terms of the annual resolution on unforeseen and extraordinary expenses, to meet such costs from the Working Capital Fund.