



**UNITED NATIONS**

**REPORT of the NINTH SESSION of the  
COMMISSION ON HUMAN RIGHTS**

**(GENEVA, 7 APRIL TO 30 MAY 1953)**

**ECONOMIC AND SOCIAL COUNCIL  
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## 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 at the session .....	3-13	1
C. Election of officers .....	14	3
D. Meetings, resolutions and documentation .....	15-18	3
II. Agenda .....	19-23	3
III. Draft international covenants on human rights and measures of implementation	24-214	4
A. Procedure .....	34-40	6
B. Additional articles on civil and political rights .....	41-86	6
Political rights .....	44-50	7
Rights of minorities .....	51-56	7
Treatment of persons deprived of their liberty .....	57-58	7
Equal rights of men and women .....	59-64	8
Privacy, home, correspondence, honour and reputation .....	65-71	8
Incitement to hatred or violence .....	72-77	9
Marriage and family .....	78-86	9
C. Measures of implementation of the draft covenant on civil and political rights	87-214	10
Provisions relating to the Human Rights Committee .....	87-88	10
Size and composition of the Committee .....	89-91	10
Qualifications of the members of the Committee .....	92-95	10
Election of the members of the Committee by the International Court of Justice or by the General Assembly .....	96-100	10
Majority required for the election of members of the Committee .....	101-103	11
Reference to the representation of "the main forms of civilization" in the election of the members of the Committee .....	104-106	11
Diplomatic privileges and immunities of members of the Committee .....	107-112	11
Eligibility of members of the Committee for renomination .....	113-116	12
Nominations to fill casual vacancies .....	117-119	12
Vacancies .....	120-125	12
Participation of outgoing members in cases with which they have begun to deal .....	126-128	13
Solemn declaration by members of the Committee .....	129-130	13
Secretary of the Committee .....	131-133	13
Functions of the Secretary of the Committee .....	134-136	14
Staff and facilities for the Committee .....	137-139	14
Emoluments of the members of the Committee .....	140-142	14
Initiation of proceedings before the Committee .....	143-156	14
Competence of the Committee to consider matters arising out of the article on the right of self-determination .....	157-164	17
Recourse to the Committee in serious cases involving danger to human life	165-167	18
Scope of the competence of the Committee .....	168-176	18
Oral and written submissions by States to the Committee .....	177-180	20
Participation in the Committee of a national of a State party to a dispute before the Committee .....	181-184	20
Information from the States concerned and the right of the Committee to conduct investigations .....	185-189	21
Report of the Committee on a matter referred to it .....	190-191	21
Request by States to the Committee for information or assistance, etc. ....	192-194	22
Annual reports by the Committee to the General Assembly .....	195-197	22
The jurisdiction of the International Court of Justice in disputes arising out of the interpretation or application of the Covenant .....	198-200	23
Recourse by States concerned to the International Court of Justice in the event of the failure of the Committee to reach a solution in a matter referred to it .....	201-205	23
Reports by States to the Secretary-General of the United Nations on the implementation of the provisions of the Covenant .....	206-207	24
Special provision for the implementation of the article on self-determina- tion .....	208-214	24

<i>Chapter</i>	<i>Paragraph</i>	<i>Page</i>
IV. Prevention of discrimination and protection of minorities .....	215-260	25
A. Introduction .....	215-218	25
B. Membership of the Sub-Commission .....	219-225	25
C. Resolutions relating to prevention of discrimination .....	226-235	26
D. Resolutions relating to protection of minorities .....	236-247	28
E. Resolutions of a general character .....	248-252	30
F. Resolution on programme of work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities .....	253-259	31
G. Resolution on the reports of the fourth and fifth sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities ..	260	32
V. Development of the work of the United Nations for wider observance of, and respect for, human rights and fundamental freedoms throughout the world; and annual reports on human rights .....	261-292	32
A. Procedure followed .....	261-262	32
B. Text of resolutions on annual reports, advisory services and specific aspects of human rights, and of the amendments submitted thereto .....	263-272	32
C. Discussion .....	273-280	35
(a) General comments .....	273-275	35
(b) Annual reports on human rights .....	276-280	35
D. Decision of the Commission .....	281-284	36
E. Text of draft resolution submitted on communications and of the amendments thereto .....	285-287	37
F. Discussion and decision of the Commission .....	288-292	37
VI. Communications .....	293-294	38
VII. Next session of the Commission .....	295	38
VIII. Adoption of the report of the ninth session to the Economic and Social Council	296	38

#### ANNEXES

I. Draft international covenants on human rights and measures of implementation		
A. Draft covenant on economic, social and cultural rights .....		39
B. Draft covenant on civil and political rights .....		41
C. The territorial application of the International Covenant on Human Rights		48
D. System of periodic reports .....		48
E. Final clauses .....		49
II. Proposals and amendments relating to the draft international covenants on human rights and measures of implementation		
A. Proposed additional article on the right of property .....		50
B. Proposals for a federal State article .....		50
C. Proposals for the final clauses .....		51
D. Establishment of an Office of the United Nations High Commissioner (Attorney-General) for Human Rights .....		51
III. Proposals and amendments relating to the draft covenant on civil and political rights and voting thereon		
A. Additional articles on civil and political rights .....		54
B. Measures of implementation of the covenant on civil and political rights		58
1. Articles adopted .....		58
2. Articles rejected or withdrawn .....		68
IV. Proposals and amendments relating to prevention of discrimination and protection of minorities and voting thereon		
A. Resolution on membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities .....		69
B. Resolutions relating to prevention of discrimination .....		70
C. Resolutions relating to protection of minorities .....		73
D. Resolutions of a general character .....		76
E. Resolution on programme of work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities .....		77
V. Draft resolutions for the Economic and Social Council .....		80
VI. List of documents before the Commission at its ninth session .....		82
VII. Financial implications of decisions of the Commission (prepared by the Secretariat) .....		87

## I. ORGANIZATION OF THE SESSION

### A. Opening and duration of the session

1. The Commission on Human Rights held its ninth session at the Palais des Nations, Geneva, Switzerland, from 7 April to 30 May 1953.
2. In the absence of the Chairman of the Commission (Mr. Charles Malik), the First Vice-Chairman (Mr. René Cassin) opened the ninth session on 7 April 1953 (339th meeting).

### B. Representation at the session

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

Mr. H. F. E. Whitlam (Australia), member  
Mr. G. Kaeckenbeeck (Belgium), alternate  
Mr. Humberto Diaz Casanueva (Chile), member  
Mr. Cheng Paonan (China), member  
Mahmoud Azmi Bey (Egypt), member  
Mr. René Cassin (France), member  
Mrs. Kamaladevi Chattopadhyay (India), member  
Mr. Joseph Harfouche (Lebanon), alternate  
Sir Abdur Rahman (Pakistan), member  
Mr. José D. Inglés (Philippines), member  
Mr. Jean Druto (Poland), alternate  
Mrs. Agda Rössel (Sweden), member  
Mr. P. V. Kriven (Ukrainian Soviet Socialist Republic), member  
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. Italo E. Perotti (Uruguay), member  
Mr. Branko Jevremovic (Yugoslavia), member

4. At the 339th meeting, the representative of the Union of Soviet Socialist Republics, speaking on a point of order, submitted the following draft resolution (E/CN.4/L.219):

*"The Commission on Human Rights*

*"Decides*

*"(a) To exclude from the Commission the representative of the Kuomintang Group;*

*"(b) To invite the representative of the Central People's Government of the People's Republic of China to sit on the Commission as the representative of the Chinese people."*

The Chairman (Mr. René Cassin) ruled the draft resolution out of order on the grounds that the Commission was not the appropriate body for considering the question of the representation of China on the Commission. An appeal by the representative of the Soviet Union against the ruling of the Chairman was rejected by 11 votes to 5, with 1 abstention.

5. The following were designated as alternates for the whole session: Mr. G. Kaeckenbeeck (Belgium) in

place of Mr. F. Dehousse; Mr. Joseph Harfouche (Lebanon) for Mr. Charles Malik; Mr. Jean Druto (Poland) for Mr. H. Birecki. In accordance with rule 13, paragraph 2, of the rules of procedure of the functional commissions of the Economic and Social Council, Mr. Abdel-Hamid Abdel-Ghani for the most part of the session represented Egypt and participated in the discussion when Mahmoud Azmi Bey acted in his capacity as Chairman of the Commission.

6. The following were designated as alternates for various parts of the session: Mr. Jean Leroy (Belgium), Mr. P. Juvigny (France), Mrs. Fryderyka Kalinowska (Poland), Mr. Patrick Attlee (United Kingdom of Great Britain and Northern Ireland), Mr. Philip Halpern (United States of America), Mr. J. F. Green (United States of America), Mr. Francisco A. Forteza (Uruguay) and Mr. Milos Melovski (Yugoslavia).

7. The members of the Commission were accompanied by the following advisers: Miss R. L. Dobson (Australia), Mr. B. G. Epinat (France), Mr. F. Rosal (Philippines), Mr. Henryk Zdanowski (Poland), Mr. Torsten C. Bjorck (Sweden), Mr. E. A. Melnik (Ukrainian Soviet Socialist Republic), Mr. A. V. Zhukov (Union of Soviet Socialist Republics), Mr. Philip Halpern, Mr. J. F. Green and Mr. W. E. Hewitt (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), Mrs. Hélène Lefauchaux (France) represented the Commission on the Status of Women at various meetings when parts of the draft international covenants on human rights concerning certain rights of women were considered.

9. At the 340th meeting on 8 April 1953 the Commission unanimously adopted a draft resolution proposed by the representative of the United Kingdom (E/CN.4/L.223), concerning the attendance at the ninth session of the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The text was as follows:

*"The Commission on Human Rights,*

*"Considering that the reports of the fourth and fifth sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities as well as such parts of the report of the third session as have not yet been given full consideration will be considered during the ninth session of the Commission,*

*"Desiring, in order to improve liaison between the Commission and the Sub-Commission, to convene for attendance at the discussion of these reports and of the work of the Sub-Commission, the Chairman of the Sub-Commission whom the Sub-Commission has selected as its spokesman for this purpose,*

"Anticipating that it will undertake this discussion about the 15th of May,

"Requests the Economic and Social Council to authorize the Secretary-General to make arrangements with a view to the attendance of the Chairman of the Sub-Commission at the ninth session of the Commission on or about that date."

The Economic and Social Council, at its 683rd meeting on 13 April 1953, authorized the Secretary-General to make the necessary arrangements. Mr. H. Roy, Chairman of the Sub-Commission, attended and participated at the meetings of the Commission during discussions relating to prevention of discrimination and protection of minorities.

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

*International Labour Organisation:*

Mr. C. W. Jenks, Assistant Director-General of the International Labour Office,

Mr. P. P. Fano, Mr. Philippe Blamont, Mr. R. W. Cox, Mr. N. Valticos

*United Nations Educational, Scientific and Cultural Organization:*

Mr. Hanna Saba, Mr. Alfred Metraux, Mr. N. D. Bammate, Mr. P. C. Terenzio

*World Health Organization:*

Miss B. Howell

11. Mr. J. G. van Heuven Goedhart, the United Nations High Commissioner for Refugees, attended certain meetings and at various other meetings he was represented by Mr. Paul Weis.

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

CATEGORY A

*International Confederation of Free Trade Unions*

Mr. H. Patteet

*World Federation of United Nations Associations*

Mr. John A. F. Ennals, Mr. André de Maday, Mrs. Ellinor Salmon

CATEGORY B

*Agudas Israel World Organization*

Mr. A. C. Safran

*Catholic International Union for Social Service*

Miss M. Callou, Mr. Christophe de Gorski, Mr. E. Megyer, Mr. W. Oswald, Miss J. de Romer

*Commission of the Churches on International Affairs*

Mr. O. Frederick Nolde, Mr. Elfan Rees

*Consultative Council of Jewish Organizations*

Mr. François Brunschwig, Mr. Moses Moskowitz

*Co-ordinating Board of Jewish Organizations*

Mr. G. Warburg

*Friends World Committee for Consultation*

Mr. Colin W. Bell, Mr. J. Duncan Wood

*International Bureau for the Suppression of Traffic in Women and Children*

Miss C. M. Harris

*International Catholic Child Bureau*

R. P. Marie Martin Cottier, Mr. Jules Gagnon, Mr. Michel Norman

*International Catholic Migration Commission*

Miss M. Schnyder de Wartensee

*International Catholic Press Union*

R. P. Marie Martin Cottier

*International Commission against Forced Labour Camps*

Mr. Théodore Bernard

*International Conference of Catholic Charities*

Mr. Paul Bouvier, Mr. Fernand Dubois, Miss Antoinette Mercier

*International Council of Women*

Mrs. J. Eder-Schwyzler, Miss Louise C. A. van Eeghen, Dr. Renée Girod

*International Federation of Business and Professional Women*

Mrs. Schrader-Rivollet, Miss Ruth Tomlinson

*International Federation of Friends of Young Women*

Mrs. Marie Fiechter

*International Federation of University Women*

Miss J. M. Bowie, Mrs. Marie Fiechter

*International League for the Rights of Man*

Mr. Roger Baldwin, Mr. Friedrich Bergold, Mr. E. Chapvisat, Mr. G. Hamilton Colket, Mr. Crane Gartz, Mr. Max Habicht, Mr. A. Robinet de Clery, Mrs. Mary Tibaldi Chiesa

*International Union for Child Welfare*

Miss L. Frankenstein, Mrs. J. M. Small, Mr. Georges Thelin

*Liaison Committee of Women's International Organizations*

Miss J. M. Bowie, Mrs. Alice Wible

*Pax Romana*

Miss Isabelle Archinard, Mr. Georges Borgeaud, Mr. Jean de la Croix Kaelin

*Women's International League for Peace and Freedom*

Mrs. Gertrude Baer

*World Jewish Congress*

Mr. F. R. Bienenfeld, Mr. Gerhart M. Riegner

*World Union for Progressive Judaism*

Mr. Armand Brunschwig, Mr. R. L. Ronalds, Mr. B. Woyda

*World Union of Catholic Women's Organizations*

Miss Isabelle Archinard, Mrs. G. Hamilton Colket, Mrs. Y. Darbre, Miss R. de Lucy-Fossarieu, Miss J. de Romer

*World's Y.M.C.A.*

Mr. Jean-François Reymond

*World's Y.W.C.A.*

Mrs. Constance M. Anderson, Miss Alice Arnold

#### REGISTER

*St. Joan's International Social and Political Alliance*

Mrs. M. Leroy-Boy

13. Mr. Dag Hammarskjold, the Secretary-General, attended the 397th meeting of the Commission. Mr. G. Georges-Picot, Assistant Secretary-General, Departments of Economic Affairs and of Social Affairs, attended the 405th meeting. Mr. John P. Humphrey, Director of the Division of Human Rights, and, in his absence, Mr. Lin Mousheng, Chief of Section I of the Division of Human Rights, represented the Secretary-General. Mr. Kamleshwar Das and Mrs. Margaret Bruce acted as Secretaries of the Commission.

#### C. Election of officers

14. The Commission at its 339th meeting unanimously elected:

Mahmoud Azmi Bey (Egypt), *Chairman*;

Mr. René Cassin (France) *First Vice-Chairman*;

Mr. Italo E. Perotti (Uruguay), *Second Vice-Chairman*;

Mr. G. Kaeckenbeeck (Belgium), *Rapporteur*.

#### D. Meetings, resolutions and documentation

15. The Commission held 72 plenary meetings. The views expressed by the members of the Commission during these meetings are summarized in documents E/CN.4/SR.339-410.

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.343, 345, 356, 357, 371, 378, 383, 384, 397, 402, 404, 405 and 410) to representatives of the following non-governmental organizations:

#### Category A

World Federation of United Nations Associations (Mr. John A. F. Ennals and Mrs. E. Salmon).

#### Category B

Co-ordinating Board of Jewish Organizations (Mr. G. Warburg); Consultative Council of Jewish Organizations (Mr. M. Moskowitz); Friends World Committee for Consultation (Mr. Colin W. Bell); International Federation of Business and Professional Women (Miss R. Tomlinson); International Federation of University Women (Miss Margaret J. Bowie); International League for the Rights of Man (Mr. R. Baldwin); Liaison Committee of Women's International Organizations (Miss Margaret J. Bowie); Pax Romana (Miss I. Archinard); Women's International League for Peace and Freedom (Mrs. G. Baer); World Jewish Congress (Mr. Bienenfeld and Mr. G. Riegner); World Union of Catholic Women's Organizations (Miss Y. Darbre and Miss de Romer).

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

18. Documents before the Commission at its ninth session are listed in annex VI.

## II. AGENDA

19. At the 340th meeting on 8 April 1953 the Commission adopted without objection the provisional agenda (E/CN.4/671) as its agenda for the ninth session, adding to it an item (E/CN.4/676/Add.1) on recommendations concerning international respect for the right of peoples to self-determination.

20. The agenda for the ninth 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); Economic and Social Council resolutions 384 (XIII), 415 (S-1) and 440 A (XIV))
- 4.\*Reports of the fourth and fifth sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (Economic and Social Council resolution 443 (XIV); E/CN.4/641, E/CN.4/641/Corr.1 and E/CN.4/670)
5. Membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

(E/1371, paragraph 13; rule 69 of the rules of procedure of functional commissions of the Economic and Social Council; E/259, paragraph 20)

- 6.\*Review of programme and establishment of priorities (General Assembly resolution 533 (VI); Economic and Social Council resolutions 402 B I and II (XIII), 451 A (XIV))
- 7.\*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) and 608 (VI); Economic and Social Council resolution 358 (XII))
- 8.\*Definition and protection of political groups (Item proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/641, paragraph 60)
- 9.\*Injuries suffered by groups through the total or partial destruction of their media of culture and their historical monuments (Item proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/641, paragraph 60)

\* Items deferred to the ninth session from the agenda of the eighth session, E/2256, paragraph 298.

10. General Assembly resolution 644 (VII) of 10 December 1952 on racial discrimination in Non-Self-Governing Territories
- 11.\*Annual reports on human rights  
(Economic and Social Council resolution 303 E (XI); E/1681, paragraph 47)
- 12.\*Draft declaration on the rights of the child  
(Economic and Social Council resolution 309 C (XI))
- 13.\*Old age rights (welfare of the aged)  
(General Assembly resolution 213 (III); Economic and Social Council resolutions 198 (VIII) and 309 D (XI))
- 14.\*Right of asylum  
(E/600, paragraph 48)
- 15.\*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.
- 16.\*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)
- 17.\*International Court of Human Rights  
(E/1681, paragraphs 46 and 81)
- 18.\*Continuing validity of minorities treaties and declarations  
(Economic and Social Council resolution 116 C (VI); E/1681, paragraph 76)
- 19.\*Yearbook on human rights  
(Economic and Social Council resolution 303 H (XI))
20. Communications  
(a) Lists of communications and replies from Member States  
(Economic and Social Council resolution 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)
21. Recommendations concerning international respect for the right of peoples to self-determination  
(General Assembly resolution 637 C (VII) and Economic and Social Council resolution 472 (XV))
22. Report of the ninth session of the Commission on Human Rights to the Economic and Social Council  
21. The Commission, at its 340th meeting, unanimously decided to commence its work with item 3 of the agenda and to postpone decision on the order of the consideration of the other items.  
22. The Commission also considered items 4, 5, 7, 11 and 20 (a) of its agenda.  
23. Further consideration of items 3, 7 and 11, and examination of the other items of the agenda were deferred.

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

24. The Commission devoted the major part of its ninth session to the drafting of the international covenants on human rights and measures of implementation. During the eighth and ninth sessions the work on the covenants has been based primarily on previous drafts prepared by the Commission and on the instructions of the General Assembly and the Economic and Social Council (General Assembly resolutions 421-422 (V) and 543-549 (VI), and Council resolutions 349 (XII), 384 (XIII), 415 (S-1) and 440 (XIV)). The General Assembly and the Council have asked for the preparation of two draft covenants on human rights, one on civil and political rights and the other on economic, social and cultural rights, both to contain as many similar provisions as possible, particularly as regards reports by States on implementation, and for submission to them of both draft covenants simultaneously. The other instructions of the General Assembly and the Council were: 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 the limitations thereto with the greatest possible precision; the improvement of the wording of the articles on economic, social and cultural rights drafted at the seventh session, taking into account observations submitted by Member States and specialized agencies and the explicit recognition of equality of men and women in related rights as set forth in the Charter; the inclusion in one or both covenants of an article on the right of peoples and nations to

self-determination on the lines indicated by the General Assembly; consideration of provisions for inclusion in the covenant or separate protocols for the receipt and examination of petitions from individuals and organizations with respect to alleged violations of the covenant; consideration, in the drafting of measures of implementation, of a number of proposals and "basic working papers" transmitted by the General Assembly; preparation of one or more clauses for inclusion in the covenants relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them; 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; inclusion in the covenant 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."

25. The Commission at its eighth session in 1952 prepared (E/2256) 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, and 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 right of peoples and nations to self-determination for inclusion in both draft covenants. The report of the eighth session of the Commission accordingly contained (E/2256, annex I) the text of the draft covenant on economic, social and cultural rights, consisting of a preamble and three parts: part I containing an article on self-determination, part II dealing with general obligations of States parties to the covenant and part III setting forth certain economic, social and cultural rights (section A);<sup>1</sup> the text of the draft covenant on civil and political rights, which like the other draft covenant included a preamble and three parts: part I containing the same article as in the other draft covenant on self-determination, part II dealing with general obligations of the States parties to the covenant and part III setting forth certain civil and political rights (section B).<sup>1</sup> The report also recorded (E/2256, chapter IV) that the Commission was unable at the eighth session to complete its work and in particular it did not examine proposals for additional rights of a civil and political nature (annex II, section A), the existing articles on measures of implementation (annex I, section D, parts IV and V) and additional proposals on implementation (annex III), the provisions relating to the final clauses (annex I, sections C and E and annex II, section C), the question of a federal State article (annex II, section B) and the problem of reservations. The Commission asked the Economic and Social Council to instruct it to complete its work on both covenants in 1953 and to submit them to the Council simultaneously. The Council endorsed this recommendation in resolution 440 A (XIV) of 30 July 1952.

26. In accordance with Council resolution 440 A (XIV) the Commission proceeded at its ninth session to consider the draft international covenants on human rights and measures of implementation in the light of the instructions contained in the resolutions of the General Assembly and of the Economic and Social Council referred to above and on the basis of the report of its eighth session (E/2256). The Commission also had before it a number of documents dealing with the various aspects of the covenants which contained observations of Member States and specialized agencies and memoranda and notes by the Secretary-General.<sup>2</sup>

27. At the ninth session, the Commission drafted a number of articles dealing with additional rights for inclusion in the draft covenant on civil and political rights, using as a basis the proposals submitted at previous sessions. It was not able, however, to discuss draft additional articles, such as that concerning the right of property (see annex II, section A), which might be inserted in the draft covenant on economic, social and cultural rights, consideration of which the representative of France had not requested at this session. The Commission drafted certain articles for the implementation of the covenant on civil and political rights, on the basis of the provisions relating to the measures of implementation, particularly to the Human Rights Committee (E/2256, annex I, section D, part IV), which had been drawn up at the sixth session and revised at the seventh. The Commission entrusted the Rapporteur with the task of eliminating discrepancies between the English and French texts adopted by the Commission and of

provisionally determining the order of the articles. He submitted his suggestions in documents E/CN.4/L.264, E/CN.4/L.264/Add.1-2 and E/CN.4/L.289, which were considered at the 409th meeting.

28. As regards measures of implementation, the Commission was unable to examine the question of the application of the provisions relating to the Human Rights Committee to the draft covenant on economic, social and cultural rights. Nor was it able to examine the provisions relating to the system of periodic reports (E/2256, annex I, section D, part V) and the question of its application to the two covenants (see paragraph 38 and E/CN.4/SR.379 and 390). The draft protocol on petitions from individuals and non-governmental organizations was withdrawn by its sponsor. The representative of Uruguay maintained his proposal relating to the establishment of an Office of the United Nations High Commissioner (Attorney-General) for Human Rights (for text see annex II, section D) but, considering that the Commission would not have the necessary time to discuss his proposal, did not insist on its being examined at the ninth session.

29. The Commission examined the question whether time could be given to the consideration of a federal State article and of the question of reservations, but it decided by 8 votes to 3, with 4 abstentions, and 6 votes to 3, with 7 abstentions, respectively, not to deal with them, as time would be insufficient for an adequate consideration of these important subjects. There was also no discussion on the final clauses which had been prepared at the sixth session (E/CN.4/SR.390). Reference was made by the Chairman to the fact that the text of the article on the territorial application of the covenant, prepared by the General Assembly, was included in the annex of the report relating to both covenants (E/CN.4/SR.391); it followed therefrom that that article was considered as being applicable to both draft covenants.

30. Annex I of the report contains in provisional order various texts relating to the draft international covenants on human rights and measures of implementation: section A contains the provisions of the draft covenant on economic, social and cultural rights, prepared at the eighth session of the Commission; section B contains the provisions of the draft covenant on civil and political rights, as prepared at the eighth session, together with the provisions on implementation (part IV, articles 27-48) and additional articles (articles 3, 10, 17, 22, 23, 25 and 26) prepared at the ninth session; section C reproduces the text of the article on the territorial application of the International covenant on human rights adopted by the General Assembly in resolution 422 (V) and included as article 72 of the draft covenant prepared by the Commission at its seventh session; section D reproduces the text of the articles relating to the system of periodic reports drafted at the seventh session of the Commission (part V, articles 60-69); section E contains the final clauses drafted at the sixth session of the Commission.

31. Annex II contains proposals and amendments relating to the draft international covenants on human rights and measures of implementation: section A

<sup>2</sup> See documents E/CN.4/524, 528, 528/Add.1, 528/Add.1/Corr.1, 530, 530/Add.1, 554, 554/Add.1, 590, 590/Add.1-4, 651, 654, 654/Add.1-9, 655, 655/Add.1-4, 660, 673, 674, 675, 677, 678, 683, 684, 685, 686; E/1721, 1992/Add.1, 2256; A/C.3/564, 565 and A/CONF.2/21, the subject matters of which are listed in annex VI of this report.

<sup>1</sup> The arrangement of the articles was considered to be provisional pending a final decision by the Commission.

contains the text of the proposed additional article on the right of property; section B contains proposals for a federal State article (E/2256, annex II, section B and E/CN.4/L.230); section C contains amendments to the final clauses; and section D reproduces the text of the proposal for the establishment of an Office of the United Nations High Commissioner (Attorney-General) for Human Rights (E/2256, annex III, section B).

32. The representative of the Union of Soviet Socialist Republics submitted the following draft resolution (E/CN.4/L.272):

*"The Commission on Human Rights,*

*"Noting that in the course of its review of the articles on civil, political, economic, social and cultural rights and its preparation of two draft covenants in accordance with General Assembly resolution 543 (VI) of 5 February 1952 and Economic and Social Council resolution 440 (XIV) of 30 June 1952, it has again become perfectly evident that 'the enjoyment of civic and political freedoms and of economic, social and cultural rights are interconnected and interdependent', as was recognized by the General Assembly in its resolution 421 (V) of 4 December 1951;*

*"Considering that the division of the draft covenant on human rights into two separate covenants (the Covenant on Civil and Political Rights and the Covenant on Economic and Social Rights) is artificial and unjustified and may weaken the international significance of these documents;*

*"Requests the Economic and Social Council to suggest to the General Assembly that it review its resolution 543 (VI)."*

The draft resolution was rejected in a roll-call vote (E/CN.4/SR.390) by 9 votes (Australia, Belgium, China, France, India, Sweden, United Kingdom, United States of America, Uruguay) to 6 (Chile, Egypt, Poland, Ukraine, USSR, Yugoslavia), with 1 abstention (Philippines).

33. The procedure followed by the Commission in the consideration of the draft covenants and measures of implementation is set out in the next section, and the following sections deal respectively with the action taken by the Commission on the addition of new rights in, and the implementation of, the draft covenant on civil and political rights. Annex III contains the text of the proposals and amendments considered by the Commission in connexion with these two subjects with an account of the voting thereon.

#### **A. Procedure**

34. The Commission devoted its 340th to 380th and 382nd to 393rd meetings to the consideration of the draft international covenants on human rights and measures of implementation. During the 340th and 341st meetings certain members of the Commission made general statements on the subject.

35. At the 341st meeting, the Commission rejected by 9 votes to 6, with 3 abstentions, the proposal of the Union of Soviet Socialist Republics to take up immediately the consideration of additional rights of a civil and political nature as opposed to the consideration of measures of implementation.

36. The Commission devoted its 342nd to 362nd and 385th to 393rd meetings to the consideration of meas-

ures of implementation. At the 342nd meeting the representative of the United States of America withdrew his delegation's proposal on a draft protocol relating to petitions from individuals and non-governmental organizations (E/2256, annex III, section A). During the 343rd to 345th meetings several members of the Commission made general statements concerning measures of implementation.

37. At the 346th meeting the Commission adopted by 15 votes to none, with 3 abstentions (the preamble and the two operative paragraphs were adopted in each case by the same vote), a draft resolution submitted by the representative of France (E/CN.4/L.233). The text of the draft resolution was as follows:

*"The Commission on Human Rights,*

*"Desirous of following out resolution 543 (VI) of the General Assembly of the United Nations, according to which the two covenants should 'contain, in order to emphasize the unity of the aim in view and to ensure respect for and observance of human rights, as many similar provisions as possible, particularly in so far as the reports to be submitted by States on the implementation of those rights are concerned',*

*"Decides to examine:*

*"1. Part IV of the drafts already prepared, firstly for the draft covenant on civil and political rights and, secondly, for the draft covenant on economic, social and cultural rights; and*

*"2. Part V, beginning with the draft covenant on economic, social and cultural rights and continuing with the draft covenant on civil and political rights."*

38. The Commission accordingly examined the provisions relating to the Human Rights Committee (part IV, articles 33-59 in document E/2256, annex I, section D) in connexion with the draft covenant on civil and political rights during the 346th to 362nd, 385th to 393rd and 410th meetings (see paragraphs 87-214 and annex III, section B, below). It was unable, in the time at its disposal, to comply with the rest of the draft resolution.

39. During its 363rd to 384th and 410th meetings, the Commission considered proposals for articles on additional rights to be included in the draft covenant on civil and political rights (see paragraphs 41-86 and annex III, section A, below).

40. At the 390th meeting the Commission considered a draft resolution (E/CN.4/L.272) submitted by the Union of Soviet Socialist Republics concerning the draft covenants (see paragraph 32 above).

#### **B. Additional articles on civil and political rights**

41. In resolution 421 B (V), the General Assembly called upon the Economic and Social Council to request the Commission on Human Rights to revise the provisions on civil and political rights in the draft covenant (which the Commission had prepared at its sixth session) with a view to defining the rights as well as the limitations thereto with the greatest possible precision and to adding other civil and political rights.

42. In pursuance of this resolution, the Commission at its eighth session revised the provisions on civil and political rights in the draft covenant (E/2256, annex I B), but did not have time to consider the inclusion of additional rights.

43. At its ninth session, the Commission discussed additional provisions on civil and political rights and adopted seven new articles (see articles 3, 10, 17, 22, 23, 25 and 26 of the draft covenant on civil and political rights in annex I, section B).

#### POLITICAL RIGHTS

44. Article 23 deals with the right of every citizen to take part in the conduct of public affairs, the right to vote and to be elected, and the right of access to public service (see annex III, paragraphs 1-12, and E/CN.4/SR.363-367).

45. It was generally agreed that, while these rights had been enunciated in the Universal Declaration of Human Rights, they should be provided for in the Covenant on Civil and Political Rights. There was less difference of opinion on the principles than on the precise way of translating them into legal obligations.

46. There were two approaches to the formulation of the article. One was to provide that "the State shall respect and guarantee the right and the opportunity...". Another was to state that "every citizen shall have the right and the opportunity...". The former emphasized the obligations of the State, the latter took the rights of the citizen as its point of departure. The Commission adopted the formulation that "every citizen shall have the right and the opportunity...".

47. Some representatives were of the opinion that the rights in question should be guaranteed to every citizen, "irrespective of race, colour, national origin, social position, property status, social origin, language, religion or sex." Some would add "political opinions" to this enumeration. Other representatives recalled that the non-discrimination clause in article 2 was applicable to all articles on civil and political rights, and they questioned the necessity of a repetition of the clause and warned against the dangers of unnecessary repetitions in legal texts. The Commission adopted a compromise formula, "without any of the distinctions mentioned in article 2 of this Covenant."

48. Some representatives expressed the opinion that "property, educational or other qualifications" which restricted electoral rights should be abolished. Others stated that the right to vote was denied to certain categories of persons, such as minors and lunatics, and that the right to be elected to public office and the right of access to public service were generally subject to certain qualifications. The Commission adopted the expression "without unreasonable restrictions" to qualify the exercise of all the rights in question.

49. The question of suffrage was extensively discussed. On the one hand, it was proposed that suffrage should be "universal, equal and direct" in order that every citizen could take part in the government of the State. On the other hand, it was argued that the concepts of universality and equality were embodied in the expression that "every citizen should have the right and the opportunity..."; that the application of these concepts in electoral systems should be left to governments; and that in any event "direct suffrage" was not applicable to every election. The Commission adopted the clause "universal and equal suffrage", but rejected the stipulation of "direct suffrage".

50. The text of the article, as adopted by the Commission, reads as follows:

"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 held by universal and equal suffrage and by secret ballot and guaranteeing the free expression of the will of the electors;

"(c) Of access, on general terms of equality, to public service in his country."

#### RIGHTS OF MINORITIES

51. Article 25 deals with the right of persons belonging to ethnic, religious or linguistic minorities to enjoy their culture, to profess and practise their religion or to use their language (see annex III, paragraphs 13-22, and E/CN.4/SR.368-371).

52. There was a sharp division of opinion as to what the term "minorities" should cover. Some were in favour of "ethnic, religious or linguistic groups" within States, others were in favour of "national minorities", while a third group suggested that the article should cover "national, ethnic, religious and linguistic minorities". The Commission finally adopted the expression "ethnic, religious or linguistic minorities" in the text of the article.

53. Those who were in favour of the expression "ethnic, religious or linguistic minorities" were of the opinion that persons belonging to such minorities should have the right, in community with the other members of the group, "to enjoy their own culture, to profess and practise their religion or to use their own language". Those who were in favour of the expression "national minorities" emphasized the right of such minorities "to use their native tongue and to possess their national schools, libraries, museums and other cultural and educational institutions". The Commission decided to adopt the first formulation.

54. The majority of the members argued that the term "minorities" should be understood to cover well-defined and long-established minorities; and that the rights of persons belonging to minorities should not be interpreted as entitling any group settled in the territory of a State, particularly under the terms of its immigration laws, to form within that State separate communities which might impair its national unity or its security.

55. It was generally agreed that, if persons belonging to minorities enjoyed special rights, they should not on that account be deprived of such rights as were enjoyed by the other citizens of the same State.

56. The text of the article, as adopted by the Commission, reads as follows:

"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."

#### TREATMENT OF PERSONS DEPRIVED OF THEIR LIBERTY

57. Article 10 sets forth three principles relating to the treatment of persons deprived of their liberty, accused persons or convicted persons. Those principles

are inspired by the recognition of the dignity and worth of the human person (see annex III, paragraphs 23-25, and E/CN.4/SR.371).

58. The article, which gave rise to no controversy and was adopted unanimously, reads as follows:

“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”.

#### EQUAL RIGHTS OF MEN AND WOMEN

59. Article 3 provides that the States parties to the covenant shall undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the Covenant (see annex III, paragraphs 26-28, and E/CN.4/SR.371-373).

60. It will be recalled that at its eighth session the Commission adopted article 3 of the draft covenant on economic, social and cultural rights, which reads as follows: “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”.

61. At its ninth session the Commission discussed a proposal that “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”. It was clear that the proposal was intended to cover all civil and political rights, and in particular the rights of women in the family, whether set forth in the draft covenant on civil and political rights or not. Some members having objected to a commitment, the scope of which was not clearly defined, an amendment was submitted with a view to limiting the article to those civil and political rights which were “set forth in the Covenant”.

62. If this amendment were adopted, the question would arise as to whether the proposed article was not redundant, inasmuch as article 2 already provided that each State shall undertake to respect and to ensure to all persons the rights recognized in the Covenant without any distinction as to sex, and article 19 that the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against any discrimination on grounds of sex. A reiteration of the principle of equality of the sexes, it was contended, would weaken articles 2 and 19, and would raise the question as to whether other forms of non-discrimination should not be dealt with in separate articles.

63. The majority of the members of the Commission, however, were of the opinion that the proposed article would strengthen the principle of non-discrimination and would not be prejudicial to articles 2 and 19. They reminded the Commission that by resolution 421 E (V) the General Assembly had decided to include in the Covenant “an explicit recognition of equality of men and women” to the enjoyment of human rights. Furthermore, according to resolution 543 (VI), the General Assembly had instructed the Commission that the two covenants should contain “as many similar provisions as possible” in order to emphasize their unity of

purpose. The draft covenant on civil and political rights should therefore contain an article similar to article 3 in the draft covenant on economic, social and cultural rights.

64. The article, as adopted by the Commission, reads as follows:

“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.”

#### PRIVACY, HOME, CORRESPONDENCE, HONOUR AND REPUTATION

65. Article 17 deals with the protection of the individual's privacy, home and correspondence as well as the protection of the individual's honour and reputation\* (see annex III, paragraphs 29-34, and E/CN.4/SR.373-376).

66. The original proposal was worded as follows: “No one shall be subjected to arbitrary or unlawful interference with his privacy, home or correspondence, nor to attacks on his honour and reputation.” This text was taken from article 12 of the Universal Declaration of Human Rights, with the words “or unlawful” added after the word “arbitrary”.

67. There was no difference of opinion as to the principle. Privacy, the sanctity of the home, the secrecy of correspondence and the honour and reputation of persons were objects of protection in most constitutions or laws. But some representatives thought that it would be very difficult to translate the general principles of article 12 of the Universal Declaration of Human Rights into precise legal terms, especially in the form of a brief article of the Covenant to be applicable to all legal systems of the world. Others felt strongly that the Covenant should not fail to include an article on these elementary rights of the individual. Such an article could only lay down a general rule, leaving all exceptions thereto and methods of application thereof to the legislation of each contracting State.

68. With respect to the first clause of the draft proposal, some representatives thought a distinction should be made between “arbitrary” interference by public authorities and “unlawful” interference by private persons. Interference by a public authority could be lawful and yet “arbitrary”; interference by a private person could be “unlawful”. Others thought that the article should protect the individual against “arbitrary” or “unlawful” interference by private persons as well as by public authorities.

69. For the second clause — “nor to attacks on his honour and reputation” — it was argued that if the word “attacks” were not qualified, the clause could be invoked by dictators to suppress the free expression of public opinion. It was thought that the law could protect the individual only against “unlawful” attacks, or “abusive” or “unwarranted” attacks, on his honour or reputation; and that fair comments or truthful statements which might affect the individual's honour or reputation should not be considered as “attacks on the individual's honour and reputation.”

70. An amendment was made to insert in the proposed article the last clause of article 12 of the Universal Declaration of Human Rights which reads “Everyone has the right to the protection of the law against such interference or attacks”. There was no dispute over this clause.

71. The article as adopted reads as follows:

"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.

"Everyone has the right to the protection of the law against such interference or attacks."

#### INCITEMENT TO HATRED OR VIOLENCE

72. Article 26 prohibits such propaganda as constitutes an incitement to hatred or violence (see annex III, paragraphs 35-38, and E/CN.4/SR.377-379).

73. The proposal before the Commission was worded as follows: "Any advocacy of national, racial or religious hostility that constitutes an incitement to violence shall be prohibited by the law of the State."

74. Under this proposal, it was argued, any advocacy of national, racial or religious hostility that did not constitute an incitement to violence would be permitted. One amendment was to extend the scope of the prohibition to cover all propaganda of "national or racial exclusiveness, hatred and contempt", or religious hostility, "particularly of such a nature as to constitute" an incitement to violence. It was emphasized that propaganda of national or racial exclusiveness, hatred and contempt could lead to war although it might not constitute immediately an incitement to violence.

75. Another amendment would prohibit any advocacy of national, racial or religious hostility that constituted "an incitement to hatred" as well as "an incitement to violence." It was argued that any propaganda constituting an incitement to hatred was no less serious than that constituting an incitement to violence; both should be prohibited.

76. A number of representatives questioned the wisdom of any mandatory requirement of legislation against propaganda; they feared that such a mandate might be used to justify the institution of censorship and the suppression of the free exchange of ideas. They also thought that while "an incitement to violence" was a definable legal concept, "an incitement to hatred" was a subjective notion that could not easily lend itself to legal action. Another suggestion was that "incitement to hatred and violence", with its cumulative interpretation, might be a more appropriate concept.

77. The article as adopted by the Commission reads as follows:

"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."

#### MARRIAGE AND FAMILY

78. Article 22 deals with the right to marry and to found a family and the equality of rights of the spouses (see annex III, paragraphs 39-55, and E/CN.4/SR.380, 382-384).

79. At its seventh session, the Commission on the Status of Women adopted a draft resolution (E/CN.4/686) by which the Economic and Social Council would request the Commission on Human Rights to include in the Covenant on Civil and Political Rights article 16 of the Universal Declaration of Human Rights, which reads as follows:

"1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

"2. Marriage shall be entered into only with the free and full consent of the intending spouses.

"3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

Although the Council had not yet acted upon the draft resolution, the Commission on Human Rights decided to consider the proposal of the Commission on the Status of Women.

80. There was a sharp division of opinion as to the advisability of adopting the proposal of the Commission on the Status of Women. Against the proposal there were two principal arguments. In the first place, it was thought that the Covenant, being a legal instrument of a binding character, could not incorporate word by word the text of an article in the Universal Declaration of Human Rights, which set forth ideal standards to be striven for by nations and peoples. In the second place, the principles in article 16 of the Declaration, if embodied in the Covenant, would necessitate radical changes in the civil laws or customs of practically all States and such changes could not be made overnight but slowly and progressively, perhaps in terms of decades.

81. On the other hand, it was contended that the right to marry and to found a family was a most elementary right of every person and that the world would little understand why the Commission deliberately excluded that right from the Covenant. Furthermore, in view of great and unjust inequalities that existed as regards the rights of husband and wife, the Commission should move forward boldly towards the realization of the principle of equality.

82. With regard to the provisions concerning the right to marry and to found a family (first sentence of paragraph 1), comments were made that the expression "full age" was not precise and should be modified to read "full age as determined by law"; that the expression "without any limitation due to race, nationality or religion" was either redundant in the light of article 2 or too restrictive in not including such factors as "social origin or fortune". An amendment to redraft the sentence to read "The right of men and women of full age to marry and to found a family shall be recognized" was adopted by the Commission.

83. With regard to paragraph 2, some representatives pointed out that under the laws of certain countries, the consent of parents was required under certain conditions. The paragraph was subsequently changed to read "No marriage shall be entered into without the free and full consent of the intending spouses".

84. In the opinion of some representatives, the statement that "the family is the natural and fundamental group unit of society" was purely a sociological concept. The family was based upon marriage, which was not merely a civil contract, but primarily a sacramental act. Other representatives thought, however, that the Covenant could deal with marriage only as a legal institution. An amendment to replace the clause that the family "is entitled to protection by society and the State" by the clause the family "shall be protected by law" was not adopted.

85. It was recognized that husband and wife did not always enjoy the same rights as regards domicile, nationality, education of children, the right to work, the right to own property, etc. One proposal was that the law "shall be directed towards", and another was that it "shall provide for", equality of rights and responsibilities for the spouses as to marriage, during marriage and at its dissolution. The Commission adopted the expression "shall be directed towards" in preference to "shall provide for". The Commission further adopted a provision that in the case of dissolution of a marriage "the law shall lay down specific measures for the protection of any children of the marriage".

86. The paragraphs were then rearranged, and the article as adopted by the Commission reads as follows:

"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."

### **C. Measures of implementation of the draft covenant on civil and political rights**

#### **PROVISIONS RELATING TO THE HUMAN RIGHTS COMMITTEE. PART IV OF THE DRAFT IN E/2256, ANNEX I, SECTION D**

87. Part IV (Articles 33-59) of the draft prepared at the sixth and seventh sessions centred round the creation of a Human Rights Committee as the organ of implementation. Articles 33-59 dealt with the creation, composition, election, nature, tasks, procedure, rights and jurisdiction of the Committee.

88. The Commission adopted twenty-seven articles; articles 43, 49 and 53 of the original draft were rejected, three new articles were added and three proposals for new articles were subsequently withdrawn. A brief indication of the trends of the discussion of important questions of substance is given in the following paragraphs. The texts of all the articles and amendments and the votes thereon are set forth in annex III, section B. The representatives of Poland, Ukrainian Soviet Socialist Republic and of the Union of Soviet Socialist Republics opposed the inclusion of all articles on implementation in the draft covenants; they considered that such articles provided for methods of control for carrying out the covenants which constituted an attempt to interfere in the domestic affairs of States and a violation of their sovereignty.

#### **SIZE AND COMPOSITION OF THE COMMITTEE**

89. The draft before the Commission provided for a committee of nine members (see annex III, paragraphs 56-59, and E/CN.4/SR.346).

90. Some members of the Commission thought that number too high for a task of conciliation and proposed a smaller number. Others pointed out that a fair

geographical distribution and the representation of the main forms of civilization would hardly be possible with a smaller number. The smaller countries would not have a sufficient representation, since it was likely that each of the five permanent members of the Security Council might have one of their candidates chosen. Some members thought, however, that, since the members of the Committee would be chosen primarily for their personal qualities, it was by no means certain that a candidate from each of those permanent members would be chosen. Indeed, there was no question of representation of States in the Committee, but of individual capacity. It was also argued that there might be some division of work among the members of the Committee. Moreover, fact-finding would require a larger number than conciliation proper, which might be entrusted to the Chairman alone or to a sub-committee.

91. It was pointed out that the original draft was already a compromise, and the Commission decided to endorse the number of nine (see article 27, paragraph 1<sup>3</sup>).

#### **QUALIFICATIONS OF THE MEMBERS OF THE COMMITTEE**

92. The draft before the Commission provided that the Committee was to be composed of nationals of the States parties to the Covenant who should be persons of high moral standing and recognized competence in the field of human rights (see annex III, paragraphs 56-59 and E/CN.4/346).

93. No divergence of views became apparent with regard to this provision. But some members questioned the legitimacy of the second clause of the draft which provided that consideration should be given to the usefulness of the participation of some persons having a judicial or legal experience.

94. It was felt by some that this clause could be dispensed with, since persons of high moral standing and recognized competence in the field of human rights would naturally include some jurists. On the other hand, it was recognized that the scope of appointments to the Committee should include a wider range of persons such as statesmen, historians, etc., as well as jurists, and that, therefore, the second clause should be retained as a useful indication to the International Court of Justice which was entrusted with the election.

95. The Commission accordingly decided to retain the original text (see article 27, paragraph 2).

#### **ELECTION OF THE MEMBERS OF THE COMMITTEE BY THE INTERNATIONAL COURT OF JUSTICE OR BY THE GENERAL ASSEMBLY**

96. The draft before the Commission provided for the election of the members of the Committee by the International Court of Justice (see annex III, paragraphs 68-71, and E/CN.4/SR.347).

97. Certain members of the Commission holding the view that the promotion and respect for human rights was a collective responsibility of the United Nations, not simply an individual responsibility of some States, proposed that the election of the members of the Committee should be carried out by a more representative organ possessing a universal character, such as the General Assembly. Other members, however, pointed out that the matter had been exhaustively discussed at

<sup>3</sup> The numbers of the articles mentioned in parenthesis throughout this section are those of the draft covenant on civil and political rights, annex I, section B of this report.

previous sessions. The draft of the article prepared at the sixth session, which had provided for election by the States parties to the Covenant, had been changed in favour of election by the International Court of Justice on the grounds that elections should not be the monopoly of a group of States, however directly interested. Certain members stated that the International Court of Justice was an independent and impartial body, unaffected by political considerations, and highly qualified to pass judgment on a person's abilities and character. Other members pointed out that there was no question about the impartiality of the General Assembly, which elected members to the principal organs of the United Nations, including the judges of the International Court of Justice. But it was also pointed out that the Court was more removed from political considerations. The rights of States would in any case be safeguarded because the choice would be restricted to candidates who would be nationals of States parties to the Covenant nominated by such States themselves. It was also stressed that members of the Committee were not to be chosen solely for their judicial or legal experience and the General Assembly was eminently competent to take into account other factors which should influence the composition of the Committee.

98. A number of members doubted whether the International Court of Justice could be legally entrusted with the task of elections, some even contending that this was outside the jurisdiction of the Court as established by the relevant articles of the Charter and the Statute. Others pointed out, however, that although there was no legal obligation or duty on the part of the Court to elect members of the Committee, there were no constitutional barriers to its carrying out the task if it so wished. They admitted that difficulties might arise if the Court refused to undertake the task and suggested that this could be avoided by ascertaining the views of the Court through the Economic and Social Council before the draft covenants were submitted to the General Assembly, as had been suggested by the Secretary-General in his memorandum (E/CN.4/675, paragraph 4).

99. It was also suggested, by analogy with the International Court of Justice, that elections might be entrusted jointly to the General Assembly and the Economic and Social Council. But other members found this to be unnecessary and rather cumbersome.

100. The Commission decided to make no changes in the original provisions (see article 29, paragraph 2).

#### MAJORITY REQUIRED FOR THE ELECTION OF MEMBERS OF THE COMMITTEE

101. The draft before the Commission provided that the persons elected were to be those who obtained the largest number of votes and an absolute majority of the votes of all the members of the International Court of Justice, and that the quorum of nine laid down in article 25, paragraph 3, of the Statutes of the Court was to apply for the holding of the elections by the Court (see annex III, paragraphs 75-79, and E/CN.4/SR.348).

102. A number of members thought it illogical to insist, on the one hand, that members of the Committee should be elected by an absolute majority of the votes of all the fifteen members of the Court, and to provide, on the other hand, that the quorum of nine prescribed in article 25, paragraph 3, of the Statute

of the Court, should apply for the holding of elections. This would mean that, if only a bare quorum was present, the election of a member would have to be virtually by a unanimous vote. Others argued that this would be in keeping with the importance of the elections to the Committee. It was good to provide that members should be elected by as large a majority as possible and to close the door to the possibility of electing members of the Committee by very few votes. It was also mentioned that more than the number required for a quorum would presumably be present when elections were held, and that the practice of the Court pointed in that direction.

103. The Commission decided to make no changes in the original provisions (see article 30, paragraph 4).

#### REFERENCE TO THE REPRESENTATION OF "THE MAIN FORMS OF CIVILIZATION" IN THE ELECTION OF THE MEMBERS OF THE COMMITTEE

104. The draft before the Commission provided that in the election of the Committee consideration was to be given by the International Court of Justice to equitable geographical distribution of membership and to the representation of the main forms of civilization (see annex III, paragraphs 75-79 and E/CN.4/SR.348).

105. Some members were of the opinion that the reference to "the main forms of civilization", though taken from article 9 of the Statute of the International Court of Justice, implied a classification of cultures based on criteria which seemed somewhat presumptuous since it had been found almost impossible to define civilizations. It was suggested that the expression should be changed to "different forms and degrees of civilization". Other members of the Commission, while conceding that the reference to "different" forms of civilization might be justified, nevertheless thought that the word "degrees" implied an idea of hierarchy of quality which it would not be desirable to introduce.

106. The Commission decided to adopt the expression "different forms of civilization" (see article 30, paragraph 2).

#### DIPLOMATIC PRIVILEGES AND IMMUNITIES OF MEMBERS OF THE COMMITTEE

107. The draft before the Commission provided that "the members of the Committee and the Secretary, when engaged on the business of the Committee, shall enjoy diplomatic privileges and immunities" (see annex III, paragraphs 163-165, and E/CN.4/SR.350).

108. To this text an amendment was submitted providing that "the members of the Committee shall, when engaged upon the business of the Committee, enjoy in the territory of each State Party to this Covenant such privileges and immunities as may be agreed between such State and the Secretary-General of the United Nations".

109. Members of the Commission supporting the amendment or advocating limitation of the original text felt that in international law diplomatic privileges and immunities covered an extensive field and that parliaments were becoming increasingly reluctant to extend diplomatic privileges and immunities to officials of international organizations. Other members of the Commission were of the opinion that this point of view disregarded the importance of the proposed Committee, which was to be elected by the highest judicial

body of the United Nations, and which was to be composed of persons of high moral standing and recognized competence in the field of human rights. They admitted that diplomatic privileges and immunities might be of wide scope, but believed that the inclusion of the words "when engaged on the business of the Committee" furnished governments with sufficient safeguards.

110. Another point of view was that it might be better to provide for a reference to the Convention on Privileges and Immunities of the United Nations with particular emphasis on articles V and VI of that Convention, which dealt with the privileges and immunities of "experts" and of "officials" of the United Nations. Some members, however, doubted whether the provisions of the Convention on Privileges and Immunities of the United Nations could be applied automatically to the members of the Committee and, even if references were to be included to that Convention, whether it was correct to refer to the members of the Committee as "experts" within the meaning of the Convention.

111. It was also suggested that it might be pointed out that the Commission, wishing to stress the importance of the work of the members of the Committee and the need for their complete independence, considered that they should enjoy diplomatic privileges and immunities, but that in view of the difficulties, it felt that agreements should be concluded by the Secretary-General of the United Nations and the different States; those agreements might confer on the Committee members at least the status recognized in article V of the Convention on Privileges and Immunities of the United Nations.

112. Although the Commission accepted the suggestion mentioned above, it rejected the article dealing with privileges and immunities as a whole.

#### ELIGIBILITY OF MEMBERS OF THE COMMITTEE FOR RENOMINATION

113. The draft before the Commission provided that members of the Committee were to be elected for a term of five years and be eligible for re-election. However, the terms of five of the members elected at the first election were to expire at the end of two years, and immediately after the first election the names of the members whose terms expired at the end of the initial period of two years were to be chosen by lot by the President of the International Court of Justice (see annex III, paragraphs 80-83, and E/CN.4/SR.349, 352).

114. Certain members of the Commission advocated some limitation on the immediate re-eligibility for election of a retiring member of the Committee, unless he was renominated by a State other than the State which had nominated him previously. They felt that this might not only enhance the independence and impartiality of the members of the Committee, but that it would enable them to give greater validity and emphasis to the principles of equitable geographical distribution and of representation of different forms of civilization, while giving a greater chance to small powers. Other members thought, however, that such a procedure might have far-reaching consequences. They held that it was better to rely on the system of rotation of membership, already provided for, and on the good judgment of the International Court of

Justice, which would undoubtedly pay due regard to all the criteria mentioned.

115. While some members believed that the periodic induction of new persons in the Committee was desirable, others feared that it might result in lack of continuity in the work of the Committee and in the loss of persons having acquired valuable experience and accumulated relevant knowledge. The argument that prohibition of immediate re-election might promote independence, because members would not be influenced by the desire to secure re-election was thought by others to be of small weight in view of the high qualifications required for membership and of the fact that members would act in their personal capacity.

116. The Commission rejected a proposal to prohibit re-eligibility of members of the Committee. It retained the existing provision that members should be eligible for re-election, adding the proviso "if renominated" (see article 31, paragraph 1).

#### NOMINATIONS TO FILL CASUAL VACANCIES

117. The draft before the Commission provided for the filling of casual vacancies according to the provisions laid down for regular elections (see annex III, paragraphs 84-89, and E/CN.4/SR.349, 351).

118. A number of members of the Commission referred to the fact that changes of circumstances or certain eventualities, such as the resignation or death of a formally nominated person, might make the list of nominees prepared for the previous regular election out of date. States should, accordingly, be given the opportunity to nominate other persons, if necessary, to supplement the original list of nominees. Some members, however, feared that this would enable States to nominate more persons than they were entitled to for the regular election. Fear was also expressed that a former nominee might, without valid reasons, be dropped as no longer available. It was urged that, in any case, it was necessary to allow each State to add to its list of nominees, provided the number of names for the regular election was not exceeded, and to substitute new names when persons on the original list were no longer available for election.

119. The Commission adopted a provision whereby in case of casual vacancies States would, if necessary, be able to complete their list of available nominees up to the number provided for under the regular elections (see article 33, paragraph 1).

#### VACANCIES

120. The draft before the Commission provided for the conditions under which elections were to be held in case of vacancies without indicating how these vacancies might arise except in the case of a resignation of a member. In the latter case the resignation was to be addressed to the Chairman of the Committee through the Secretary of the Committee who would immediately notify the Secretary-General of the United Nations and the International Court of Justice (see annex III, paragraphs 95-99, and E/CN.4/SR.352).

121. The Commission had before it a proposal which dealt separately with the question of vacancies arising otherwise than on expiration of the term of office and provided that "if by reason of death, illness or any other cause, other than absence of a temporary character, a member of the Committee ceases to carry out

his duties, 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." In support of this proposal it was contended that vacancies might arise in other ways than by resignation and that such cases ought to be covered if the Committee was to function properly. Some members thought that the proposal was too wide and should be limited to specific cases. Many members felt it undesirable to grant wide discretionary powers to the Chairman of the Committee. Reference was made to article 18 of the Statute of the International Court of Justice ("no member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions") and the desirability of adopting a similar provision, but other members felt that the provision in the Statute of the Court dealt with the question of dismissal, and not with the termination of office for other reasons.

122. One member considered that the phrase "absence of a temporary character" was undesirably vague and that the period of time of absence should be specified at the expiration of which the member concerned would automatically vacate his seat; this would prevent members of the Committee being continually absent over a period of time which might result in there being no quorum for the Committee to carry out its functions. Certain members objected to this on the ground that it was arbitrary and would give rise to practical difficulties.

123. Another member raised the question of the advisability of consultation with the government which had nominated the member in question, but this was objected to on the ground that once a member was elected he should act in his personal capacity and not as a nominee of any particular government.

124. Several members of the Commission felt that the question of vacancies arising out of the death or resignation of a member should be dealt with separately from other casual vacancies, and this view was adopted (see article 32, paragraph 2).

125. As regards other casual vacancies, the Commission approved a compromise text which provided that "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" (see article 32, paragraph 1).

#### PARTICIPATION OF OUTGOING MEMBERS IN CASES WITH WHICH THEY HAVE BEGUN TO DEAL

126. The draft before the Commission provided that if the Committee had, prior to the election of a successor to an outgoing member, begun to consider a case, the outgoing member should continue to act in that case, and his successor should not (see annex III, paragraphs 90-94, and E/CN.4/SR.353).

127. The view was expressed that this provision should be supplemented so that, though normally a new member should not act in a case which had been under consideration before his election, a member elected to fill a casual vacancy might be allowed to sit if a quorum could not otherwise be obtained. This view was accepted by the Commission (see article 34), and the view that in all cases the successor should participate was thus rejected.

128. In support of the rejected view it was stated that there were no grounds for preventing new members from bringing their knowledge and experience to bear upon a case which had already begun as they would be chosen for their special competence and could fully brief themselves. The Committee was not to be regarded as a judicial body and there was therefore no need to adhere to article 13, paragraph 3, of the Statute of the International Court of Justice on which the original provision was based. To this many members objected that the principles contained in the Statute of the Court were of great value to the Committee, especially as they would prevent the election of members from being influenced by current events. Further, though the Committee was not a court, it would have fact-finding functions to perform for which it would be inadvisable to depart from the existing practice of international bodies of a judicial or quasi-judicial character under which the knowledge of the facts of a case acquired by an outgoing member was as far as possible made use of, and the danger of admitting new members unacquainted with the former proceedings during the examination of a case, was obviated.

#### SOLEMN DECLARATION BY MEMBERS OF THE COMMITTEE

129. A new article was added whereby every member of the Committee, before taking up his duties, would make a solemn declaration in open Committee that he would exercise his powers impartially and conscientiously (see article 38, and annex III, paragraphs 109-110, and E/CN.4/SR.354).

130. The text of the proposal followed that of article 20 of the Statute of the International Court of Justice. It was stated that the Commission had endeavoured to ensure the best possible selection of persons and it was desirable to supplement this by providing that the members should identify themselves with the Committee's aims through a solemn declaration. This would stress, both for the members themselves and for public opinion, the importance and seriousness of the Committee's responsibilities.

#### SECRETARY OF THE COMMITTEE

131. The draft before the Commission provided that the Secretary of the Committee shall be appointed by the International Court of Justice from a list of three names submitted by the Committee (see annex III, paragraphs 100-106, and E/CN.4/SR.354).

132. Many members supported the opinion contained in the Secretary-General's memorandum (E/CN.4/675, paragraphs 5-7), which had been submitted to the Economic and Social Council as far back as 1951. The Secretary-General had stated that while the Committee would have full independence of action in dealing with the substantive and technical matters in which it was engaged, the appointment of the Secretary of the Committee should be made from among the senior staff of the United Nations Secretariat, and for all administrative purposes the Committee's Secretary should be subject to the authority of the Secretary-General as Chief Administrative Officer of the United Nations and governed by the staff rules and regulations of the Organization. These members pointed out that the Committee would be set up under the auspices of the United Nations and it was proper that the Secretary of the Committee should be a person nominated by the Secretary-General of the United Nations from

persons in senior posts in the Secretariat. Certain members, however, thought that, as the Secretary of the Committee would play an important part in preparing and examining cases coming before the Committee, safeguards provided in respect of his election should be similar to those laid down for the election of its members. It was felt, on the other hand, that the Committee itself should have a voice regarding the choice of its Secretary.

133. The Commission decided that the Secretary of the Committee shall be a high official of the United Nations Secretariat elected by the Committee from a list of three names submitted by the Secretary-General of the United Nations (see article 36, paragraphs 1-2).

#### FUNCTIONS OF THE SECRETARY OF THE COMMITTEE

134. The draft before the Commission provided that "the Secretary of the Committee shall attend its meetings, make all necessary arrangements, in accordance with the Committee's instructions, for the preparation and conduct of the work, and carry out any other duties assigned to him by the Committee" (see annex III, paragraphs 166-167, and E/CN.4/SR.354).

135. Many members expressed the view that the provision dealt with purely administrative matters which could be left to existing regulations and traditions and to the mutual arrangements which would undoubtedly be worked out between the Committee and its Secretary.

136. The Commission endorsed this view and rejected the article.

#### STAFF AND FACILITIES FOR THE COMMITTEE

137. The draft before the Commission provided that the Secretary-General of the United Nations was to provide the necessary staff and facilities for the Committee and its members (see annex III, paragraphs 123-125, and E/CN.4/SR.355).

138. The draft was acceptable to most members of the Commission. Many members, however, thought that it should be made quite clear that the staff would be part of the United Nations Secretariat. They referred, in this connexion, to the remarks of the Secretary-General (E/CN.4/675, paragraph 6) that the creation of new, small autonomous units would not be consistent with the wishes of the General Assembly to provide a centralized Secretariat.

139. The Commission accepted this point of view and adopted the original text with the addition that the staff shall be part of the United Nations Secretariat (see article 36, paragraph 3).

#### EMOLUMENTS OF THE MEMBERS OF THE COMMITTEE

140. The draft before the Commission provided that the members and the Secretary of the Committee were to receive emoluments commensurate with the importance and responsibilities of their office (see annex III, paragraphs 120-122, and E/CN.4/SR.355).

141. Under this draft there was no indication as to whether the emoluments would be defrayed by the United Nations or by the States parties to the Covenant. The Commission decided that the members of the Committee shall, with the approval of the General Assembly, receive emoluments from the United Nations resources on such terms and conditions as the General Assembly might decide, having regard to the impor-

tance and responsibilities of the Committee (see article 35).

Financial implications dealing with the question were brought to the attention of the Commission in document E/1992/Add.1 and will be found in annex VII, section A, to this report.

142. As regards the Secretary of the Committee, the Commission felt that since it had decided that he would be a high official of the United Nations Secretariat, elected from a list of three names submitted by the Secretary-General (see article 36), there was no need to provide separately for his emoluments.

#### INITIATION OF PROCEEDINGS BEFORE THE COMMITTEE

143. The draft before the Commission provided that if a State party considered another State party was not giving effect to a provision of the Covenant, it might communicate directly with the other State and if the matter was not adjusted to the satisfaction of both, either State had the right to refer the matter to the Committee (see annex III, paragraphs 126-137, and E/CN.4/SR.355-362).

144. There appeared to be no wide divergence of opinion concerning the original draft in so far as it related to complaints by States parties to the Covenant against each other, except that some members regarded this provision, like all others dealing with the implementation procedure, to be contrary to national sovereignty and Article 2, paragraph 7, of the Charter, and that others deplored the necessity of State intervention and of diplomatic discussions to secure the protection of individual human rights. Beyond this, opinion in the Commission was deeply divided: some held that only States were competent to appeal to the Committee, others wanted to allow the Committee to act on its own motion, and some favoured the right of individuals and non-governmental organizations to submit petitions or communications to the Committee. Besides the original draft, the Commission had before it several proposals embodying the different points of view. During the discussion references were made to a number of problems including the question of national sovereignty and Article 2, paragraph 7, of the Charter, the position of the individual in international law, the desirability of avoiding inter-State disputes in connexion with the application of the Covenant, the position of non-governmental organizations in consultative relationship with the Economic and Social Council, the experience derived from the League of Nations procedure in protecting minorities, and various technical and other difficulties involved in the proposals. Several members voiced concern over the division of opinion in the Commission and suggested that, rather than have proposals adopted or rejected by a narrow margin of votes, a special report might be sent to the General Assembly on the discussions, incorporating all the proposals, including that for a United Nations High Commissioner for Human Rights which had not been thoroughly discussed. Alternatively, a provision might 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 instrument to allow such complaints. Others reminded the Commission of the instructions of the General Assembly.

## *Proposals*

145. At one time the Commission had before it three separate sets of proposals, but subsequently two of these were withdrawn and replaced by a joint revised proposal.

According to one proposal, mainly based on the experience of the League of Nations in minority protection, the Committee could receive, for information, petitions from persons who complained that they were victims of violation of the provisions of the Covenant by a State party to the Covenant. The Committee might, if it saw fit, approach the impugned State in order to clarify the issue and might endeavour to reach a settlement which it considered reasonable by semi-official negotiations with the government of that State. When the issue had been clarified and the results of the Committee's intervention had been communicated to the States parties, if one or more of those States decided to make a formal charge, the Committee was to act as a conciliation organ.

146. Another proposal provided that the Committee was to have the right to initiate proceedings in cases where it concluded that non-observance was serious enough to justify international action by the United Nations. Further, the Committee was to have the right to receive and consider communications concerning alleged violations, from non-governmental organizations in consultative relationship with the Economic and Social Council, groups of individuals, and individuals. The Committee was also to adopt rules concerning the admissibility of such communications.

147. A third proposal provided that if the Committee considered by a unanimous decision of the members present, that action by it was called for in the event of a violation, the Committee might invite the State concerned in writing to consider the question, and subject to its consent request it to supply within a reasonable time such information as it thought fit. The Committee might then prepare a report on the question and submit it to the State concerned and to the Secretary-General of the United Nations. Further, the Committee was to have the right to receive and consider communications from: non-governmental organizations in consultative relationship with the Economic and Social Council, included in a list to be approved annually by two-thirds of the States parties; persons or groups of persons who at the time of the alleged violation were under the jurisdiction of a State party, provided they had obtained the support of one of the non-governmental organizations mentioned above. The Committee was to adopt rules as to the admissibility, examination and final acceptance of the communications and the rules in question were to be approved by two-thirds of the States parties.

148. The revised joint proposal replacing the second and third proposals mentioned above, provided that the Committee was to have the right to take the initiative in cases where it recognized that non-observance of any provision of the Covenant was serious. The Committee was also to have the right to receive and consider communications concerning the non-observance of any provision by States parties, from non-governmental organizations in consultative relationship with the Economic and Social Council, groups of individuals and individuals who were injured parties acting through one of these non-governmental organizations. The rules concerning the admissibility of communications were

to be determined by the Committee with the approval of the States parties.

### *National sovereignty — Article 2, paragraph 7, of the Charter*

149. Certain members saw an inconsistency between the proposed system of implementation and the United Nations Charter. Any system providing for consideration of complaints on human rights was in their opinion contrary to Article 2, paragraph 7, of the Charter. The Charter permitted petitions only in the case of Trust Territories. The Committee would be ineffective in the protection of human rights since it would be infringing the national sovereignty of States and intervening in matters falling essentially within their domestic jurisdiction. Other members did not consider that the Charter provisions were so restrictive and they felt that, in the case of the Covenant, which had to be ratified by a State, no infringement of national sovereignty was involved. Reference was made to an analogous provision to that of Article 2, paragraph 7, of the Charter in the Covenant of the League of Nations, and it was pointed out that the minorities procedure of the League had been regarded as perfectly compatible with that provision. Others, again, thought that the reference to the League minority system was not well chosen, because, in their opinion, that system had been based on unilateral obligations imposing on certain States a control which, on the pretext of protecting minorities, had permitted interference in the domestic affairs of those States and thereby had not helped in protecting human rights.

### *The individual and international law*

150. While some members claimed that international law was purely a law between States and did not concern itself with individuals or bodies of individuals who were represented by the State to which they belonged, others contended that this theory was not unchallenged and had suffered encroachments. Member States of the United Nations themselves had recognized the position of the individual when becoming parties to the Charter. The League of Nations minority protection and the Upper Silesian systems were examples where individuals enjoyed some standing before international bodies. There were also the Nürnberg trials, and recent attempts at drafting a statute for an international criminal court. Moreover, several authors of distinction had abandoned the view that international law was exclusively inter-State law. In any case, the proposals before the Commission would not give the individual the right to seize the Committee with a matter but rather gave the Committee the right to receive as information communications from individuals, and of acting upon its information as it thought desirable. While some contended that, in the absence of a clear recognition of the individual as a subject of international law, the Commission must fully consider all the consequences, including the effect on ratification of the Covenant, before introducing any changes in the existing provisions, others pointed out that there was no means of preventing aggrieved persons from submitting petitions, and that some procedure should be devised for dealing with such petitions.

### *Friendly relations between States*

151. Some members of the Commission, while not denying the legitimacy of the system of inter-State complaints, considered that the real purpose of imple-

mentation should be to ensure respect for human rights without jeopardizing the maintenance of friendly relations between States by creating new sources of conflict and friction between them. Neither would the introduction of political factors and considerations of national prestige in the protection of human rights be helpful. It was also pointed out that States would be likely to refrain from bringing a breach of the Covenant to the attention of the Committee for fear of offending the other State and thereby impairing their good relations, or perhaps for fear of being subjected to reprisals or counter-accusations. The experience of the League of Nations and of the ILO was adduced. Others, on the contrary, believed that the fears expressed were exaggerated. States were already undertaking heavy responsibilities. There was nothing to bar States from acting in cases of violations of human rights if they so wished and no one should question whether or not they would scrupulously guard the rights of the individual before the system was in operation. The draft might have defects but it seemed to be the only practical one for the present.

#### *Petitions from individuals*

152. Certain members of the Commission found it difficult to understand how a covenant dealing with human rights could deny the right of petition to individuals. The rights of individuals formed an important and fundamental part of modern democracy and the individual's right to appeal to the government of his country was embodied in several constitutions. Individuals who were unable to obtain redress would find little comfort in publicity and in the possibility that their cases would be taken up by another State. Others pointed out that, while countries with a long tradition of freedom and a highly developed community had been able to afford the right of individual petition, the international community had not reached such a stage of development and it was to be feared that if the right of individual petition were granted, abuse, chaos and political propaganda would ensue. Some members believed that progress might be achieved by means of either a separate protocol or an optional clause on the lines of that contained in the European Convention on Human Rights of 4 November 1950, the acceptance of which by a large number of States might pave the way. Some felt that even if no right of petition were granted to individuals the Committee would receive complaints from them and as these piled up without any action being taken the whole situation might well lead to propaganda and become embarrassing. Therefore, what had developed under the League of Nations should at least be permitted and individual petitions should at least be dealt with as elements of information.

#### *Position of non-governmental organizations*

153. Some members considered that the non-governmental organizations in consultative relationship with the Council should have the right to communicate with the Committee, and in the opinion of some members, petitions from individuals and groups of individuals should be channelled through such organizations. These organizations, it was pointed out, had played an important and valuable part in the international work on human rights, and it might even be said that human rights might not have found a place in the Charter had it not been for them. Even before the establishment of the United Nations they had been engaged

in efforts to bring about the international application of ideas which would enhance the dignity of man. They should not be discouraged in striving to secure that aim. They represented all sections of society in their various groups. Some of them had already enjoyed the right to submit complaints to the ILO concerning breaches of ILO conventions. Their position was recognized by Article 71 of the Charter. They could submit items, under certain conditions, for the provisional agenda of the Economic and Social Council and its commissions, and in this way had played a valuable part in the international work on human rights, in particular in the fields of migrant labour, equal pay for equal work, forced labour and trade union rights. Other members stated that they had already voiced their reasons against petitions from individuals and such reasons would also apply in the case of non-governmental organizations, but they fully recognized the constructive and valuable part being played by these organizations and had no wish to disparage their work. Objection against over-emphasis of the part to be played by non-governmental organizations was raised on the grounds that very few of these organizations would have affiliated societies in every country. In discussing whether an injured party needed the support of a non-governmental organization to make a petition admissible, it was stated that if they were to sponsor individual petitions, such organizations would be faced with grave difficulties and very heavy responsibilities. They could better help petitioners by giving them expert technical advice, than by sponsoring cases, for which they would then become responsible.

#### *Statements by non-governmental organizations*

154. A number of non-governmental organizations in consultative relationship with the Economic and Social Council (Co-ordinating Board of Jewish Organizations, Consultative Council of Jewish Organizations, Friends' World Committee for Consultation, 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, World Federation of United Nations Associations, and World Union for Progressive Judaism) urged the Commission not to disappoint public opinion by adopting measures of implementation which would in practice be ineffective. Rather than that it would be better not to have any covenant at all. It would be unfortunate to lay upon States the obligation to bring complaints against one another when the aim of the Charter was to promote peaceful and friendly relations between them. The proposed system might result in there being no complaints at all, in which case the Committee would have nothing to do, or there might be too many complaints, which would lead to international tension. Although the Charter contained no provision for petitions from individuals, except in the case of the Trusteeship Council, by virtue of Article 71 certain non-governmental organizations could bring to the notice of the United Nations matters falling within the purview of the Economic and Social Council and this recognition should be taken into account in considering the admissibility of communications from non-governmental organizations. To limit the right of complaint to States would hamper the work which those organizations were doing, and would make the United Nations appear isolated in the eyes of many ordinary people. They strongly

supported the proposals which empowered the Committee to act on its own motion and to receive communications from non-governmental organizations and individuals.

#### *Safeguards and procedure*

155. Some members considered that there was no real substance in the various arguments advanced against the Committee being empowered to act on its own motion and against the right of non-governmental organizations and individuals to send communications. The real objection which could be levelled against the proposals was the possibility of abuse. While it was impossible to guarantee any right against abuse, there were no reasons why adequate safeguards could not be provided. For example, the Committee's right to act on its own motion could be subjected to the requirement that such action should require a majority decision, or a decision by a two-thirds majority or even a unanimous decision, besides providing for other conditions, some of which figured in proposals before the Commission. As regards communications, the proposals envisaged that adequate rules governing their admissibility and screening would be provided, and some had even suggested that these rules should be approved by the States parties as well as the Committee. The existing provisions of the Covenant already provided that no matter could be brought before the Committee until all possible methods of redress within a State had been exhausted. Moreover, the Committee would be composed of highly qualified and distinguished persons acting in their personal capacity, who could be relied upon to show their good sense and independence from political or other motives. Others, however, were not convinced by these arguments or by the plea that adequate procedure could be provided in the Covenant if any of the proposals were accepted by the Commission. They pointed out that the proposals did not adequately or precisely cover the question of the rights to be accorded to the individuals or organizations, on the one hand, and to the State impugned, on the other, to present their case before the Committee, and other questions of procedure, machinery, etc., which would mean that the Committee would be burdened with powers which it could not carry out. Nothing would be more dangerous than that *ex-parte* statements involving questions of international obligations and responsibilities of States should lead to action by the Committee. It was safer to abide by the existing draft according to which the Committee was to be merely an organ of conciliation which would act only after the failure of direct negotiations between States Parties.

#### *Decisions of the Commission*

156. The Commission did not adopt any of the proposals but endorsed the existing draft (see article 40, and annex III, paragraphs 131-137). It rejected by one vote the proposal to empower the Committee to act on its own motion. The proposal to allow the Committee to receive and consider communications from non-governmental organizations in consultative relationship with the Council was not adopted, the votes being equally divided. By two votes it rejected the proposal to permit groups of individuals to send communications to the Committee through one of these non-governmental organizations. It also rejected by two votes the proposal whereby the Committee could receive for information petitions from persons

complaining of being victims of a violation of the Covenant.

#### COMPETENCE OF THE COMMITTEE TO CONSIDER MATTERS ARISING OUT OF THE ARTICLE ON THE RIGHT OF SELF-DETERMINATION

157. The draft before the Commission provided that the Committee was to consider any complaint by a State party that another State party was not giving effect to a provision of the Covenant (see annex III, paragraphs 126, 128 and 137, and E/CN.4/SR.355-361).

158. Certain members of the Commission considered that the Committee should not be empowered to consider matters arising out of article 1 of the draft covenant which related to the right of self-determination. Others objected to this attitude and considered that the same measures of implementation should apply to all provisions of the Covenant. The considerations of special measures of implementation for the article on self-determination was not questioned.

159. It was urged by some members that a distinction should be made between rights of individuals concerning their relations with their own government or with another government, and collective rights involving grave international political problems, such as the right of self-determination. For example, it would hardly be possible for the Committee to deal with such questions as the secession and reunion of peoples. Such questions were of a different nature from questions relating, for instance, to a fair trial or to non-discrimination. Other members, on the contrary, could not see why a distinction should be made between the right of self-determination and the other rights of a political nature included in the Covenant. Some drew attention to paragraph 3 of article 1 providing for permanent sovereignty of peoples over their natural wealth and resources which stipulated that "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", and they considered that the Committee should certainly be empowered to consider breaches of that provision.

160. According to some members, a conciliation committee of a non-political nature composed of members specializing in questions of individual rights would possess neither the qualifications nor the means to deal with disputes arising out of the right of self-determination. In the past such disputes had led to many upheavals and annexations by other than peaceful means. National unity and even the continued existence of States might be involved. Other members thought that this view was based on misapprehension. The members of the Committee were to be persons of the highest impartiality and distinction. Why should certain members desire to exclude from the Committee's competence the implementation of one of the most fundamental human rights in the Covenant? In any case, under the proposed procedure the Committee's activities were limited to ascertaining facts and drawing conclusions. It did not include the carrying out of any investigations or the making of any recommendations.

161. References were made to the resolutions of the General Assembly on self-determination. Some members pointed out that the Assembly had itself decided to treat the question separately and had already adopted recommendations on the subject without waiting for the

completion of the covenants. Nothing in the resolutions could be construed as implying that exactly the same measures of implementation should be applied to the right of self-determination as to the other rights in the Covenant. Other members saw no reason for making any distinction in the absence of clear instructions to that effect by the General Assembly. They also pointed to General Assembly resolution 637 C (VII) which asked the Commission to continue to make recommendations on the right of peoples to self-determination.

162. Some members pointed out that they were willing to consider separately all proposals dealing with the implementation of the right to self-determination provided they were based on the universal nature of the principle and were not discriminatory in character, such as being directed solely against States administering Non-Self-Governing Territories. Implementation of the principle of self-determination had to be considered in the light of the Charter provisions and attempts should not be made at indirect revisions of the Charter obligations. Others, while willing to consider special procedures, which would supplement and reinforce the guarantee of the right, were unwilling to face the danger of there being no measures of implementation concerning the right of self-determination. They felt that, unless members advocating the exclusion of the right from the competence of the Committee suggested other concrete measures of implementation, such an exclusion would be a negative attitude as it would provide for no recourse in case of violation of that right.

163. Several members referred to their previous stand in connexion with the article on the right of self-determination and reiterated their view that, while they supported the principle of self-determination, the article did not belong properly in the covenants. Neither could, on the other hand, a human right be restricted to only a group of peoples.

164. The majority of the Commission decided that violations of the article on the right of self-determination should not be excluded from the competence of the Committee.

#### RECOURSE TO THE COMMITTEE IN SERIOUS CASES INVOLVING DANGER TO HUMAN LIFE

165. The draft before the Commission provided that, subject to the provisions relating to the exhaustion of domestic remedies "in serious cases where human life was endangered", the Committee was, at the request of a State party to the Covenant, to "deal forthwith with the case on receipt of the initial communication and after notifying the States concerned" (see annex III, paragraphs 126, 130, 137 and E/CN.4/SR.355-361).

166. It was proposed, first, that the phrase "in serious cases where human life was endangered" should be replaced by "in serious and urgent cases". The existing provision identifying serious cases with cases in which human life was endangered was considered too restrictive. It was suggested that the procedure should be resorted to immediately whenever gross violations of human rights required urgent action and whenever human rights were seriously menaced. This proposal was opposed on the grounds that the procedure should apply only to the exceptional case where there was a grave threat to human life, since any violation of the Covenant could be considered a serious and urgent matter. Besides, the Committee would find itself in an impossible position if States could, on the sole plea

of urgency, disregard the normal procedure of diplomatic negotiation as envisaged in the Covenant. Notwithstanding the objections the Commission adopted the proposed change in the text (see article 40, paragraph 3).

167. It was proposed, secondly, that the phrase "deal forthwith with the case on receipt of the initial communication" should be changed to "deal expeditiously with the matter on receipt of that request [from the State concerned] in accordance with the powers conferred on it [the Committee] by this part of the Covenant." The proposal aimed at avoiding any interpretation empowering the Committee to take summary action on an *ex-parte* allegation by one State. While the matter should be dealt with expeditiously, it should be dealt with in accordance with the powers conferred upon the Committee in the draft covenant. Notwithstanding the views of some members who thought that the suggested changes might lead to delay, the Commission adopted the proposed text (see article 40, paragraph 3).

#### SCOPE OF THE COMPETENCE OF THE COMMITTEE

168. The draft before the Commission provided that the Committee was to deal with any matter referred to it by a State party with two exceptions. First, the Committee was to have no power to deal with any matter for which any organ or specialized agency of the United Nations competent to do so had established a special procedure by which the States concerned were governed. Secondly, the Committee was to have no power to deal with any matter with which the International Court of Justice was seized "other than by virtue of Article ... of the present Covenant" (see annex III, paragraphs 168-174, and E/CN.4/SR.385-386).

#### *Special procedures of organs of the United Nations and the specialized agencies;*

169. Most members of the Commission did not question the competence of United Nations organs or the specialized agencies in their field of activities, but opinions differed deeply with regard to the method of avoiding duplication of activities and conflicts of competence. One proposal was to amend the existing text to provide that the Committee was to "take no action with regard to any matter for which any organ or specialized agency of the United Nations or any organ established under the auspices of the United Nations or one of its specialized agencies competent to do so has established a special procedure by which the States concerned are governed". Another proposal was to the effect that "the Committee shall deal with any matter referred to it under article 52 (present article 40). Its competence shall not be impaired by the fact that any given matter falls within the competence of another organ or specialized agency of the United Nations. The Committee shall decide how far it should make use of the findings and investigations carried out by such bodies". The divergencies of opinion, which are set out in the following paragraphs, resulted in the rejection of both of these texts (see annex III, paragraphs 169-170).

170. The Commission heard the representatives of the International Labour Organisation and of UNESCO. They referred to the desirability of working out the best procedure for the examination of complaints by the most competent body without placing impediments

on the United Nations responsibilities in the field of human rights. The aim should be to encourage effort, to avoid duplication, to utilize technical and expert knowledge and experience to the fullest, and to employ methods of proved efficacy. References were made to their interest in the provisions of the Covenant and in particular in those relating to freedom of information, the right of assembly, freedom of association, and trade union rights. The Fact Finding and Conciliation Commission on Freedom of Association, established jointly by the Economic and Social Council and the Governing Body of the International Labour Organization, was cited as an example of effective collaboration between the United Nations and specialized agencies. It was also pointed out that the Governing Body of the International Labour Office and the Human Rights Committee established by the Executive Board of UNESCO had given their approval to the draft text before the Commission, which would serve to ensure effective co-operation between the United Nations and the specialized agencies on the implementation of the Covenant.

171. Those supporting the original text wanted to avoid any duplication of functions and desired to safeguard the competence of organs of the United Nations and the specialized agencies where such competence covered the rights included in the Covenant. The Committee would have residuary functions and the competence of other bodies would not be diminished. It was desirable to utilize the best method in each case and to prevent differences that could effectively be dealt with on a technical plane from deteriorating into State disputes. Other members of the Commission considered the draft too restrictive. They did not underestimate the work of other bodies, such as the Trusteeship Council and the International Labour Organisation, but felt that the Committee, consisting of outstandingly qualified persons and reporting to the General Assembly, should not be debarred from acting because present or future organs of the United Nations and the specialized agencies could be seized of States disputes relating to human rights, as that would destroy the very purpose for which the measures of implementation of the covenant were being drafted. Against this other members thought it imprudent to insist on the Committee acting if better results could be achieved in other ways. The specialized agencies had long experience in the investigation and application of the rights falling within their competence and their expert knowledge and special procedures could in most cases produce better results in questions involving legal technique and political conciliation. Some members did not wish to hamper or obstruct the use of such methods and suggested that the Committee should make the fullest use of the findings and investigations of other bodies. However, it was not sufficient to argue that results achieved by other procedures might be as effective as those which could be obtained by the procedure followed by the Committee, since only the procedure for complaints under the ILO constitution concerning ILO conventions was comparable. Moreover, not all the specialized agencies were concerned with the rights in the Covenant and even in the case of ILO and UNESCO their immediate concern was with a limited number of rights.

172. Attention was drawn by certain members to the threefold guarantee provided in the existing text, according to which the organ concerned must be competent

to deal with the matter, it must have established a special procedure for dealing with such a matter, and the States concerned must have accepted that procedure. Others questioned the efficacy of these guarantees in the absence of clear provisions to that effect in the draft. As an instance they cited the Committee on Information from Non-Self-Governing Territories whose competence, in their opinion would not debar the Human Rights Committee from acting in a matter; but this interpretation was not shared by all members. Delimitation of functions, it was submitted, could only take place where the respective functions coincided or were equally effective, otherwise there was danger of the greater competence of one organ being excluded by the lesser competence of another organ.

173. Members of the Commission opposing the alternative text (see paragraph 169 above) considered it to be inflexible and contrary to the purposes of the existing draft. As it was drafted it would oblige the Committee to act in every matter referred to it. The Committee's competence would remain fully effective and undiminished by whatever competence other United Nations organs or specialized agencies had. The Committee would thus become a sort of court of appeal from decisions taken by other bodies, and, regardless of what findings the investigations of other bodies might have led them to, the Committee would enjoy freedom to make use of such findings or to ignore them as it chose. Such a provision would have grave repercussions on the specialized agencies and on their relationship with the United Nations. Others, on the contrary, thought these arguments to be based on misapprehension. The Committee would not be obliged to deal with every case referred to it, but it would not be excluded from dealing with a case merely because it might fall within some procedure of another organ, irrespective of the adequacy of that procedure. There was no question of automatically empowering encroachment on the competence of other bodies. There was also no intention of making the Committee into a court of appeal from decisions taken by specialized agencies or other organs of the United Nations and there was no question of reversal of such decisions. At the same time, it was both logical and practical to utilize findings, experience, technical knowledge and data of other bodies. Some members felt, nevertheless, that their fears had not been allayed since the alternative text was not in conformity with the expressed intentions of its supporters.

#### *International Court of Justice*

174. The draft before the Commission provided that the Committee was to have no power to deal with a matter with which the International Court of Justice was seized "other than by virtue of Article... of the Covenant". It was understood that the reference was to article 59 (E/2256, annex I, section D, part IV) which provided that States parties were to agree not to submit, by way of petition, to the Court, except by special agreement, any dispute arising out of the interpretation or application of the Covenant in a matter within the Committee's competence. The majority of the members of the Commission agreed with the observations of the Secretary-General on the draft text (E/CN.4/675, paragraphs 8-10) and desired that the Committee should have no power to deal with a matter with which the International Court of Justice was already seized. The Committee would, however, be able to act in a matter which, though within the competence

of the Court, had not been in fact submitted to the Court. Although the Commission adopted the provision that the Committee shall not take any action with regard to any matter "with which the International Court of Justice is already seized", that provision was not finally included in the draft covenant as the Commission rejected the entire draft article dealing with the scope of the competence of the Committee (see annex III, paragraphs 171-172).

*Recognition of the competence of the Committee arising out of international instruments other than the Covenant*

175. Many members of the Commission were favourably disposed towards the inclusion of a proposal whereby no provision in the Covenant would be construed as preventing the Committee from dealing with any matter concerning the alleged violation of human rights by a State whenever international instruments, other than the Covenant, to which such State was a party recognized the competence of the Committee to examine complaints from other States parties to the said instrument or from sources other than States. Such a provision would recognize the competence of the Committee to deal with matters arising out of other international instruments concerning human rights, such as bilateral agreements or regional instruments, and it would recognize the right of petition from other sources than States, if this was to be provided for through other instruments, such as a protocol to the Covenant or the proposed setting up of a United Nations High Commissioner for Human Rights. However, the proposal was withdrawn and consequently no text was adopted on the matter (see annex III, paragraph 173).

*Decisions of the Commission*

176. As indicated in the previous paragraphs the original draft as well as other proposals were rejected and the Commission did not adopt any provision on the scope of the Committee's competence.

ORAL AND WRITTEN SUBMISSIONS BY STATES TO THE COMMITTEE

177. The original draft provided that all States parties to the Covenant having an interest in any matter referred to the Committee were to have the right to make submissions to the Committee in writing, and States immediately concerned were also to have the right to be represented at the hearings of the Committee and to make submissions orally (see annex III, paragraphs 114-117, and E/CN.4/SR.387).

178. Some members considered that, while the Committee would be empowered under another article (see article 42) to call for any relevant information from any State concerned, the existing draft allowed any State party to make submissions in any matter at its discretion. Such a provision would not further conciliation. It was proposed, therefore, that if a State referred a matter to the Committee, such a State, the State complained against, and any State whose national was concerned, might make submissions in writing to the Committee, and only the States immediately concerned were to be entitled to be represented at the hearings of the Committee, with the right to make submissions orally. Certain members considered this proposal too restrictive. Although indiscriminate intervention was not to be encouraged, all States parties would have an interest in matters referred to the

Committee and they should not be prevented from giving their views, which might help the process of conciliation. Moreover, for fact-finding purposes, information furnished by other States would be of material benefit to the Committee. Some thought, however, that it was preferable that any State which considered that it had an interest in the matter should lay a complaint and thus become a party to the dispute, otherwise there was danger that political considerations would be introduced into the handling of the issue.

179. Another opinion favoured the deletion of the provision in order to circumscribe any dispute. The Committee should be left to decide whether a State that was not directly concerned in the dispute could intervene. It was dangerous to allow a third State, such as the State whose national was involved in a dispute between other States, to intervene as this might be in favour of one of the parties to the dispute. This view was objected to, however, as restricting the right of a State to protect its nationals.

180. The Commission accepted the proposed change of the original draft (see article 39, paragraph 2 (c)).

PARTICIPATION IN THE COMMITTEE OF A NATIONAL OF A STATE PARTY TO A DISPUTE BEFORE THE COMMITTEE

181. The draft before the Commission (E/CN.4/L.228) provided that a State party to the Covenant concerned in a case referred to the Committee might, if none of its nationals was a member of the Committee, designate as a member, to participate with the right to vote in the deliberations on the case under consideration, a person chosen from the list of nominations prepared for the regular elections of the members of the Committee. Should there be several States concerned in the same case, they were, for the purpose of the provision of the article, to be reckoned as one only and any doubt upon this point was to be settled by the Committee. The proposal was later revised to provide that a complaining State or a State complained against might, if none of its nationals was a member of the Committee, designate as a member, to participate with the right to vote in the deliberations of the case under consideration, a person chosen from the list of nominations prepared for the regular elections of the members of the Committee (see annex III, paragraphs 175-176, and E/CN.4/SR.387).

182. The proposed article was based on article 31, paragraph 3, of the Statute of the International Court of Justice, which provides that if the Court included no judge of the nationality of the parties, each of the parties should proceed to choose a judge to sit in the Court. An article on similar lines had been included in a previous draft of the Covenant but had been subsequently rejected. It was objected to on the ground that national interest and considerations should not be allowed to interfere with the Committee's work. However, although convinced that the members of the Committee would perform their work with absolute integrity, some members of the Commission thought that some inequality as between sovereign States might result in a case where one party to the dispute was represented and the other was not. The Committee would be a conciliation body, and should, like the International Court of Justice, have every assistance in examining facts and reaching conclusions. There was thus much to be said for the presence in the Committee of a person able to gauge the situation in the country whose case was under consideration, espe-

cially as the choice of the national was limited to those nominated for regular elections to the Committee. The proposal had been revised to take account of the provision in the Covenant empowering States concerned in a matter to make oral and written submissions to the Committee (see article 39, paragraph 2 (c)).

183. Some members of the Commission pointed to the difference between the functions of the International Court of Justice and the Committee, the latter being merely a conciliation body having no power to deliver judgments. For conciliation it was not necessary to have, in the conciliation body, persons of the same nationality as the parties, so long as the parties concerned were represented at the conciliation proceedings, as had already been provided for in the Covenant. Besides, under the proposal the Committee would include representatives whose appointment would be entirely different from that followed for members of the Committee; in such a case political elements might be introduced into the Committee, thereby destroying the balance of its composition and affecting its spirit. Moreover, when a dispute involved a number of States there would be danger of the Committee being considerably enlarged, and situations might arise when it would include as many additional members as the regular members of the Committee.

184. The proposal was withdrawn, as it was considered that the Commission did not feel that its inclusion was indispensable or essential for purposes of conciliation and that adequate provisions entitling the States concerned to have recourse to the Committee had been included in the Covenant.

#### INFORMATION FROM THE STATES CONCERNED AND THE RIGHT OF THE COMMITTEE TO CONDUCT INVESTIGATIONS

185. The draft before the Commission provided that in any matter referred to it the Committee might call upon the States concerned to supply any relevant information (see annex III, paragraphs 140-142, and E/CN.4/SR.388).

186. The Commission did not discuss the existing draft which was deemed satisfactory by most of its members. However, some members proposed in addition that if the Committee considered that the information supplied was not sufficient it might, by a vote of two-thirds of all its members, conduct an inquiry within the metropolitan area or Non-Self-Governing Territory of any State complained against. The State concerned was to afford full facilities necessary for the official conduct of the investigation. It was submitted that the Committee should have adequate means to carry out its functions of fact-finding and conciliation and that, therefore, it should not only receive information but also verify and supplement it when necessary. The existing text provided no guarantee that a State complained of would accede to the Committee's request for information. The experience of the *Ad Hoc* Committee on Slavery, which had sent questionnaires to governments and received inadequate replies, demonstrated that, without inquiries on the spot, it was impossible to find out the prevailing situation in regard to a particular matter within any country. The proposal was permissive and not mandatory, it being left to the Committee to decide whether or not it would use the power. It was also provided that a decision to conduct an inquiry had to be taken by a two-thirds majority, which should allay any apprehensions that the Committee might abuse its powers.

187. Certain members, while appreciating the universality of the proposal, considered that it would infringe upon national sovereignty, would run counter to Article 2, paragraph 7, of the Charter and might even be contrary to Article 87 dealing with Trust Territories. In the present circumstances, and without guarantee of reciprocity, it was not feasible to institute such a new procedure, which might deter ratifications of the Covenant by States. Others thought that in discussions connected with human rights the question of the sovereignty of States had been over-emphasized. When States ratified the Covenant they would freely and willingly agree to such restrictions of their sovereignty as they were willing to accept in order to become parties to the Covenant. There should, therefore, be no excuse for preventing the inclusion of effective methods for international protection of human rights. General criteria of international law in matters of national sovereignty were in fact specifically eliminated at San Francisco when Article 2, paragraph 7, of the Charter was adopted, and it had been held on many occasions by United Nations organs that matters pertaining to human rights were not essentially within the domestic jurisdiction of States. To the objection that the proposal did not specify the details under which inquiries would be conducted, including the manner in which evidence would be taken, it was stated that the Committee was not intended to function like a court of law. Even provisions in the Covenant allowing States to be present before the Committee related to the presentation of their points of view and not technically to the giving of evidence. In any case, the Committee was empowered to lay down its own rules of procedure, and since its members would be chosen from persons possessing the highest qualifications, it could be relied upon to exercise its power with complete independence and impartiality. On the other hand, it was urged that the provisions should only be applied in a country which had been recalcitrant in providing information and such a country would be unlikely to vest the Committee by its domestic law with the powers necessary for a successful outcome of the inquiry.

188. At one time it was suggested that the decision to conduct an inquiry should be by a unanimous vote of all the members of the Committee, but the suggestion was objected to as permitting one member of the Committee to determine the fate of any decision. It was also suggested that the inquiry could be conducted with as much success by the States themselves, at the request of the Committee, thereby avoiding any encroachment on their sovereignty. However, it was doubted whether that method would result in adequate guarantees of impartiality in the conduct of inquiries.

189. The Commission rejected the proposed addition to the article and endorsed the original draft (see article 42).

#### REPORT OF THE COMMITTEE ON A MATTER REFERRED TO IT

190. The existing draft provided that in the case of a matter referred to it, subject to the provisions relating to the exhaustion of domestic remedies, the Committee was to ascertain the facts and make available its good offices to the States concerned with a view to a friendly solution on the basis of respect for human rights as recognized in the Covenant. The Committee was then to formulate its report differently according to whether or not a solution was reached. In the first case, the report was to be confined to a

brief statement of the facts and of the solution reached, and in the second case the Committee was to state in its report its conclusions on the facts and attach thereto the statements made by the parties to the case. In every case and in no event later than eighteen months after the date of receipt of the matter, the Committee was to draw up a report which would be sent to the States concerned and then communicated to the Secretary-General of the United Nations for publication. The Committee was also to complete its report as promptly as possible, particularly when requested by one of the States parties, where human life was endangered (see annex III, paragraphs 145-148, and E/CN.4/SR.388).

191. The Commission agreed to delete the provision relating to reports in cases where human life was endangered because of the changes made in article 40, paragraph 3, dealing with that subject. The Commission also altered the text relating to reports in case of failure to reach a solution. It provided that the Committee should in such cases state its opinion as to whether a breach of the Covenant was established by the facts and, where there was disagreement among the members of the Committee on that subject, any member of the Committee would be entitled to attach his opinion to the report. The last part of this provision was derived from article 57 of the Statute of the International Court of Justice. While some members thought that the Committee could be left to decide exactly what other matters the report should contain, the Commission decided that all submissions to the Committee by the States concerned, whether oral or in writing, should be included in such reports (see article 39, paragraph 2(c)). Other parts of the original text were adopted without any discussion or changes (see article 43).

#### REQUEST BY STATES TO THE COMMITTEE FOR INFORMATION OR ASSISTANCE, ETC.

192. The Commission had before it a proposal (E/CN.4/L.247) which provided that it was to be the duty of the Committee to consider any request for information or assistance, and any proposal or project which any State party to the Covenant might wish to submit to the Committee without mention of the provisions dealing with the reference of a dispute to it (see annex III, paragraphs 177-178, and E/CN.4/SR.389). It was contended that the principal function now vested in the Committee was to act as an organ of conciliation in case of complaints, but implementation should have both a negative and a positive purpose: the first being to prevent violations of the Covenant, and the second to furnish all the assistance which States might need in realizing the objects of the Covenant to the fullest extent. The second aspect, which was covered in the covenant on economic, social and cultural rights, was absent from the covenant on civil and political rights. No organ was envisaged which would be charged with promoting the realization of the aims of the Covenant. The Commission itself might possibly be regarded as such a body, but the Commission was not mentioned in the Covenant nor was it yet known whether it would continue to exist. That need could be met by investing the Committee, whose members would be persons qualified to assemble a corpus of information and jurisprudence, with the necessary powers to enable it to become an organ of international co-operation, centralization of information and interpretation.

193. Several members considered that the Commission's intention was to limit the task of the Committee to that of conciliation and fact-finding. For the time being States were not willing further to restrict their sovereignty. Neither should the Committee be a reference centre, a source for disseminating information or an advisory agency. There were other bodies better qualified and equipped to perform such functions. The Secretariat, for example, could and should be utilized for such purposes, and it had already demonstrated its effectiveness in many ways. Moreover, the Commission on Human Rights could not divest itself of its responsibilities which derived from the Charter and which related to all Member States. These views were criticized by some members on the grounds that other bodies of the United Nations were too big and were concerned with the wider aspects of human rights, whereas the Committee's activities were circumscribed and related to the Covenant and States parties thereto. States would be reluctant to file complaints unless they were certain of the grounds for complaining. In order to reduce conflict and disputes States should be allowed to consult with the Committee, especially as to whether a fact constituted a violation of the Covenant or not. Others pointed out that they recalled no instance of a quasi-judicial body being empowered to advise beforehand on a matter that might be referred to it. It was unlikely that all the facts would be known at the time of consultation and States might not like to bring a case to a body embarrassed by its previous views. Some members, however, pointed to the positive value of offering advice on the ways and means by which a State could best observe and fulfil its obligations under the Covenant. States should be able to discuss the scope and interpretations of various articles and utilize the fund of knowledge and jurisprudence gathered by the Committee.

194. After these exchanges of views the proposal was withdrawn.

#### ANNUAL REPORTS BY THE COMMITTEE TO THE GENERAL ASSEMBLY

195. The draft before the Commission provided that the Committee was to submit to the General Assembly, through the Secretary-General, an annual report of its activities (see annex III, paragraphs 149-151, and E/CN.4/SR.389).

196. Some members of the Commission considered the retention of this provision unnecessary in view of the revised text dealing with the Committee's reports on matters referred to it (see article 43) according to which the Committee was bound in each instance, and especially where it had failed to reach a solution, to give a full account which would be published. Others, on the contrary, felt that it would be proper for the Committee to report annually to the General Assembly, as this report would not necessarily be drawn up on the lines of the report concerning a case, and it would also present an appraisal of the work done by the Committee from year to year which would form an important contribution to the protection of the rights under the Covenant. It was also said that, since the Committee had no power to make recommendations, it was only proper that it should report on its work to the General Assembly, which was entitled under the Charter to make recommendations to all Members of the United Nations. Other members, however, were of opinion that as the Committee would be established under the auspices of the United Nations and would

have a high official of the Secretariat as its Secretary, it would be proper for the Secretary-General in his annual reports on the work of the United Nations to include the kind of information which some members wished to have incorporated in the reports from the Committee to the General Assembly. This procedure would avoid votes being taken in the Committee on the annual reports which might raise questions of minority opinions being included therein. Moreover the Committee was not barred from making suggestions or reporting on special matters to the United Nations if it wished. The majority of the members, however, thought that the proposal did not duplicate any of the other provisions of the Covenant and that it formed a valuable link between the Covenant, the States parties and the United Nations.

197. The Commission decided to retain the original text (see article 45).

#### THE JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE IN DISPUTES ARISING OUT OF THE INTERPRETATION OR APPLICATION OF THE COVENANT

198. The draft before the Commission provided that States parties were to agree not to submit, by way of petition, to the International Court of Justice, except by special agreement, any dispute arising out of the interpretation or application of the Covenant in a matter within the competence of the Committee (see annex III, paragraphs 152-154, and E/CN.4/SR.389).

199. Several members of the Commission were of the view that the Court's jurisdiction should not be restricted to the extent provided for in the draft. It was impossible, in their view, to deprive the Court of its competence recognized by other international instruments or to deprive States of the rights and obligations arising from their acceptance of the compulsory jurisdiction of the Court. Other members, however, believed that such a provision would amount to circumscribing the competence of the Human Rights Committee and to bypassing the Committee. The Committee should not deal with a matter if the Court was seized with it, but there was no reason in their opinion why the Committee should not deal with a matter with which the Court was not seized.

200. The Commission adopted the proposal that the provisions of the Covenant were not to prevent the States parties 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 (see article 47).

#### RECOURSE BY STATES CONCERNED TO THE INTERNATIONAL COURT OF JUSTICE IN THE EVENT OF THE FAILURE OF THE COMMITTEE TO REACH A SOLUTION IN A MATTER REFERRED TO IT

201. The Commission had before it a proposal (E/CN.4/L.249) which provided that the States parties were to agree that any State party, which had been found by the Committee to have committed a breach of its obligations under the Covenant, might bring the case before the International Court of Justice (see annex III, paragraphs 155-157, and E/CN.4/SR.390).

202. Reference was made to the provision adopted by the Commission (see article 43, paragraph 3) whereby

the Committee, in case of failure to reach a solution in a matter referred to it, would state in its report its opinion as to whether the facts found disclosed a breach by the State concerned of its obligations under the Covenant. Such a finding, it was pointed out, would affect the honour and reputation of a State, which would stand convicted before the international community. Since the Committee would be performing a judicial function without being an entirely judicial body, the State concerned should have an assurance that it could obtain judicial remedy through recourse to the highest international judicial body. The Covenant included a provision (see article 47) for recourse to the International Court of Justice by States in case of disputes concerning the interpretation and application of the Covenant, but, except where States were bound by the compulsory jurisdiction clause, the Court could only be seized by special agreement between the States concerned. In the present instance, the recourse to the Court should not be made dependent on the agreement of the complaining State. The position of the complaining State would not be affected by the proposal since it should be prepared to uphold its complaint before any organ. Moreover, the competence of the Committee would remain as the appeal to the Court would take place only after the Committee has made its report.

203. Most members welcomed the principles underlying the proposal, which they considered would allay the concern of many States about the Committee doing what was tantamount to passing judgment on States, possibly above their highest national tribunals. Some members even thought it was desirable to recognize the right of appeal on an equal basis to both the State complained against and the complaining State. But other members felt that this principle, though in the right direction, might deter many States from ratifying the Covenant. While it was not essential where the object was to offer redress to a State accused by a non-judicial body, it would impose the compulsory jurisdiction of the Court upon States who may not have accepted it. There was every reason for giving a right of appeal to a State publicly accused by the Committee of a breach of the Covenant. But it was a different thing to impose upon it the compulsory jurisdiction of the Court.

204. A suggestion was made that the General Assembly was the proper body of last instance to consider the non-application of the Covenant. Violations of the Covenant were likely to give rise to political rather than judicial issues, and the proposal would have the effect of preventing submission or settlement of political matters. It was pointed out, however, that the Committee would submit annual reports to the General Assembly which could always make recommendations, if it so desired. The proposal provided for a more effective method, since the judgments of the International Court of Justice would be legally binding and could give rise to enforcement measures under Article 94 of the Charter.

205. The article adopted by the Commission provided that the States parties to the Covenant agreed that any State party complained of or lodging a complaint might, if no solution had been reached within the terms of paragraph 1 of article 43, bring the case before the International Court of Justice after the Committee had drawn up its report according to the procedure laid down in cases where no solution was reached (see article 46).

*Reports by States to the Secretary-General of the United Nations on the implementation of the provisions of the Covenant*

206. The draft proposal before the Commission (E/CN.4/L.229), provided that each State party to the Covenant was to undertake to inform the Secretary-General of the United Nations with respect to the manner in which the provisions of the Covenant were being given effect in that State (see annex III, paragraphs 179-180, and E/CN.4/SR.355, 390).

207. The proposal was submitted in the light of General Assembly resolution 543 (VI) which asked the Commission to include as many similar provisions as possible in the two covenants, particularly in so far as reports to be submitted by States were concerned. Its consideration was deferred until the Commission had discussed the system of periodic reports provided for in annex I, section D, part V, of the report of the eighth session of the Commission (E/2256) and its application to the draft covenant on civil and political rights. Since the Commission was unable to take up the examination of part V (see paragraph 28), the proposal was withdrawn for the time being.

SPECIAL PROVISION FOR THE IMPLEMENTATION OF THE ARTICLE ON SELF-DETERMINATION

208. The draft proposed to the Commission (E/CN.4/L.259) was in two parts (see annex III, paragraphs 158-162, and E/CN.4/SR.391-393). First, it provided that States parties, including those responsible for the administration of any Non-Self-Governing Territory, were to undertake to submit reports annually to the Committee on the measures taken by them to meet the obligations set forth in the article on the right of self-determination. The second part provided that the States parties who were responsible for the administration of any Non-Self-Governing Territory, were to undertake to hold elections under the auspices either of the United Nations or of other agreed impartial international body, to determine the political status of any such territory, when called upon to do so by request of the Human Rights Committee. Such request was to be based on evidence of the desire of the inhabitants of such territory, as expressed through their political institutions or parties. Subsequently, the first part of the second provision was revised, in the light of the operative paragraph 2 of General Assembly resolution 637 A (VII), to provide that States parties who were responsible for the administration of any Non-Self-Governing Territory, were to undertake, through elections, plebiscites or other recognized democratic means, preferably under the auspices of the United Nations, to determine the political status of any such territory, when called upon to do so by request of the Committee.

REPORTS ON THE IMPLEMENTATION OF ARTICLE 1

209. Reporting on the implementation of article 1 was considered by some members to be essential. Such reports would not duplicate the work of the Committee on Information from Non-Self-Governing Territories because the two Committees had different terms of reference and different processes by which information was to be submitted. This view was not accepted by those who regarded duplication as inevitable and likely to deter States from ratifying the Covenant. Some members thought the proposal went beyond the provisions contained in the Charter. Others pointed to

the increased interest of the United Nations in the welfare of dependent territories and to the recommendations concerning reports on political and human rights matters in Non-Self-Governing Territories which were being increasingly supplied by States. It was stated that the provision should be confined to Non-Self-Governing Territories because of their special conditions. While some thought that the Committee would not by its nature and functions be the appropriate body for the discussion of reports, others expressed the opposite opinion. The Committee would not be a political but a neutral and impartial body, and its members would discharge their duties in their personal capacity. The fact that they would be chosen as persons of high moral standing and recognized competence in the field of human rights was a guarantee that they would not abuse any information submitted to them for the purpose of carrying on malicious propaganda against any State. Certain members wished the reports to be submitted to the General Assembly, which they considered was the competent organ, especially since the Committee provided for was, in their view, contrary to the Charter. Some members advocated postponement of the discussion on the proposal until the examination of the whole question of reports on the implementation of the Covenant. Another view was that it was also necessary to allow States to report to the Committee on any violation of paragraph 3 of article 1 concerning the right of peoples to permanent sovereignty over their natural wealth and resources. Others, on the contrary, pointed to the vagueness of article 1 and especially of its paragraph 3, and felt that reports based on these provisions would only exacerbate international relations and obstruct mutual trade.

210. The Commission adopted the first part of the proposal and added a third part providing for reports to the Committee on any violation of the right laid down in paragraph 3 of article 1 (see article 48).

*The determination of the political status of Non-Self-Governing Territories*

211. The second part of the proposal was criticized on the grounds that it was discriminatory and inconsistent with the obligations imposed on Member States by the Charter. Besides Non-Self-Governing Territories, there were other areas and peoples for whom the same right of self-determination should be recognized. In reply it was stated that there was no question of depriving people of the right to express their opinions concerning their political status. Sovereign States provided many procedures for ascertaining their people's desires. Special responsibilities had been laid upon governments responsible for the administration of Non-Self-Governing and Trust Territories. Those governments had certain clearly prescribed duties to perform, being pledged to develop self-government and assist the Non-Self-Governing Territories for which they were responsible in the progressive development of their free political institutions. Other members, while agreeing that Chapters XI and XII of the Charter placed special obligations on Administering States, did not regard it advisable to ask governments to enter into undertakings that went beyond them. Any new obligations should bear equally on all. If a differential treatment had proved to be a political necessity in certain cases in the past, it should not be introduced into the covenants on human rights, where it was essential to observe the principles of

universality and uniformity, without which the whole structure of human rights would collapse.

212. Supporters of the proposal explained that, under their proposal, the Human Rights Committee would not take the initiative. It could only endorse or reject demands put forward on the basis of ample evidence from the inhabitants of a given territory, and the proposal defined such evidence as the views expressed by political institutions and parties in the territory concerned. That restriction, which was in itself a limitation on the right of self-determination, was designed to meet the argument that self-determination could not be given to primitive societies where it might lead to chaos and savagery, and indeed be contrary to the interests of the inhabitants. The proposal would apply only to those dependent territories which had achieved a sufficiently advanced standard and possessed political institutions enabling their people to govern themselves. The Committee would decide to what extent political parties in dependent territories were representative of public opinion and of the aspirations of the people. It would examine the genuineness of the evidence presented by dependent peoples, and its conciliatory activities would be to the advantage of both sides. The right of self-determination was a fundamental principle without which all other rights were nugatory, and deprivation of that right could only lead to bitterness and, ultimately, to bloodshed. The aim should be effective international intervention in order to elicit the will of the people before that critical stage was reached. Such should be the function of the Human Rights Committee, and, if endowed with the requisite competence, it could, as a non-political body of the highest quality, discharge that duty with all due objectivity.

213. Other members considered that for various reasons the proposal was impracticable and likely to deter States from ratifying the Covenant. A quasi-judicial body, which was set up for conciliation and

fact-finding, could not exercise political and administrative powers without destroying the confidence of States in it. The Committee could not evaluate the evidence before it without being provided with adequate means and procedures to do so. Moreover, it was pointed out that, while it had been decided not to give the Committee the right to consider petitions from non-governmental organizations and individuals and to take, if it thought right, initiative on the basis of information from non-governmental organizations and individuals, it was now being proposed that these very principles should be recognized in a political field involving the fate of millions of people. Furthermore, the methods prescribed for ascertaining the wishes of the people seemed to ignore reality. Plebiscites and elections were not always the best means and they had not always proved successful. Above all, each case had to be considered on its own merits, according to its own circumstances, together with a wide range of political and other considerations and particularly the maintenance of peace. Some members not only thought that the proposal was out of keeping with traditional United Nations procedure, but considered the Human Rights Committee itself as devoid of legal foundation. Others wished to submit decisions by the Committee to the General Assembly for final approval.

214. According to the text adopted by the Commission (see article 48, paragraph 2), the States parties 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 any such territory, should the Human Rights Committee make a proposal to that effect and such a proposal be adopted by the General Assembly. A decision of that nature should be based on evidence of the desire of the inhabitants of such territory as expressed through their political institutions or parties.

#### IV. PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

##### A. Introduction

215. By resolution 443 (XIV) of 26 June 1952, the Economic and Social Council invited the Commission on Human Rights "at its ninth session to consider the reports of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its fourth and fifth sessions and to report to the Council".

216. The reports of the fourth and fifth sessions of the Sub-Commission (E/CN.4/641 and Corr.1, and E/CN.4/670 and Corr.1 respectively) constituted item 4 of the Commission's agenda. In the reports, the Sub-Commission submitted a number of recommendations to the Commission for consideration and adoption. The Secretary-General suggested (E/CN.4/679) that the Commission might examine those recommendations in three main groups, as follows:

- (a) Recommendations relating to prevention of discrimination;
- (b) Recommendations relating to protection of minorities; and
- (c) General recommendations.

217. The question of the membership of the Sub-Commission constituted item 5 of the Commission's agenda (E/CN.4/680 and Add.1).

218. The Commission discussed items 4 and 5 in its 393rd to 403rd and 408th to 409th meetings in which the Chairman of the Sub-Commission participated.

##### B. Membership of the Sub-Commission

219. At its first session (January-February 1947) the Commission decided (E/259, para. 20):

"(a) That the Sub-Commission be composed of twelve persons selected by the Commission in consultation with the Secretary-General and subject to the consent of the governments of which the persons are nationals;

"(b) That not more than one person be selected from any single country;

"(c) That the term of office of members be, in the first instance, two years, subject to reconsideration by the Commission before the end of that period."

220. The Commission at its first session did not have time to select the members of the Sub-Commission and therefore requested the Economic and Social Council to undertake this task (E/259, para. 20 B). In accordance with this request the Council at its fourth session (March 1947) by resolution 46 C (IV) elected twelve persons as members of the Sub-Commission. At its fifth session, in 1949, the Commission decided (E/1371, para. 13 B) to extend the term of office of these members for a period of three years.

221. Normally, the Secretary-General would have placed the question of the membership of the Sub-Commission as an item on the provisional agenda of the eighth session (April-June 1952) of the Commission. He did not do so in view of the decision of the Economic and Social Council, in its resolution 414 B I (XIII) of 18-20 September 1951, to discontinue the Sub-Commission, after a final session in October 1951, until 31 December 1954. Subsequently, the General Assembly, by its resolution 532 B (VI) of 4 February 1952, invited the Council to authorize the Sub-Commission to continue its work so that it might fulfil its mission. The Council decided, by resolution 443 (XIV) of 26 June 1952, to convene the fifth session of the Sub-Commission in 1952 and requested the Sub-Commission to continue its work in accordance with General Assembly resolution 532 B (VI), and to prepare a report on future work in the field of prevention of discrimination and protection of minorities.

222. According to the calendar of conferences approved by the Economic and Social Council at its 664th meeting on 29 July 1952, the Sub-Commission's sixth session was scheduled from 1 to 11 September 1953, subject to a decision of the Council that the Sub-Commission should be convened in 1953. Subsequently, the Council at its 671st meeting in December 1952 decided that it would not take any action on the convening of the next session of the Sub-Commission until it had received a recommendation from the Commission on Human Rights on that matter.

223. At its current session the Commission discussed the question of the membership of the Sub-Commission at its 394th to 396th meetings. It was generally agreed that, since the present members of the Sub-Commission were elected in 1947, it would be desirable to elect new members; and that the term of office of the new members should be three years, beginning on 1 January 1954 and ending on 31 December 1956. The Commission decided to recommend to the Council that the Sub-Commission should meet annually and each session should last three weeks; and requested the Council to convene the sixth session of the Sub-Commission in January 1954 so that its report might be discussed at the Commission's tenth session.

224. By a vote of 12 to none, with 3 abstentions, the Commission adopted the following draft resolution (see annex IV, paras. 1-4):

*"The Commission on Human Rights,*

*"Considering that the members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities have held office since 1948 and that it is desirable to proceed to new elections,*

*"1. Decides to elect the new members during this session of the Commission after considering item 4 of its agenda;*

*"2. Decides that the term of office of the members of the Sub-Commission shall terminate on 31 December 1956;*

*"3. Invites the Economic and Social Council:*

*"(a) To provide that the Sub-Commission will meet at least once a year and that its session will last three weeks;*

*"(b) To convene the next session of the Sub-Commission in January 1954 in order that the report of the Sub-Commission may be discussed at the tenth session of the Commission on Human Rights."*

A draft resolution on the membership and future sessions of the Sub-Commission, for consideration and adoption by the Economic and Social Council, will be found in annex V, draft resolution A.

225. From a list of candidates nominated by its members (E/CN.4/688), the Commission at its 409th meeting elected twelve persons as members of the Sub-Commission, subject to the consent of their Governments. The persons elected were:

Mr. Charles D. Ammoun (Lebanon),  
Mr. Jorge Bocobo (Philippines),  
Mr. P. Chatenet (France),  
Mr. Nikolai P. Emelyanov (Union of Soviet Socialist Republics),  
Mr. R. Hiscocks (United Kingdom of Great Britain and Northern Ireland),  
Mrs. Oswald B. Lord (United States of America),  
Mr. M. R. Masani (India),  
Mr. M. A. Mohammed (Egypt),  
Mr. H. Roy (Haiti),  
Mr. H. Santa Cruz (Chile),  
Mr. Max Sørensen (Denmark),  
Mr. Joseph Winiewicz (Poland).

### **C. Resolutions relating to prevention of discrimination**

226. In the field of prevention of discrimination, the Sub-Commission had made recommendations on:

Collection of anti-discrimination provisions (E/CN.4/670, annex I, draft resolution B);

Abolition of discriminatory measures (E/CN.4/670, annex I, draft resolution E);

Preparation of studies on erroneous views concerning religion (E/CN.4/670, annex I, draft resolution J);

Co-operation of non-governmental organizations (E/CN.4/670, annex I, draft resolution L);

Position of persons born out of wedlock (E/CN.4/641, annex I, draft resolution V);

Acceleration of ratification of the Convention on Prevention and Punishment of the Crime of Genocide (E/CN.4/641, annex I, draft resolution VI).

227. *Collection of anti-discrimination provisions.* — At its 396th meeting, the Commission, by a vote of 13 to none, with 4 abstentions, adopted the following resolution, which was based substantially upon draft resolution B of the fifth session of the Sub-Commission (see annex IV, paragraphs 5-8):

*"The Commission on Human Rights,*

*"Noting that anti-discrimination provisions have been included in various instruments prepared by*

or under the auspices of the United Nations such as trusteeship agreements, constitutions and statutes,

“*Considering* it desirable that existing anti-discrimination clauses should be made available as precedents for the convenience of organs or authorities having to formulate similar provisions, whether or not under the auspices of the United Nations,

“*Requests* the Secretary-General to arrange for anti-discrimination provisions, in particular those formulated under the League of Nations system or by organs of, or under the auspices of, the United Nations, to be collected, made available, and kept up to date, to serve as a body of suitable precedents for use when constitutional or statutory provisions are to be elaborated.”

228. *Abolition of discriminatory measures.* — At its 397th meeting, the Commission unanimously adopted a resolution on the abolition of discriminatory measures. The resolution was based upon draft resolution E of the fifth session of the Sub-Commission, excepting that a reference to resolution 644 (VII) of the General Assembly on racial discrimination in Non-Self-Governing Territories, which was adopted after draft resolution E had been prepared by the Sub-Commission, was added to the first preambular clause and that a consequential change was made in the second preambular clause (see annex IV, paragraphs 9-11). The text of the resolution reads as follows:

“*The Commission on Human Rights,*

“*Recommends* to the Economic and Social Council the adoption of the following draft resolution:

“*The Economic and Social Council,*

“*Having noted* resolution 323 (IV) of the General Assembly and resolution 127 (VI) of the Trusteeship Council, on social advancement in Trust Territories and resolution 644 (VII) of the General Assembly on racial discrimination in Non-Self-Governing Territories,

“*Considering* that the prevention of discrimination in metropolitan territories is as important as prevention of discrimination in Trust and other Non-Self-Governing Territories,

“*Considering* further that in certain countries or territories minorities may exist which require protection otherwise than by implementation of the principle of non-discrimination,

“*Recommends* to governments of States Members of the United Nations that they review their national legislation and administrative practices with a view to abolishing all measures of discrimination that may exist in countries and territories under their jurisdiction, and to taking effective measures for the protection of minorities, if any, in those countries and territories’.”

The draft resolution for consideration and adoption by the Economic and Social Council will be found in annex V, draft resolution B.

229. *Preparation of studies on erroneous views concerning religion.* — The Sub-Commission had proposed in draft resolution J of its fifth session that UNESCO should be invited (a) to make “a thorough study of the existence and background” of erroneous views concerning religion; and (b) to prepare a “series of suggestions explaining and clarifying the misrepresentations, misinterpretations, and misunderstandings of

any religion by the adherents of any other religion, and emphasizing the dignity of the various religions of mankind”. The members of the Commission generally thought that while the question of fostering religious tolerance and eliminating religious discrimination was not outside the scope of the United Nations, the proposed studies could be undertaken only by theologians and philosophers. Any discussion of religious doctrines and erroneous views about religions in any United Nations organ, it was feared, might not diminish and might even increase existing misapprehensions and misunderstandings. The representative of UNESCO stated that that organization did not wish to be entrusted with the proposed studies. At its 397th meeting, the Commission rejected the draft resolution by 8 votes to none, with 8 abstentions (see annex IV, paragraphs 12-15).

230. *Co-operation of non-governmental organizations.* — At its 397th meeting, the Commission unanimously adopted a resolution on co-operation of non-governmental organizations, which was based upon draft resolution L of the fifth session of the Sub-Commission, with the following changes (see annex IV, paragraphs 16-19). The first change was to delete the clause by which the Commission would appeal to non-governmental organizations to devote a larger proportion of their resources to activities designed to eradicate prejudice and discrimination. The second change was that, instead of convening “periodic conferences” of non-governmental organizations, as proposed by the Sub-Commission, there should be “one or more conferences”. The text of the resolution as adopted reads as follows:

“*The Commission on Human Rights*

“*Recommends* to the Economic and Social Council the adoption of the following draft resolution:

“*The Economic and Social Council,*

“*Noting* that a number of non-governmental organizations, including organizations in consultative status with the Council, are actively engaged in activities designed to eradicate prejudice and discrimination;

“*Considering* however that unco-ordinated action in this field is conducive to duplication, and furthermore that certain important aspects of the work may be overlooked,

“*Considering further* that some organizations having as their objective the promotion of social progress generally might well be encouraged to devote particular attention to the vital problem of eradicating prejudice and discrimination,

“1. *Appeals* to non-governmental organizations active in the field of eradicating prejudice and discrimination, or having as their objective the promotion of social progress generally, to co-ordinate their endeavours in this work;

“2. *Requests* the Secretary-General, in collaboration with competent specialized agencies, to consult the non-governmental organizations in consultative relationship with the Economic and Social Council or the specialized agency concerned, in order to determine if it would be advisable to convene the interested non-governmental organizations in one or more conferences in order that they may:

“(i) Exchange views concerning the most effective means of combating discrimination;

“(ii) Co-ordinate their endeavours in this work if they find it desirable and feasible; and

“(iii) Consider the possibility of establishing common objectives and programmes;

“3. *Further requests* the Secretary-General, after consultation with the non-governmental organizations and the specialized agencies concerned, to report to the Council on the advisability of convening one or more such conferences in accordance with resolution 479 (V) of the General Assembly’.”

The draft resolution for consideration and adoption by the Economic and Social Council will be found in annex V, draft resolution C.

231. *Position of persons born out of wedlock.* — At its 398th meeting, the Commission unanimously adopted a resolution on the position of persons born out of wedlock, which was based substantially upon draft resolution V of the fourth session of the Sub-Commission (see annex IV, paragraphs 20-26). The aim of the resolution is to eliminate any discrimination that may be practised against persons born out of wedlock and in particular to eliminate the disclosure of illegitimacy in extracts from official documents delivered to third parties. Some representatives thought that for legal reasons the disclosure of illegitimacy could be eliminated only “as far as possible” but not entirely, while others insisted that recommendations should be prepared with a view to the ultimate aim of eliminating the disclosure of illegitimacy altogether in order to protect persons born out of wedlock.

232. The resolution reads as follows:

*“The Commission on Human Rights*

*“Requests* the Economic and Social Council to draw the attention of the Social Commission, any other competent inter-governmental organs and interested non-governmental organizations

*“(a)* To the discrimination which may, in existing social conditions, be practised against persons born out of wedlock; and

*“(b)* To the desirability of preparing recommendations with a view to eliminating, with due regard to the principle set forth in article 16, paragraph 3, of the Universal Declaration of Human Rights, any discrimination which may, in existing social conditions, be practised against persons born out of wedlock, and in particular of preparing recommendations with a view to eliminating the disclosure of illegitimacy in extracts from official documents delivered to third parties.”

A draft resolution for consideration and adoption by the Economic and Social Council will be found in annex V, draft resolution D.

233. *Acceleration of ratification of the Convention on Prevention and Punishment of the Crime of Genocide.* — At its 398th meeting, the Commission discussed a draft resolution relating to the genocide convention which was proposed by the Sub-Commission (see annex IV, paragraphs 27-29). The draft resolution was divided into two parts. In part A the General Assembly would be requested, *inter alia*, to reiterate its appeal to governments to accelerate the ratifications or adherences to the Convention. In part B, the General Assembly would be requested to give effect to the wish of the first Committee on International Criminal Jurisdiction to draw up, together with the instrument

establishing the international penal tribunal, a protocol empowering that tribunal to deal with the crime of genocide.

234. There was little difference of opinion on part A although some members thought it unnecessary. As to part B, it was widely felt that its subject-matter was beyond the competence of the Commission; that there was a sharp divergence of opinion in the United Nations on the question of the establishment of a permanent international penal tribunal; that pending the establishment of such a tribunal, it was premature to recommend the drafting of the proposed protocol. 235. By 9 votes to 3, with 2 abstentions, the Commission decided not to take a decision on part B; by 11 votes to none, with 3 abstentions, the Commission adopted part A, which reads as follows:

*“The Commission on Human Rights,*

*“Having noted* General Assembly resolution 368 (IV) of 3 December 1949,

*“Considering* that genocide, one of the gravest forms of discrimination, constitutes a crime under international law,

*“Considering further* that the widespread knowledge of the nature and importance of the Convention will further its humanitarian and civilizing purpose,

*“Recommends* that the Economic and Social Council request the General Assembly:

*“(a)* To reiterate its appeal to governments to accelerate their ratifications or adherences to the Convention; and

*“(b)* To undertake all necessary measures designed to assure the widest possible diffusion of the nature, contents, and purposes of the Convention, and in particular make known the list of States having voted for, signed, ratified or adhered to the Convention.”

A draft resolution for consideration and adoption by the Economic and Social Council will be found in annex V, draft resolution E.

#### **D. Resolutions relating to protection of minorities**

236. In the field of protection of minorities, the Sub-Commission had made recommendations on:

Definition of minorities for purposes of protection by the United Nations (E/CN.4/641, annex I, draft resolution II);

Interim measures to be taken for the protection of minorities (E/CN.4/641, annex I, draft resolution III);

Protection of newly-created minorities (E/CN.4/670, annex I, draft resolution C);

Collection of provisions on protection of minorities (E/CN.4/670, annex I, draft resolution D).

*Definition of minorities and Interim measures for the protection of minorities*

237. The Sub-Commission submitted a draft resolution on the definition of minorities for purposes of protection by the United Nations and a draft resolution on interim measures to be taken for the protection of minorities, which were considered by the Commission simultaneously (see annex IV, paragraphs 30-45 and E/CN.4/SR.399-402).

### A. Definition

238. Draft resolution II contained three preambular and one operative paragraphs. The first considerandum recognized the existence of ethnic, religious, or linguistic minorities which had to be protected by special measures, national or international. The second considerandum recognized the existence of minority groups that did not require special protection, such as those groups which, though numerically inferior to the rest of the population, were the dominant groups therein, and those which sought complete identity of treatment with the rest of the population. The third considerandum took into account complex situations such as: (1) the undesirability of imposing unwanted distinctions upon individuals belonging to a minority group; (2) the undesirability of interfering with rapid racial, social, cultural or linguistic evolution; (3) the risk of taking measures which might be used to create dissention; (4) the undesirability of protecting practices inconsistent with the Universal Declaration of Human Rights; and (5) the difficulties raised by claims to the status of minority by small groups.

239. The Sub-Commission proposed that:

“(i) The term minority includes only those non-dominant groups in a population which possess and wish to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population;

“(ii) Such minorities should properly include a number of persons sufficient by themselves to preserve such traditions or characteristics; and

“(iii) Such minorities must be loyal to the State of which they are nationals”.

### B. Interim measures

240. In pursuance of resolution 217 C (III) of the General Assembly, the Sub-Commission proposed in draft resolution III that the General Assembly recommend that Member Governments should provide, as a minimum, adequate facilities, in districts, regions and territories where minorities existed, for:

“(1) The use in judicial procedure of languages of such groups, in those cases where the member of the minority group does not speak or understand the language ordinarily used in the courts;

“(2) The teaching in State-supported schools of languages of such groups, with due regard to the requirements of educational efficiency, provided that such groups request it and that the request in reality expresses the spontaneous desire of such groups;”

### C. Debate in the Commission

241. The opinion in the Commission was sharply divided between those who could not accept the draft resolutions of the Sub-Commission and those who could, with or without amendments, or only in general terms.

242. On the one hand, it was contended that the first considerandum of draft resolution II contained a false premise that minorities should be granted a special status; that the second considerandum would exclude essential minority groups from protection; that the third contained five reservations of a subjective character which would greatly restrict the rights of national minorities; and that consequently the proposed definition rested on an unsound basis.

243. On the other hand, it was argued that the Sub-Commission had made a wholly correct distinction between the question of the prevention of discrimination against minorities in the enjoyment of fundamental human rights and that of the special protection required by minorities in order that they might be able to preserve their characteristics and traditions. It was further argued that the complex situations described in the third considerandum were not in any way restrictive, but were conditions and prerequisites, of which account was taken in the proposed definition of minorities. Some representatives suggested that the third considerandum should also take into account the undesirability of considering as minorities immigrant groups settled in a new country. As for the definition itself, objection was raised to sub-paragraph (iii) on the grounds that the test of loyalty was a political factor which was out of place in a classification based on ethnic, religious or linguistic characteristics and that, moreover, it involved subjective elements which might in fact permit the imposition of discriminatory measures against minorities.

### D. Action by the Commission

244. A proposal was made at the outset to return draft resolutions II and III to the Sub-Commission for further consideration and revision (E/CN.4/L.292). This was rejected by the Commission, at its 399th meeting, by 7 votes to 3, with 7 abstentions.

245. However, after some discussion it was realized that, as the problem of minorities was extremely complex, it would be difficult, if not impossible, for the Commission to reach general agreement on a definition of minorities that would be universally applicable. A proposal was therefore tabled to take note of the work of the Sub-Commission with appreciation but without expressing an opinion on the definition itself, and to request the Sub-Commission to proceed with its work on the definition and protection of minorities and to make further recommendations. At its 402nd meeting, by 13 votes to none, with 2 abstentions, the Commission adopted the following resolution:

“*The Commission on Human Rights,*

“*Having studied the Sub-Commission’s work on the principles and definition of minorities,*

“1. *Notes the results with appreciation without expressing an opinion on the definition itself; and*

“2. *Requests the Sub-Commission to proceed with its work on the definition and protection of minorities, bearing in mind the discussions which have taken place in the Commission during its ninth session, and to make its recommendations for the tenth session of the Commission.*”

246. *Protection of newly-created minorities.* — At its 400th meeting, the Commission unanimously adopted a resolution on the protection of newly-created minorities which was based upon draft resolution C of the fifth session of the Sub-Commission (see annex IV, paragraphs 46-47). The text of the resolution reads as follows:

“*The Commission on Human Rights*

“*Recommends to the Economic and Social Council the adoption of the following draft resolution:*

“*The Economic and Social Council*

“*Recommends that in the preparation of any international treaties, decisions of international organs,*

or other acts which establish new States, or new boundary lines between States, special attention should be paid to the protection of any minority which may be created thereby.”

The draft resolution for consideration and adoption by the Economic and Social Council will be found in annex V, draft resolution F.

247. *Collection of provisions on protection of minorities.* — At its 400th meeting, by 13 votes to none, with 3 abstentions, the Commission adopted a resolution on collection of provisions on protection of minorities, which was substantially based upon draft resolution D of the fifth session of the Sub-Commission (see annex IV, paragraphs 48-50). The text of the resolution reads as follows:

*“The Commission on Human Rights,*

*“In view of the importance of possessing the fullest possible documentation on the protection of minorities,*

*“Requests the Secretary-General to arrange for as complete as possible a collection of provisions for the protection of minorities to be made available, and kept up-to-date, for use in the drafting of clauses to be included in international and national instruments which deal with the protection of minority rights, notably in cases when minority rights are to be safeguarded in newly-established States, but also in cases where minorities are to be protected following upon the establishment of new boundary lines between States.”*

#### **E. Resolutions of a general character**

248. The Sub-Commission had also made recommendations on:

Reports on the relevant work of UNESCO (E/CN.4/641, annex I, draft resolution IV; E/CN.4/670, annex I, draft resolution M);

Technical assistance (E/CN.4/670, annex I, draft resolution K);

Publications (E/CN.4/670, annex I, draft resolutions G, H and I).

249. *Reports on the relevant work of UNESCO.* — In draft resolution IV of its fourth session, the Sub-Commission proposed that the Commission should draw the attention of the Economic and Social Council and of the General Assembly to the activities of UNESCO in the field of prevention of discrimination and protection of minorities. In draft resolution M of its fifth session, the Sub-Commission proposed that UNESCO should be invited to devote each year a special report to a review of its activities designed to eradicate prejudice and discrimination and to protect minorities. At the 400th meeting of the Commission, the representative of UNESCO stated that that organization would devote a special chapter of its general report to the Economic and Social Council to its work in the field of prevention of discrimination and protection of minorities, and that copies of that chapter could be made available to members of the Sub-Commission. Thereupon the Chairman suggested that the Commission should take note of the statement of the UNESCO representative and pass to the next item of the agenda (see annex IV, paragraphs 51-54).

250. *Technical Assistance.* — In draft resolution K of its fifth session the Sub-Commission proposed that the United Nations should render advisory services, upon request by Member Governments, in connexion with measures aiming at the eradication of prejudice or discrimination or at the protection of minorities. An opinion was expressed that such services would amount to intervening in the domestic affairs of Member States. On the question whether such services could not be rendered under the existing resolutions on technical assistance, it was pointed out that a new resolution would have to be adopted by the General Assembly if advisory services in connexion with eradication of discrimination and protection of minorities could be rendered by the United Nations to Member Governments. On the other hand, the view was expressed that many of the services proposed fell within the scope of the existing resolutions. At its 400th meeting, the Commission adopted the following resolution by 8 votes to 4, with 4 abstentions (annex IV, para. 55-56).

*“The Commission on Human Rights*

*“Recommends to the Economic and Social Council the adoption of the following draft resolution:*

*“The Economic and Social Council*

*“Recommends:*

*“(a) To the organizations participating in the technical assistance and other programmes providing aid or advice at the request of Member States, that they give sympathetic consideration to the requests which governments may submit for such technical assistance in connexion with measures aimed at the eradication of prejudice or discrimination or at the protection of minorities;*

*“(b) To the General Assembly, the adoption of a resolution authorizing the Secretary-General to render, at the request of Members of the United Nations, expert technical advice and other services in order to assist those Members of the United Nations in the eradication of prejudice or discrimination or in the protection of minorities; and that the services to be so authorized should include, but need not be restricted to, technical expert advice regarding the drafting of legislation and the establishment of administrative and judicial machinery, and also extend to educational programmes designed to combat prejudice and discrimination’.”*

The draft resolution for consideration and adoption by the Economic and Social Council will be found in annex V, draft resolution G.

251. *Publications.* — Draft resolution G proposed the publication of a booklet on the work of the Sub-Commission; draft resolution H, the publication of information received from governments concerning the prevention of discrimination and protection of minorities; draft resolution I, the publication of a pamphlet on the work of the United Nations in the fields of prevention of discrimination and protection of minorities.

252. At the 402th meeting of the Commission, the following comments were made: that the three publications should be amalgamated into one; that information

from governments should be up to date; that the work of the United Nations organs and specialized agencies should be fully covered; that a publication of this type should be printed in all five official languages. The Commission unanimously adopted the following draft resolution (annex IV, paras. 57-62).

*"The Commission on Human Rights*

"1. *Takes note* of the Sub-Commission's proposals concerning publication of information as set forth in resolutions G, H and I of the Sub-Commission's draft resolutions on future work (E/CN.4/670, annex I), and

"2. *Requests* the Secretary-General to prepare a publication containing an account of the work of the United Nations, and an analysis of the information from governments, in the field of prevention of discrimination and protection of minorities."

**F. Resolution on programme of work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities**

253. In draft resolution F, the Sub-Commission requested the Commission to approve a programme of work which it had adopted at its fifth session (E/CN.4/670, paragraph 48, and annex I, draft resolution F). The programme of work consisted of two parts: Part A, prevention of discrimination; Part B, protection of minorities.

254. In Part A of its programme (see annex IV, paragraph 65), the Sub-Commission proposed to undertake studies on discrimination in the fields of education, employment and occupation, political rights, religious rights and practices, residence and movement, immigration and travel, the right to choose a spouse and enjoyment of family rights. Measures for the cessation of any advocacy of national, racial or religious hostility that constituted an incitement to violence would also be studied. The Sub-Commission proposed to initiate immediately the study of discrimination in the field of education, and to appoint a special rapporteur who would be requested to submit a provisional plan of work, together with relevant information concerning discrimination in education. UNESCO and other appropriate specialized agencies, and national and international non-governmental organizations would be requested to co-operate. Furthermore the Sub-Commission requested the Secretary-General, in collaboration with the International Labour Office, to prepare suggestions concerning the procedure for the study of discrimination in the field of employment and occupation.

255. In Part B (see annex IV, paragraph 66), the Sub-Commission requested the Secretary-General to compile and analyse information on legislation, judicial decisions and administrative practices relating to the protection of minorities.

256. The Sub-Commission's programme of work was discussed by the Commission at its 402nd and 403rd meetings. With regard to the studies on discrimination, some members thought that the fields of "education" and "employment and occupation" were too narrow; and that these two studies should cover respectively "the social field, including education, culture and

health" and "the economic field, including the hire of labour and occupation". Some members were of the opinion that the Sub-Commission had formulated a series of studies which would require a decade or two to complete; they felt that the Sub-Commission should proceed more pragmatically by choosing a subject of study every year. Some concern was expressed that some parts of the proposed programme might duplicate the work of the specialized agencies. Objection was also voiced by some members to further consideration of the question of incitement to violence on the ground that action had already been taken by the Commission on the subject.

257. Although the advantage of appointing an independent person as a special rapporteur was clearly recognized, some members thought that the initial task of formulating a provisional plan of work and collecting relevant information concerning discrimination in education could be entrusted to the Secretary-General, and that the proposals for interim work by the special rapporteur confused the elements of preliminary planning with those of actual study.

258. The view was also expressed that the collection of existing measures on the protection of minorities was already covered by resolution D of the Sub-Commission's fifth session and that the drafting of model legislation and administrative texts on this subject was not a function which the Sub-Commission was qualified to undertake.

259. At its 408th meeting, the Commission, by 10 votes to 1, with 5 abstentions, adopted the following resolution (see annex IV, paragraphs 63-82):

*"The Commission on Human Rights,*

*"Noting* the resolution on programme of work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/670, paragraph 48) as amended by the Commission on Human Rights,

"1. *Approves* the programme of work contained therein, subject to the following amendments:

"(a) Insert after the first preambular clause in Part A of the programme the following clause:

"*Considering* that for this purpose studies on discrimination should be undertaken in particular fields in accordance with a programme approved by the Commission on Human Rights, with special reference to the most serious and widespread forms of discrimination;

"(b) Substitute for the second preambular clause in Part A the following clause:

"*Considering further* that for the purpose of such studies it is necessary to obtain all relevant information from governments, specialized agencies, and national or international non-governmental organizations, and any other relevant material;

"(c) Replace the words 'violence' in the second operative paragraph in Part A by the words 'hatred and violence jointly or separately';

"2. *Recommends* to the Economic and Social Council that:

“(a) It arrange for co-operation with the special rapporteur appointed in connexion with the study of discrimination in the field of education on the part of UNESCO and other appropriate specialized agencies, and national and international non-governmental organizations; and

“(b) It note the financial implications of this programme of work.”

A draft resolution, for consideration and adoption by the Economic and Social Council, will be found in annex V, draft resolution H.

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

### A. Procedure followed

261. The Commission discussed together the two items of its agenda (items 7 and 11): “Development of the work of the United Nations for wider observance of, and respect for, human rights and fundamental freedoms throughout the world” and “Annual reports on human rights”. It had before it the memorandum by the Secretary-General (E/1900) on the development of a twenty-year programme for achieving peace through the United Nations, especially that part of the memorandum which dealt with the Secretary-General’s programme for wider observance of, and respect for, human rights and fundamental freedoms (E/1900, paragraphs 25-61). The Commission also had before it two notes by the Secretary-General on this question (E/CN.4/535 and Add.1) and a memorandum relating to annual reports on human rights (E/CN.4/517).

262. It considered these two items at its 391st, 403rd to 406th meetings, basing its discussion first on three draft resolutions submitted by the representative of the United States concerning annual reports on human rights (E/CN.4/L.266/Rev.2), advisory services (E/CN.4/L.267/Rev.1), and specific aspects of human rights (E/CN.4/L.268). Financial implications arising out of these three draft resolutions were submitted to the Commission by the Secretariat (E/CN.4/L.266/Add.1, E/CN.4/L.267/Add.1 and E/CN.4/L.268/Add.1). When the Commission began its consideration of items 7 and 11 of its agenda, it decided by 6 votes to 5, with 5 abstentions, that it would also discuss, under these two items, a draft resolution on communications submitted by the representatives of Egypt, India, Philippines and Uruguay (E/CN.4/L.286).

### B. Text of resolutions on annual reports, advisory services and specific aspects of human rights, and of the amendments submitted thereto

263. The text of the draft resolution of the United States of America relating to annual reports was twice revised during the discussion to take into account amendments submitted by the representatives of France (E/CN.4/L.304) and of Yugoslavia (E/CN.4/L.305). In its final form (E/CN.4/L.266/Rev.2) the draft resolution read as follows:

*The Commission on Human Rights*

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

### G. Resolution on the reports of the fourth and fifth sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

260. At its 408th meeting, the Commission approved the following resolution proposed by its Chairman:

*“The Commission on Human Rights*

*“Takes note* of the reports of the fourth and fifth sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.”

*“The General Assembly,*

*“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,

*“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 constitution and laws and in the preparation of international covenants for the protection of human rights,

*“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,

*“Desiring* to obtain from each Member of the United Nations information about developments and achievements in the field of human rights in its country and measures taken to safeguard human liberty, and

*“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 each year to the Secretary-General a report on results achieved and difficulties encountered in its country in the promotion and development of human rights, 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 each year to the Secretary-General a report summarizing the information contained in the reports which they receive from their members, together with any comments they may deem appropriate; and

*“(c)* That such reports deal in particular with the right or group of rights currently selected for study

by the Commission on Human Rights in accordance with a procedure to be established in due course;

"2. *Calls the attention* of Members to the advisability of setting up an advisory body, composed of experienced and competent persons, to assist their governments in the preparation of its annual report;

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

"4. *Recommends* that the Economic and Social Council request the Commission on Human Rights to consider these annual reports and the Secretary-General's summary and analysis at the same time that it considers the right or group of rights currently selected for study by the Commission in accordance with a procedure to be established in due course, and to transmit to the Economic and Social Council such comments and conclusions thereon as it deems appropriate; and

"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."

264. Amendments to this draft resolution were submitted by France, Yugoslavia, Egypt, India and Chile.

265. The amendment of France (E/CN.4/L.304/Rev.1) proposed that paragraph 4 of the operative part should read as follows:

"*Recommends* that the Economic and Social Council request the Commission on Human Rights to consider these reports and the Secretary-General's summary and analysis, with the assistance, where necessary, of a committee of experts, which would carry out the preliminary examination of the reports."

266. The amendment of Yugoslavia (E/CN.4/L.305/Rev.1) was as follows:

1. *Third paragraph of the preamble*

Replace the word "and" following "fundamental freedoms" by a comma, and add at the end of the sentence "and to give full international assistance to States prevented by lack of national resources from overcoming the difficulties in the way of full achievement of respect for human rights without such international assistance".

2. *First paragraph of the operative part*

Insert in sub-paragraph (a) after the words "to the Secretary-General" the following text: "by stages laid down in a programme established by the Economic and Social Council after consultation with the Member States and competent specialized agencies". In the second sentence of the same sub-paragraph add the words "*inter alia*" in line 3 after "such report".

267. The amendment of Egypt-India (E/CN.4/L.308) read as follows:

1. Add after the first considerandum the following paragraph:

"*Considering* that by Articles 73 and 88 of the Charter and by resolutions 551 (VI) and 637 (VII) of the General Assembly, the Members of the United Nations responsible for the Trust and Non-Self-Governing Territories should submit information on

the political, economic, social and educational development as well as on the promotion and observance of human rights in these territories."

2. Substitute for the word "country" in paragraph 1 (a) the following phrase: "its metropolitan area and in the territories under its administration or trusteeship".

268. The amendment of Chile (E/CN.4/L.309) was first submitted as a sub-amendment to the amendment of France, but in its revised form (E/CN.4/L.309/Rev.1) was moved as an amendment to the draft resolution of the United States, since two of the relevant paragraphs in the amendment of France had been incorporated in the original proposal. In its revised form it read as follows:

1. *Paragraph 1*

Insert the phrase "be requested to" in sub-paragraph (a), between "each Member" and "transmit", and in sub-paragraph (b), between "the latter" and "transmit".

2. *Paragraph 2*

Insert the word "independent" between "competent" and "persons".

3. *Add a new paragraph, as follows:*

"*Recommends* that the Economic and Social Council request the Commission on Human Rights to draw up rules to be followed in framing and examining these annual reports, such rules to be submitted to Member States for their consideration."

269. The text of the draft resolution of the United States on specific aspects of human rights (E/CN.4/L.268) was as follows:

"*The Commission on Human Rights,*

"*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 give special attention in future sessions to studies of specific aspects of human rights, and

"*Desiring* to obtain for its consideration, a summary and analysis of the information available from Member States, the specialized agencies, non-governmental organizations, and other sources on specific aspects of human rights,

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

"1. *Decides* to initiate a series of studies of specific aspects of human rights on a world-wide basis;

"2. *Decides* that at each session the Commission shall select a specific subject or specific subjects for study, provided that no subject shall be selected which is under consideration by another organ of the United Nations or by the specialized agencies;

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

"(a) Prepare the study in his own name and under his own responsibility, with such assistance from the Secretariat as he may require; and

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

“4. *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) Information published by the specialized agencies;

“(c) Information made available by non-governmental organizations having consultative status with the Economic and Social Council; and

“(d) All other information in the possession of the Secretary-General, including communications received by the United Nations concerning human rights, subject to paragraphs (a) and (b) of resolution 75 (V) of the Economic and Social Council, as amended, concerning the identity of communications; and

“5. *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) Adopt the following draft resolution:

“*The Economic and Social Council*

“1. *Approves* the decisions of the Commission on Human Rights concerning the initiation of studies of specific aspects of human rights; and

“2. *Amends* resolution 75 (V), as amended, to authorize the expert advisers to have access to the communications in the possession of the Secretary-General for the purpose of taking them into account in preparing these studies.”

270. The following amendment was submitted by the representative of Yugoslavia (E/CN.4/L.307):

1. *First paragraph of the preamble:*

Add the words “and supplement” after “strengthen”, the paragraph to read as follows:

“*Desiring* to strengthen and supplement the work of the United Nations...”

2. *Third paragraph:*

Delete the word “et” following “droits de l’homme” in the French version.

Between the words “Member States” and “the specialized agencies”, replace the comma by the words “and from”.

Delete the words “non-governmental organizations and other sources”. The paragraph would thus read:

“*Desiring* to obtain for its consideration, a summary and analysis of the information available from Member States and from the specialized agencies on specific aspects of human rights.”

3. *Paragraphs 1 and 2 of the operative part:*

Add at the end of paragraph 1 the words “in accordance with the programme established by the Economic and Social Council under this resolution”, and delete paragraph 2.

Paragraph 1 would thus read:

“*Decides* to initiate a series of studies of specific aspects of human rights on a world-wide basis, in accordance with the programme established by the Economic and Social Council under this resolution;”.

4. *First part of paragraph 3 of the operative part:*

Replace the words “selected by the Commission” by “laid down in the programme”.

The first part of paragraph 3 would thus read:

“*Requests* the Secretary-General to appoint as an expert adviser, for each subject laid down in the programme for study, a person...”.

5. *Paragraph 4:* delete sub-paragraphs (c) and (d).

6. *Paragraph 5:* delete the sub-paragraph numbered 2.

271. The text of the draft resolution of the United States on advisory services (E/CN.4/L.267/Rev.1) read as follows:

*The Commission on Human Rights,*

*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 advisory services, by the international interchange of technical knowledge through international co-operation among countries, represents an effective means for the promotion of 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 the proposals on technical assistance made by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/670, annex I, resolution K) and the Commission on the Status of Women (E/CN.4/L.106/Rev.1), and

*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), 305 (IV), and 418 (V)),

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

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

“*The General Assembly*

“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 acceptable to the government concerned and shall be determined in consultation with that government;

“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 of 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 advisory services;

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

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

“(a) Improvement of administrative and judicial procedures;

“(b) Establishment and improvement of techniques of mass information, media, including such facilities as news agencies;

“(c) Prerequisites for increased participation in government, including voting and public office;

“(d) Increased participation in national and community civic affairs, especially for women recently granted the vote;

“(e) Abolishing slavery and institutions and practices akin thereto;

“(f) Legislative and other measures for the prevention of discrimination and the protection of minorities; and

“(g) Establishment of non-governmental and governmental bodies for the protection of civil 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 ensuring 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.”

272. An amendment was submitted by the representative of Yugoslavia (E/CN.4/L.306) reading as follows:

1. In the second paragraph of the preamble delete the words “an effective means for the promotion of” and substitute “one of the means by which it is possible to promote”:

The paragraph would then read as follows:

“*Recognizing* that advisory services, by the international interchange of technical knowledge through international co-operation among countries, represent one of the means by which it is possible to promote the human rights objectives...”

2. After the sixth paragraph insert two new paragraphs worded as follows:

“*Desiring* to provide ampler international assistance by the United Nations towards the achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion;

“*Decides* to widen its sphere of activity and to this end, as a first step, *inter alia*,”.

3. Section B of the operative part: delete paragraph 3.

## C. Discussion

### (a) GENERAL COMMENTS

273. The discussion in the Commission was directed principally to the draft resolution on annual reports, but certain points were raised which concerned the three resolutions and their relationship to the whole programme of work of the Commission.

274. The proposals were criticized, in general terms, on the grounds that their adoption would constitute a radical departure from the goals which the Commis-

sion had been following up to that time, and that the legally binding covenants on human rights, with the measures of implementation which were contemplated therein, would be replaced by proposals which would have no legal force but would attempt to provide measures of implementation outside the framework of the covenants. Some members also thought that the recommendations constituted an infringement of the sovereignty of States and violated Article 2, paragraph 7, of the Charter.

275. In support of the proposals, on the other hand, it was argued that they were not revolutionary since they were based on suggestions which had been made some time ago by the Secretary-General when he submitted his twenty-year programme for achieving peace. It was recalled that since 1950 France had been making proposals with the same object in mind. It was pointed out that the proposals had, as a juridical basis, Articles 55 and 56 of the Charter and that they consequently could not be said to violate Article 2, paragraph 7, of the Charter. It was also emphasized that the proposals were not intended to replace the covenants or detract from their value, but to supplement them. The proposals were put forward at this time because the work of the Commission on the draft covenants had been completed, and it was therefore necessary for the Commission to consider its future work programme. Adoption of the proposals would provide the Commission with a broad and constructive programme of the sort for which the Commission was originally intended. Several of the non-governmental organizations submitted memoranda containing comments on the United States proposals.

#### (b) ANNUAL REPORTS ON HUMAN RIGHTS

276. In considering the draft resolution on annual reports, the Commission discussed in some detail the nature of the obligation which would be imposed on States to submit the reports called for. It was pointed out that the recommendations would ultimately be in the form of a resolution of the General Assembly and would have the force of such a resolution. Views were expressed that governments could properly be asked, within the framework of Articles 55, 56 and 62, paragraph 2, of the Charter, to submit annual reports on the progress achieved in the field of human rights. Some members questioned what the legal effect would be. Others thought that it constituted a violation of Article 2, paragraph 7, of the Charter and would be inconsistent with Article 62, paragraph 2.

277. Several members of the Commission indicated the difficulties of adopting the proposal without having any binding criteria on which governments would base the preparation of the reports to be submitted, and on which the Commission on Human Rights would base its own observations. In this connexion, it was pointed out that the Universal Declaration of Human Rights was a declaration of ideals and not a legally binding document. There was the danger that, without any juridical basis, the reports would be purely formal and of little value, or, if they were full reports, that their examination by the Commission might lead to unfounded criticism of the progress achieved by individual States. Other members held the view that the intention of the proposal was not that the Commission should sit in judgment on the governments submitting reports, but that these reports, based on the purposes of the Charter and on the standards laid down in the Uni-

versal Declaration of Human Rights, would provide the Commission with information by which it could ascertain how far the goals laid down in the Declaration were being achieved, and by which it could base its future recommendations on human rights problems on the information thus obtained. Several members emphasized the importance of including in the reports not only the progress achieved but an account of the difficulties encountered, particularly in the case of economically under-developed countries, which may be in need of technical or other assistance. Some members argued that the purpose of the system of reports should be first and foremost the organization of full international assistance to States which needed it, rather than an attempt at international supervision of the observance by States of their obligations in the field of human rights. Such international assistance should not, however, violate the principles of Article 2, paragraph 7, of the Charter.

278. The question of establishing the procedure for the submission and the consideration of the reports was also discussed. Some thought that it might be drawn up on the basis of part V of the covenants, and should be worked out in detail immediately. Others thought that it would be enough if it were established in due course, possibly after consultation with all Member States.

279. Comments were made on the suggestion that governments should set up national advisory committees to assist them in preparing their annual reports. Some members thought that such committees should be composed of independent persons, but emphasized that the desirability of establishing such committees should be left to the discretion of the individual governments.

280. The question was also raised of the relationship of the annual reports contemplated in the draft resolution, and the reports already submitted to the Trusteeship Council, the Committee on Information from Non-Self-Governing Territories and to the specialized agencies. Some members thought that a particular reference should be included in the resolution to the submission of reports on Trust and Non-Self-Governing Territories. Others thought that such reports should not be mentioned in this connexion. It was generally agreed that there should be no duplication of work with respect to the submission of reports where these had already been submitted to other organs of the United Nations or by the specialized agencies.

#### D. Decision of the Commission

281. Many members of the Commission felt that the short time remaining at the disposal of the Commission would not suffice to permit of adequate discussion of the important draft resolutions proposed by the United States of America. It was also thought that Member States and the specialized agencies should submit their comments before any final decision was taken on these draft resolutions.

282. The representative of Sweden accordingly proposed that the Commission should transmit the draft resolutions, together with the amendments submitted and the records of the Commission's discussion, to the Economic and Social Council with the request that they be communicated to Member States and the specialized agencies for their comments. It was also suggested that these comments should be requested by 1 October 1953.

283. There was some discussion of the date. That of 1 October 1953 seemed to some members too early

to enable governments to submit considered observations. Others urged that 1 October be set as the date so that it might be possible for the General Assembly to consider the proposals at its next session. On the other hand, it was thought that there was no necessity in insisting on the matter being considered by the General Assembly at its forthcoming session. It was also suggested that the attention of the Council might be drawn to the desirability of discussing this matter as early as possible during its sixteenth session, so that the letters requesting the comments of governments and specialized agencies could be despatched.

284. An oral amendment by the representative of the United Kingdom to the proposal of Sweden (E/CN.4/L.310) to change the date of 1 October 1953 to 1 December 1953 was accepted by the representative of Sweden. The representative of China then moved, as an amendment, the date of 1 October 1953. This was adopted by 8 votes to 7, with 2 abstentions. At the request of the representative of Poland, a separate vote was taken on the phrase "by 1 October 1953" and it was adopted by 9 votes to 3, with 5 abstentions. The resolution, as a whole, was adopted by 13 votes to 3, with 1 abstention. It reads as follows:

#### *The Commission on Human Rights*

*Transmits* to the Economic and Social Council the draft resolutions in documents E/CN.4/L.266/Rev.2, E/CN.4/L.267/Rev.1 and E/CN.4/L.268 submitted by the United States of America, together with the amendments submitted thereto in documents E/CN.4/L.304/Rev.1, E/CN.4/L.305/Rev.1, E/CN.4/L.306, E/CN.4/L.307, E/CN.4/L.308 and E/CN.4/L.309/Rev.1 and the records of the discussions thereon in the Commission; and

*Recommends* that the Economic and Social Council adopt the following resolution:

#### *"The Economic and Social Council*

*"Decides* to transmit to Member States and to the specialized agencies the draft resolutions contained in documents E/CN.4/L.266/Rev.2, 267/Rev.1 and 268 together with the amendments submitted thereto (documents E/CN.4/L.304/Rev.1, 305/Rev.1, 306, 307, 308, and 309/Rev.1) and the records of the discussions thereon in the Commission on Human Rights; and

*"Requests* Member States and the specialized agencies to submit their comments on the draft resolutions and amendments to the Secretary-General by 1 October 1953."

#### **E. Text of draft resolution submitted on communications and of the amendments thereto**

285. The draft resolution on communications submitted by the representatives of Egypt, India, Philippines and Uruguay (E/CN.4/L.286) reads as follows:

#### *The Commission on Human Rights*

*Recommends* to the Economic and Social Council the adoption of the following resolution:

*"Whereas* it is desirable to develop the work of the United Nations for wider observance of, and respect for, human rights and fundamental freedoms throughout the world,

*"Whereas* the General Assembly, in resolution 542 (VI), had invited the Economic and Social Council

to give the Commission on Human Rights instructions for its ninth session with regard to communications concerning human rights and to request the Commission to formulate its recommendations on them,

*"Whereas* the Economic and Social Council in resolution 441 (XIV) decided to take no action on the General Assembly resolution,

*"Whereas* action has been primarily deferred pending further work on the measures of implementation of the international covenants on human rights,

*"Whereas* under the terms of reference of the Commission, its work is directed towards submitting proposals, recommendations and reports to the Council regarding any matter concerning human rights,

#### *"The Economic and Social Council*

*"1. Requests* the Commission on Human Rights to forward to governments, for their comments, such communications as, in the opinion of the Commission, contain allegations of violations of human rights serious enough to justify reference to the governments concerned;

*"2. Requests* the Commission to transmit to the Council such communications, together with any replies or observations from governments in relation thereto, as the Commission may feel should be drawn to the attention of the Council; and to make such recommendations as the Commission may consider appropriate;

*"3. Requests* the Secretary-General to submit a report on communications to the Commission on Human Rights and to suggest such changes in the existing procedure as may be required in the light of the present resolution."

286. Oral amendments were tentatively submitted by the representative of Belgium. The first of these was to add at the beginning of paragraph 1 of the operative part of the draft resolution, the following clause: "Pending the establishment of a procedure for treatment of the communications within the framework of the measures of implementation of the covenants on human rights." The other was the deletion of the second phrase in paragraph 2 of the operative part, reading "and to make such recommendations as the Commission may consider appropriate."

287. An oral amendment was also proposed by the representative of Chile to add a paragraph recommending that the Economic and Social Council request the Commission on Human Rights to draw up rules regarding the conditions under which communications would be received and considered, rules which would be submitted to Member States for their approval.

#### **F. Discussion and decision of the Commission**

288. Various difficulties were mentioned in connexion with this draft resolution. They included the fact that, if adopted, the resolution would impose quasi-judicial functions on the Commission on Human Rights which would have to consider and pass judgment on whether the violation of human rights alleged in a particular communication was serious enough to justify reference to governments and whether the Commission should make any recommendation to the Economic and Social Council regarding it. This appeared all the more serious in the absence of a legal criterion such as the Covenant, since the Universal Declaration of Human Rights could

not properly be used as a criterion on which to base an allegation that human rights were violated. It was also felt that the legal position remained ambiguous. Would States in fact be obligated to send their comments on the communications forwarded to them? Certain representatives indicated the particular difficulty of conferring on the Commission on Human Rights, composed of government representatives, powers which had been provided for the Human Rights Committee, composed of members acting in their personal capacity. Some even thought that the proposed resolution would constitute a clear infringement of national sovereignty and so violate Article 2, paragraph 7, of the Charter. It was also questioned whether any new procedure for dealing with communications on human rights should be adopted before the covenants and measures of implementation were completed.

289. Some members of the Commission felt that an amended procedure for dealing with communications should be adopted before the covenants came into force, since large numbers of communications were already being received and dealt with, rather unsatisfactorily, under resolution 75 (V) of the Council. Under existing rules, all communications were in fact being transmitted to the governments concerned for comment. They thought that some screening process should be established so that action could be taken on serious cases. It was argued that the proposal came within the terms of reference of the Commission which empowered it

to make proposals and recommendations on any matter concerning human rights. It was explained that the recommendations to be made by the Commission were only to enable the Council to act, as it was the body vested by the Charter, concurrently with the General Assembly, to make recommendations to Member Governments relating to the observance of human rights. Attention was drawn to General Assembly resolution 542 (VI) on communications and it was pointed out that the Council had taken no action on this resolution because it was waiting for the Commission to take the initiative.

290. Opinion was sharply divided on the terms of this draft resolution. Some members found it quite unacceptable, others were prepared to accept it, if properly amended and if considered only as an interim measure pending the completion and coming into force of the covenants and the establishment of a right of petition within the framework of the covenants.

291. The representative of China proposed that the Commission should refer the draft resolution, together with the amendments and records of the Commission's discussion, to the Economic and Social Council at its sixteenth session for whatever action the Council might deem fit to take.

292. The Commission voted on whether it wished to take a decision on this draft resolution, and resolved by 9 votes to 5, with 2 abstentions, not to take any decision.

## VI. COMMUNICATIONS

293. The 381st meeting was held in private to receive (item 20 (a) of the agenda) the confidential list of communications (HR/Communications List No. 3 and List No. 3/Add.1) and observations from governments (HR/Communications Nos. 26-39, and E/2371), prepared by the Secretary-General in accordance with Economic and Social Council resolutions 75 (V), 192 A (VIII) and 275 B (X). Non-confidential lists of communications (E/CN.4/CR.22 and CR.22/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 352 communications received during the period 28 April 1952 to 31 March 1953. The confidential list contained summaries of 2,118 communications received during the period 7 May 1952 to 7 March 1953. Of these communications 1,562 alleged persecution on political grounds, the majority of them (1,352) relating to one country. Other communications principally alleged discrimination and violation of rights of minorities (96), denial of the right to a fair trial (56), infringement of trade-union rights (42), denial

of the right to freedom of movement (30), violations of freedom of religion (29), denial of the right of self-determination (22) and inhuman use of germ warfare (92). The remaining communications related to a variety of subjects such as genocide, status of women, cruel and inhuman punishment, freedom of information and of the Press, freedom of assembly, right of asylum, family rights, old age rights, refugees, right to a nationality, and statelessness. The confidential list submitted to the eighth session of the Commission contained summaries of over 25,000 communications received during the thirteen-month period, 3 April 1951 to 7 May 1952, whereas the present list covering a ten-month period dealt with only 2,118 communications. The difference in the total number of communication was largely due to the fact that the list presented to the eighth session contained a very large number (19,454) of mass communications of an almost identical character alleging political persecution in two countries.

294. The Commission noted the distribution of the lists of communications (see E/CN.4/SR.382, 385 and 390), and decided to make public the record of the meeting.

## VII. NEXT SESSION OF THE COMMISSION

295. The Commission adopted (E/CN.4/SR.410) by 7 votes to 4, with 5 abstentions, the following draft resolution:

*"The Commission on Human Rights*

*"Recommends to the Economic and Social Council to decide that the Commission on Human Rights meet in 1954 in Geneva."*

## VIII. ADOPTION OF THE REPORT OF THE NINTH SESSION TO THE ECONOMIC AND SOCIAL COUNCIL

296. The Commission considered (E/CN.4/SR.407-410) the draft report of its ninth session (E/CN.4/L.298 and E/CN.4/L.298/Add.1-5) and adopted it by 11 votes to none, with 4 abstentions.

## ANNEXES

### Annex I

#### Draft international covenants on human rights and measures of implementation

##### A

###### DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

*Text of provisions adopted at the eighth session of the Commission*

###### PREAMBLE<sup>1</sup>

*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<sup>2</sup>

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

<sup>1</sup> E/CN.4/L.54, 54/Rev.1-3; 167; 171; E/CN.4/SR.308; 333; E/CN.4/666/Add.15; E/2256, paragraphs 161-162. The order of the various parts and articles in this annex is provisional.

<sup>2</sup> E/CN.4/L.21, 21/Corr.1 (French only), 22, 22/Rev.1, 23, 23/Rev.1, 24, 25, 25/Rev.1, 27, 28, 28/Rev.1-2, 29, 30, 31; E/CN.4/SR.256-261, E/CN.4/663; E/2256, paragraphs 57-74 and 91.

<sup>3</sup> E/CN.4/L.54, 54/Add.1, 54/Rev.1-2, 55, 56, 56/Rev.1, 65, 65/Rev.1, 69, 70, 71, 72, 73; E/CN.4/SR.270-275; E/CN.4/666; E/2256, paragraphs 106-109.

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<sup>3</sup>

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<sup>4</sup>

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<sup>5</sup>

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<sup>6</sup>

1. Nothing in this Covenant may be interpreted as implying for any State, group or person, any right to

<sup>4</sup> Article 31 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 60); E/CN.4/650, paragraphs 42-44; E/CN.4/L.77, 77/Rev.1; E/CN.4/SR.301, 302; E/CN.4/666/Add.12; E/2256, paragraphs 142-143.

<sup>5</sup> Article 32 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 47); E/CN.4/L.76, 115, 175; E/CN.4/SR.306-308; E/CN.4/666/Add.14; E/2256, paragraphs 155-160.

<sup>6</sup> E/CN.4/L.67, 67/Corr.1-2 (English only), 67/Rev.1, 114, 114/Rev.1-2; 168, 168/Rev.1, 169, 170, 172, 173, 174; E/CN.4/SR.303-306; E/CN.4/666/Add.13; E/2256, paragraphs 149-154.

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<sup>7</sup>*

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<sup>8</sup>*

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<sup>9</sup>*

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

<sup>7</sup> Article 20 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 20); E/CN.4/650, paragraphs 22-23; E/CN.4/L.45, 53, 53/Rev.1, 58, 58/Rev.1, 82, 90, 92, 93; E/CN.4/SR.275-278; E/CN.4/666/Add.1; E/2256, paragraphs 110-111.

<sup>8</sup> Article 21 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 50); E/CN.4/650, paragraphs 24-28; E/CN.4/661; E/CN.4/L.46, 59, 60, 62, 62/Rev.1-2, 63, 63/Rev.1, 94; E/CN.4/SR.279-281; E/CN.4/666/Add.2; E/2256, paragraphs 112-115.

<sup>9</sup> Article 27 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 56); E/CN.4/650, paragraphs 34-35; E/CN.4/L.50, 50/Rev.1, 78, 110, 111, 118, 119, 162, 162/Rev.1, 163; E/CN.4/SR.298-300; E/CN.4/666/Add.11; E/2256, paragraphs 140-141.

<sup>10</sup> Article 22 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 51); E/CN.4/L.47, 64, 64/Rev.1-2, 68; E/CN.4/SR.281, 282, 284; E/CN.4/666/Add.3; E/2256, paragraphs 117-118.

unions of his choice for the protection of his economic and social interests.

#### *Article 9<sup>10</sup>*

The States Parties to the Covenant recognize the right of everyone to social security.

#### *Article 10<sup>11</sup>*

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<sup>12</sup>*

The States Parties to the Covenant recognize the right of everyone to adequate food, clothing and housing.

#### *Article 12<sup>13</sup>*

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<sup>14</sup>*

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;

<sup>11</sup> Article 26 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 55); E/CN.4/650, paragraph 33; E/CN.4/L.49, 49/Corr.1 (English only), 74, 74/Rev.1-2, 77, 77/Rev.1, 87, 112, 113, 116, 117; E/CN.4/SR.296-298; E/CN.4/666/Add.10; E/2256, paragraphs 135-139.

<sup>12</sup> Article 23 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 52); E/CN.4/655/Add.3; E/CN.4/L.48, 57, 83; E/CN.4/SR.294-295; E/CN.4/666/Add.6; E/2256, paragraphs 129-130.

<sup>13</sup> Article 24 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 53); E/CN.4/650, paragraphs 29-30; E/CN.4/SR.295; E/CN.4/666/Add.7; E/2256, paragraph 131.

<sup>14</sup> Article 25 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 54); E/CN.4/650, paragraphs 31-32; E/CN.4/L.79, 79/Rev.1, 84, 86, 109; E/CN.4/SR.295-296; E/CN.4/666/Add.9; E/2256, paragraphs 132-134.

(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<sup>15</sup>

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<sup>16</sup>

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.

<sup>15</sup> Article 28 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 57); E/CN.4/650, paragraphs 36-39; E/CN.4/655/Add.4; E/CN.4/L.51, 51/Corr.1 (English only), 61, 61/Rev.1, 80, 80/Rev.1-2, 85, 85/Rev.1, 89, 95, 96, 96/Rev.1, 97, 98, 99, 100, 101, 102, 102/Rev.1; E/CN.4/SR.285-291; E/CN.4/666/Add.4; E/2256, paragraphs 119-123.

<sup>16</sup> Article 29 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 58); E/CN.4/650, paragraph 40; E/CN.4/655/Add.4, E/CN.4/667; E/CN.4/L.88; E/CN.4/SR.291, 292, 294; E/CN.4/666/Add.8; E/2256, paragraphs 124-125.

#### Article 16<sup>17</sup>

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.

## B

DRAFT COVENANT ON CIVIL AND POLITICAL RIGHTS

*Text of provisions adopted at the eighth and ninth sessions of the Commission*

#### PREAMBLE<sup>18</sup>

*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<sup>19</sup>

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

<sup>17</sup> Article 30 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 59); E/CN.4/650, paragraph 41, E/CN.4/655/Add.4; E/CN.4/L.52, 75, 81, 81/Rev.1, 104, 105, 105/Rev.1, 106, 106/Rev.1, 107, 108; E/CN.4/SR.292-294; E/CN.4/666/Add.5; E/2256, paragraphs 126-128.

<sup>18</sup> Preamble of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, para. 66; E/CN.4/528/Add.1, para. 39; E/CN.4/L.148, 208; E/CN.4/666/Add.15; E/CN.4/SR.331, 333; E/CN.4/668/Add.18, Add.18/Corr.1 (French only); E/2256, paragraphs 286-289.

<sup>19</sup> See footnote 2 of this annex.

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<sup>20</sup>*

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<sup>21</sup>*

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<sup>22</sup>*

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

<sup>20</sup> Article 1 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 67-78; E/CN.4/528/Add.1, paragraphs 40-49; E/CN.4/L.129, 138, 161; E/CN.4/SR.328-329; E/CN.4/668/Add.16; E/2256, paragraphs 269-276.

<sup>21</sup> E/2256, annex II, section A, II; E/CN.4/674, paragraph 5; E/CN.4/L.263, 289; E/CN.4/SR.371-373, 409; Chapter III, paragraphs 59-64, and annex III, paragraphs 26-28 of this report.

<sup>22</sup> Article 2 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 79-86; E/CN.4/528/Add.1, paragraphs 50-56; E/1992, annex III, A; E/CN.4/L.121, 136, 139, 139/Rev.1, 211, 212, 213; E/CN.4/SR.330-331; E/CN.4/668/Add.17; E/2256 paragraphs 277-285. The articles referred to in paragraph 2 have been changed to conform with the order of the articles in this section.

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 hereto 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<sup>23</sup>*

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<sup>24</sup>*

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<sup>25</sup>*

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

<sup>23</sup> Article 18 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528 paragraphs 222-223; E/1992, annex III, A; E/CN.4/L.134, 198, 198/Rev.1, 206, 207; E/CN.4/SR.328; E/CN.4/668/Add.15; E/2256, paragraphs 263-268.

<sup>24</sup> Article 3 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 87-94; E/CN.4/528/Add.1, paragraphs 57-64; E/1992, annex III, A; E/CN.4/L.122, 130, 140, 160, 160/Corr.1, 176, 177, 178, 179, 180, 181, 182; E/CN.4/SR.309-311; E/CN.4/668, 668/Corr.1 (English only); E/2256, paragraphs 167-174.

<sup>25</sup> Article 4 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 95-100; E/CN.4/528/Add.1, paragraphs 65-68; E/1992, annex III, A; E/CN.4/L.159; E/CN.4/SR.311-312; E/CN.4/668/Add.1; E/2256, paragraphs 175-177

consent to medical or scientific experimentation involving risk, where such is not required by his state of physical or mental health.

#### *Article 8<sup>26</sup>*

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<sup>27</sup>*

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<sup>28</sup>*

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<sup>29</sup>*

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

#### *Article 12<sup>30</sup>*

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<sup>31</sup>*

An alien lawfully in the territory of a State Party hereto 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 reasons 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<sup>32</sup>*

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge

<sup>26</sup> Article 5 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 101-108; E/CN.4/528/Add.1, paragraphs 69-70; E/CN.4/L.158, L.158/Rev.1; E/CN.4/SR.312-313; E/CN.4/668/Add.2; E/2256, paragraphs 178-179.

<sup>27</sup> Article 6 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 109-124; E/CN.4/528/Add.1, paragraphs 71-78; E/1992, annex III, A; E/CN.4/L.131, 137, 151, 183; E/CN.4/SR.313-314; E/CN.4/668/Add.3; E/2256, paragraphs 180-188.

<sup>28</sup> E/2256, annex II, section A, V; E/CN.4/674, paragraphs 11-12; E/CN.4/L.262, 289; E/CN.4/SR.371, 409; Chapter III, paragraphs 57-58, and annex III, paragraphs 23-25 of this report.

<sup>29</sup> Article 7 of the draft covenant prepared at the sixth session, E/1992, annex I, E/CN.4/528, paragraph 125; E/CN.4/528/Add.1, paragraph 79; E/CN.4/SR.314; E/CN.4/668/Add.4; E/2256, paragraph 189.

<sup>30</sup> Article 8 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 126-136; E/CN.4/528/Add.1, paragraphs 80-83; E/CN.4/L.123, 123/Corr.1, 132, 132/Rev.1-2, 149, 149/Rev.1, 152, 185, 186, 189, 189/Rev.1; E/CN.4/SR.315-316; E/CN.4/668/Add.5; E/2256, paragraphs 190-197.

<sup>31</sup> Article 9 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 28-31, 137; E/CN.4/528/Add.1, paragraphs 14-16, 84-85; E/1992, annex III, A; E/CN.4/L.141, 150, 153, 184, 188, 190, 190/Rev.1-2, 191, E/CN.4/SR.316-318; E/CN.4/668/Add.6; E/2256, paragraphs 198-204.

<sup>32</sup> Article 10 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 138-160; E/CN.4/528/Add.1, paragraphs 86-95; E/1992, annex III, A; E/CN.4/L.124, 133, 142, 154, 154/Corr.1 (English only), 154/Rev.1-2; E/CN.4/SR.318, 323-324; E/CN.4/668/Add.9; E/2256, paragraphs 205-223.

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<sup>33</sup>*

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 inter-

<sup>33</sup> Article 11 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 161-164; E/CN.4/528/Add.1, paragraphs 96-97; E/1992, annex III, A; E/CN.4/L.196, 197; E/CN.4/SR.324; E/CN.4/668/Add.1; E/2256, paragraphs 224-229.

<sup>34</sup> Article 12 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 165-167; E/CN.4/528/Add.1, paragraphs 98-99; E/CN.4/SR.324; E/CN.4/668/Add.10; E/2256, paragraph 230.

national 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, subsequent 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<sup>34</sup>*

Everyone shall have the right to recognition everywhere as a person before the law.

#### *Article 17<sup>35</sup>*

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<sup>36</sup>*

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<sup>37</sup>*

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

<sup>35</sup> E/2256, annex II, section A, VI; E/CN.4/674, paragraphs 14-16; E/CN.4/L.265; E/CN.4/SR.373-376; Chapter III, paragraphs 65-71 and annex III, paragraphs 29-34 of this report.

<sup>36</sup> Article 13 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 168-199; E/CN.4/528/Add.1, paragraphs 100-104; E/1992, annex III, A; E/CN.4/L.143, 155, 155/Corr.1 (Russian only), 187; E/CN.4/SR.319, 333; E/CN.4/668/Add.7, 668/Add.7/Corr.1; E/2256, paragraphs 231-237.

<sup>37</sup> Article 14 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 179-198, 200-207; E/CN.4/528/Add.1, paragraphs 102, 105-113; E/1992, annex III, A; E/CN.4/L.125, 144, 144/Rev.1, 156, 156/Rev.1, 192, 193; E/CN.4/SR.320-322; E/CN.4/668/Add.8; E/2256, paragraphs 238-244.

or reputations of others, (2) for the protection of national security or of public order, or of public health or morals.

#### *Article 20<sup>38</sup>*

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<sup>39</sup>*

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 Convention, 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<sup>40</sup>*

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<sup>41</sup>*

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in

<sup>38</sup> Article 15 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 179-198, 208; E/CN.4/528/Add.1, paragraphs 102, 114-115; E/1992, annex III, A; E/CN.4/L.126, 145, 201; E/CN.4/SR.325; E/CN.4/668/Add.12; E/2256, paragraphs 245-250.

<sup>39</sup> Article 16 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 179-198, 209-213; E/CN.4/528/Add.1, paragraphs 102, 116-118; E/1992, annex III, A; E/CN.4/L.126, 146, 202, 203; E/CN.4/SR.325-326; E/CN.4/668/Add.13; E/2256, paragraphs 245-247, 251-257.

<sup>40</sup> E/CN.4/674, paragraph 19; E/CN.4/686; E/CN.4/L.273-276, 289; E/CN.4/SR.380, 382-384, 409; chapter III, paragraphs 78-86, and annex III, paragraphs 39-55 of this report.

<sup>41</sup> E/2256, annex II, section A, I and II; E/CN.4/674, paragraphs 21-22; E/CN.4/L.221, 224, 224/Rev.1-4, 255, 255/Rev.1, 256-258, 289; E/CN.4/SR.363-367, 409; chapter III, paragraphs 44-50, and annex III, paragraphs 1-12 of this report.

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<sup>42</sup>*

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<sup>43</sup>*

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<sup>44</sup>*

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<sup>45</sup>*

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.

<sup>42</sup> Article 17 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 214-221; E/CN.4/528/Add.1, paragraphs 119-122; E/1992, annex III, A; E/CN.4/L.127, 147, 157, 204, 205; E/CN.4/SR.326-328; E/CN.4/668/Add.14; E/2256, paragraphs 258-262.

<sup>43</sup> E/2256, annex II, section A, III; E/CN.4/674, paragraphs 6-8; E/CN.4/L.222, 225, 260, 261; E/CN.4/SR.368-371; chapter III, paragraphs 51-56, and annex III, paragraphs 13-22 of this report.

<sup>44</sup> E/2256, annex II, section A, IV; E/CN.4/674, paragraph 9; E/CN.4/L.269-271; E/CN.4/SR.377-379; chapter III, paragraphs 72-77, and annex III, paragraphs 35-38 of this report.

<sup>45</sup> Article 33 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/L.226, 226/Corr.1 (in French only), 264; E/CN.4/SR.346, 409; chapter III, paragraphs 89-95, and annex III, paragraphs 56-59 of this report.

*Article 28<sup>46</sup>*

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 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<sup>47</sup>*

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<sup>48</sup>*

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<sup>49</sup>*

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

<sup>46</sup> Article 34 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/675, paragraph 14; E/CN.4/L.228-229, 264; E/CN.4/SR.346, 351-352, 409; and annex III, paragraphs 60-64 of this report.

<sup>47</sup> Articles 35, 36 and 37 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/675, paragraph 4, 15-16; E/CN.4/L.227, 232, 264; E/CN.4/SR.347-348, 352, 409; chapter III, paragraphs 96-100, and annex III, paragraphs 65-74 of this report.

<sup>48</sup> Article 38 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/675, paragraph 17; E/CN.4/L.227, 232, 237, 264; E/CN.4/SR.348, 409; chapter III, paragraphs 101-106, and annex III, paragraphs 75-79 of this report.

<sup>49</sup> Article 39 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/L.227, 232, 232/Rev.1, 241, 264; E/CN.4/SR.349, 352, 409; chapter III, paragraphs 113-116, and annex III, paragraphs 80-83 of this report.

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<sup>50</sup>*

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<sup>51</sup>*

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<sup>52</sup>*

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.

<sup>50</sup> Article 42 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/675, paragraph 19; E/CN.4/L.227, 232, 264; E/CN.4/SR.352, 409; chapter III, paragraphs 120-125, and annex III, paragraphs 95-99 of this report.

<sup>51</sup> Article 40 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/675, paragraph 18; E/CN.4/L.227, 242, 264; E/CN.4/SR.349, 351, 409; chapter III, paragraphs 117-119, and annex III, paragraphs 84-89 of this report.

<sup>52</sup> Article 41 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/L.227, 234, 234/Rev.1, 264; E/CN.4/SR.352, 353, 409; chapter III, paragraphs 126-128, and annex III, paragraphs 90-94 of this report.

### Article 35<sup>53</sup>

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<sup>54</sup>

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<sup>55</sup>

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<sup>56</sup>

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<sup>57</sup>

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:

<sup>53</sup> Article 50 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/L.232, 240, 264; E/CN.4/SR.355, 409; chapter III, paragraphs 140-142, and annex III, paragraphs 120-122 of this report.

<sup>54</sup> Articles 44 and 51 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/675, paragraphs 5-7, 20; E/CN.4/L.227, 232, 264; E/CN.4/SR.353-355, 409; chapter III, paragraphs 131-133, 137-139, and annex III, paragraphs 100-106, 123-125 of this report.

<sup>55</sup> Articles 45 and 48 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/675, paragraph 23; E/CN.4/SR.354, 409; and annex III, paragraphs 107-108, 118-119 of this report.

<sup>56</sup> E/CN.4/L.238, E/CN.4/SR.354; chapter III, paragraphs 129-130, and annex III, paragraphs 109-110 of this report.

<sup>57</sup> Articles 46 and 47 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/675, paragraphs 21-22; E/CN.4/L.227, 245, 264, 264/Add.1; E/CN.4/SR.354, 387, 409; chapter III, paragraphs 177-179, and annex III, paragraphs 111-117 of this report.

(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<sup>58</sup>

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<sup>59</sup>

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<sup>60</sup>

In any matter referred to it the Committee may call upon the States concerned to supply any relevant information.

<sup>58</sup> Article 52 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/675, paragraphs 24-27; E/CN.4/L.227, 231, 235, 235/Rev.1, 244, 246, 252, 252/Rev.1, 253, 254, 264; E/CN.4/SR.355-362, 409; chapter III, paragraphs 143-167, and annex III, paragraphs 126-137 of this report.

<sup>59</sup> Article 54 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/SR.387; and annex III, paragraphs 138-139 of this report.

<sup>60</sup> Article 55 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/675, paragraph 28; E/CN.4/L.248, 264/Add.1, 280; E/CN.4/SR.387, 388, 409; chapter III, paragraphs 185-189, and annex III, paragraphs 140-142 of this report.

### Article 43<sup>61</sup>

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<sup>62</sup>

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<sup>63</sup>

The Committee shall submit to the General Assembly, through the Secretary-General, an annual report on its activities.

### Article 46<sup>64</sup>

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<sup>65</sup>

The provisions of this Covenant shall not prevent the States Parties to the Covenant from submitting

<sup>61</sup> Article 57 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/675, paragraph 29; E/CN.4/L.227, 236, 245, 264/Add.1; E/CN.4/SR.388, 409; chapter III, paragraphs 190-191, and annex III, paragraphs 145-148 of this report.

<sup>62</sup> Article 56 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/SR.388; and annex III, paragraphs 143-144 of this report.

<sup>63</sup> Article 58 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/L.227; E/CN.4/SR.389; chapter III, paragraphs 195-197, and annex III, paragraphs 149-151 of this report.

<sup>64</sup> E/CN.4/L.249, 264/Add.1, 279; E/CN.4/SR.390, 409; chapter III, paragraphs 201-205, and annex III, paragraphs 155-157 of this report.

<sup>65</sup> Article 59 of the draft covenant prepared at the seventh session, E/2256, annex I, section D, part IV; E/CN.4/675, paragraph 30; E/CN.4/L.245, E/CN.4/SR.389; chapter III, paragraphs 198-200, and annex III, paragraphs 152-154 of this report.

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<sup>66</sup>

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.

## C

### THE TERRITORIAL APPLICATION OF THE INTERNATIONAL COVENANT ON HUMAN RIGHTS

The following text on the territorial application of the International Covenant on Human Rights was adopted by the General Assembly in resolution 422 (V) and appeared as article 72 of the draft covenant in the report of the seventh session of the Commission (E/1992, annex I), but was not considered at the eighth or ninth sessions of the Commission (see chapter III, paragraph 29).

“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.”

## D

### SYSTEM OF PERIODIC REPORTS

Text of part V (articles 60-69) of the draft covenant prepared at the seventh session of the Commission (E/1992, annex I), but not considered at the eighth or ninth sessions of the Commission.

## PART V

### Article 60<sup>67</sup>

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.

<sup>66</sup> E/CN.4/L.259, 259/Rev.1, 264/Add.1, 281-283; E/CN.4/SR.391-393, 409; chapter III, paragraphs 208-214, and annex III, paragraphs 158-162 of this report.

<sup>67</sup> E/CN.4/629, E/CN.4/SR.246 and E/CN.4/L.19/Add.7.

### Article 61<sup>68</sup>

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.

### Article 62<sup>69</sup>

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.

### Article 63<sup>70</sup>

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.

### Article 64<sup>71</sup>

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.

### Article 65<sup>72</sup>

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 66<sup>73</sup>

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.

<sup>68</sup> E/CN.4/629, E/CN.4/630, E/CN.4/SR.246 and E/CN.4/L.19/Add.7.

<sup>69</sup> E/CN.4/629, E/CN.4/631/Rev.2, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

<sup>70</sup> E/CN.4/629, E/CN.4/630, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

<sup>71</sup> E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

<sup>72</sup> E/CN.4/629, E/CN.4/630, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

<sup>73</sup> E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

### Article 67<sup>74</sup>

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.

### Article 68<sup>75</sup>

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 of all decisions and recommendations reached by the Economic and Social Council.

### Article 69<sup>76</sup>

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.

## E

### FINAL CLAUSES

Text of articles 70 and 73 of part VI of the draft covenant contained in the report of the seventh session of the Commission (E/1992, annex I), but not considered at the eighth or ninth sessions of the Commission.

### Article 70<sup>77</sup>

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.

<sup>74</sup> E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

<sup>75</sup> E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

<sup>76</sup> E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7. This article was adopted with the understanding that the decision did not prejudice the position of the article in the Covenant.

<sup>77</sup> Article 42 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/500, E/CN.4/502; E/CN.4/L.13 and E/CN.4/SR.196, 200.

*Article 71*

(Federal State article, see section B of annex II)

*Article 72*

(Territorial application article, see section C of the present annex)

*Article 73<sup>78</sup>*

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 the 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.

**Annex II**

**Proposals and amendments relating to the draft international covenants on human rights and measures of implementation**

**A**

PROPOSED ADDITIONAL ARTICLE ON THE RIGHT OF PROPERTY

*Text proposed by the representative of France at the eighth session (E/CN.4/L.66/Rev.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 the laws of the country in which the property owned is situated.

"Expropriation may not take place except in cases of public necessity or utility in circumstances defined by law and subject to fair compensation."

**B**

PROPOSALS FOR A FEDERAL STATE ARTICLE

I. *Text contained in the report of the third session of the Commission (E/800, article 24, page 27)*

"In the case of a federal State, the following provisions shall apply:

"(a) With respect to any articles of this Covenant which the federal government regards as wholly or in part appropriate for federal action, the obligations of the federal government shall, to this extent, be the same as those of Parties which are not federal States;

"(b) In respect of articles which the federal government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent States, provinces, or cantons, the federal government shall bring such provisions, with favourable recommendation, to the notice of the appropriate authorities of the States, provinces or cantons at the earliest possible moment"

II. *Text proposed by the representative of Denmark at the seventh session of the Commission (E/CN.4/636) (E/1992, annex VI)*

"1. The government of a federal State may at the time of signature, ratification or accession to this Covenant make a reservation in respect of any particular provision of the Covenant to the extent that the application of such provision, under the constitution of the federal State, falls within the exclusive jurisdiction of the constituent States, provinces or cantons. The Secretary-General of the United Nations shall inform other States Parties to the Covenant of any such reservation.

"2. When making a reservation under paragraph 1, the government of the federal State shall transmit to the Secretary-General, for communication to other States Parties to the Covenant, a brief statement as to the status of the law of the constituent States, provinces or cantons with regard to the subjects covered by the reservation.

"3. When a reservation is made under paragraph 1, the federal government shall bring the relevant provisions of the Covenant to the attention of the appropriate authorities of the constituent States, provinces or cantons and recommended that such steps be taken as may be necessary to give full effect to the provisions.

"4. A reservation made under paragraph 1 may at any time be withdrawn in whole or in part. Withdrawal of a reservation is effected by notification to the Secretary-General, who shall inform the other States Parties to the Covenant.

"5. As long as and to the extent that a reservation made under paragraph 1 remains in force, the government of the federal State may not in relation to other States Parties to the Covenant invoke the relevant provisions of the Covenant.

*Explanatory note*

"The representative of Denmark maintains the opinion, as previously stated on behalf of his Government, that it would be preferable not to include a "federal States clause" in the Covenant. Indeed, such a clause

<sup>78</sup> Article 45 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/L.15 and E/CN.4/SR.197, 200.

will tend to introduce an element of inequality between obligations of the various States Parties to the Covenant, in so far as federal States under such a clause will be relieved from obligations which unitary States must fulfil without qualification. It is a well-established principle in international law that no State can invoke provisions of its constitution as an excuse for not fulfilling its international obligations and any deviation from this general principle to the advantage of only one category of States would, it is submitted, tend to weaken the principles of equality and reciprocity on which international relations must be based.

"In view, however, of General Assembly resolution 421 (V), part C, according to which the Commission on Human Rights is requested "to study a federal State 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", the above proposal is submitted. Its purpose is, in addition to that indicated by the General Assembly, to obviate to the greatest possible extent the disadvantages resulting from the status of inequality which any special regard for federal States will inevitably entail. In pursuance of these divergent purposes, proposals are made to the effect that:

"(a) Federal States may ratify the Covenant even if the implementation of certain of its provisions under their constitutional systems fall within the reserved powers of their constituent units;

"(b) Authorities of constituent States shall be encouraged to take any necessary action with a view to giving effect to those provisions which fall under their reserved powers;

"(c) Limitations of obligations of federal States shall result only from express reservations in respect of particular provisions, not from the automatic application of a federal States clause;

"(d) Other States Parties shall be kept informed of the extent to which a federal State gives effect to the provisions covered by reservations; and

"(e) A federal State which, because of a reservation, is 'immune' against complaints regarding violations of a provision in the Covenant shall not itself be able to make such complaints against other States Parties."

III. *Texts proposed by the representatives of Australia, India and the United States at the eighth session of the Commission (E/CN.4/L.199; E/2256, annex II, section B).*

"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."

IV. *Text proposed for inclusion in both draft covenants by the representative of the Union of Soviet Socialist Republics at the ninth session (E/CN.4/L.230).*

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

## C

### PROPOSALS FOR THE FINAL CLAUSES

*Amendments submitted by the representative of India at the seventh session of the Commission (E/CN.4/563/Rev.1) (E/1992, annex VI, page 40)*

1. In article 70, paragraph 2, delete the words "among them" after the words "shall come into force".
2. In article 73 delete paragraph 3.

## D

ESTABLISHMENT OF AN OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER (ATTORNEY-GENERAL) FOR HUMAN RIGHTS

*The following proposal was submitted by the representative of Uruguay to the seventh session of the Commission (E/CN.4/549 and Corr.1; 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 to 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-Gen-

eral) 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 him.

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 Security Council 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 Security Council 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 Council may hold on the complaint and to make submissions to the Council 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 Council, 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 Council and the State Party concerned, withdraw the complaint from the agenda of the Council. Upon the receipt of such notice of withdrawal the Council 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 the discharge of their responsibilities.

### 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 III

### Proposals and amendments relating to the draft covenant on civil and political rights and voting thereon

#### A

#### ADDITIONAL ARTICLES ON CIVIL AND POLITICAL RIGHTS

#### ARTICLE 23

1. The Union of Soviet Socialist Republics proposed the following draft article (E/CN.4/L.221; chapter III, paragraphs 44-50):

“The State shall guarantee to every citizen, irrespective of race, colour, national origin, social position, property status, social origin, language, religion or sex, the right and the opportunity to take part in the government of the State; the right and the opportunity to elect and to be elected to all organs of authority on the basis of universal, equal and direct suffrage with secret ballot; and the right and opportunity to occupy any State or public office. Property, educational or other qualifications restricting the participation of citizens in voting at elections to representative organs shall be abolished.”

2. To the Soviet Union's proposal, Uruguay submitted the following amendments (E/CN.4/L.255/Rev.1):

1. After the words “The State shall” insert the words “recognize and”.

2. Insert the words “political opinions” after the words “social position”.
3. After the words “religion or sex” insert the words “culture, or any other grounds of discrimination not mentioned in this article”.
4. After the words “organs of authority” insert the words “whose members shall be elected in accordance with the national legislation at periodical elections”.

The Philippines proposed the following amendments to the Soviet Union's text (E/CN.4/L.256):

1. Between the words “elected to all” and the words “organs of authority”, insert the word “elective”.
2. After the words “on the basis of”, insert the words “periodic and genuine elections which shall be by”.

These amendments were subsequently withdrawn in favour of the amendments of Uruguay.

3. France and Yugoslavia proposed the following article (E/CN.4/L.224/Rev.4):

“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 of the 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 held by secret ballot and guaranteeing the free expression of the will of the electors;

“(c) Of access, on general terms of equality, to public service in his country.”

4. To the joint proposal of France and Yugoslavia, the representative of the Philippines (E/CN.4/L.257) and the representatives of Chile and Uruguay (E/CN.4/L.258) proposed the following amendment:

Before the words “by secret ballot”, insert the words “by universal and equal suffrage and”.

5. At its 367th meeting, the Commission voted on the proposals and amendments quoted above.

6. The first Uruguayan amendment to the text submitted by the USSR was adopted by the Commission by 7 votes to 5, with 5 abstentions; the second amendment was adopted by 11 votes to one, with 5 abstentions; the third amendment was rejected by 8 votes to 5, with 4 abstentions; the fourth amendment was adopted by 7 votes to 6, with 4 abstentions.

7. The following clause in the proposal of the Soviet Union was put to a separate vote, as amended: “irrespective of race, colour, national origin, social position, political opinions, property status, social origin, language, religion or sex”; it was rejected by 7 votes to 6, with 4 abstentions. The words “and direct” after the word “equal” were rejected by 9 votes to 4, with 4 abstentions. The last sentence of the proposal of the Soviet Union (“Property, educational or other qualifications restricting the participation of citizens in voting at elections to representative organs shall be abolished”) was rejected by 9 votes to 5, with 3 abstentions.

8. The proposal of the Soviet Union, thus amended, was rejected by a roll-call vote of 5 in favour (Philippines, Poland, Ukrainian SSR, Soviet Union, Uruguay), 7 against (Australia, Belgium, China, Pakistan, Sweden, United Kingdom, United States of America), with 5 abstentions (Chile, Egypt, France, Lebanon, Yugoslavia).

9. The Commission then proceeded to vote on the joint proposal of France and Yugoslavia and the amendment thereto.

10. The amendment of the Philippines, Chile and Uruguay was adopted by 10 votes to 5, with 2 abstentions.

11. The phrase “without unreasonable restrictions” in the joint proposal of France and Yugoslavia was put to a separate vote; it was adopted by 10 votes to 3, with 4 abstentions. The joint proposal, as amended, was adopted as a whole in a roll-call vote by 9 votes (Chile, China, Egypt, Lebanon, Pakistan, Philippines, Sweden, United States of America, Yugoslavia), to one (Belgium), with 7 abstentions (Australia, France, Poland, Ukrainian SSR, USSR, United Kingdom, Uruguay). Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.289) to change the words “*d’élire*”, in the French text, to read “*de voter*”.

12. At the 393rd meeting the representatives of Poland, the Soviet Union and the Ukrainian SSR declared that, after consideration of the question, they desired to be considered as having voted for the

adopted text of the article, and requested that this be recorded in the report of the Commission.

#### ARTICLE 25

13. The Soviet Union proposed the following draft article (E/CN.4/L.222; chapter III, paragraphs 51-56):

“The State shall ensure to national minorities the right to use their native tongue and to possess their national schools, libraries, museums and other cultural and educational institutions.”

14. Yugoslavia proposed the following draft article (E/CN.4/L.225):

“Every person shall have the right to show freely his membership of an ethnic or linguistic group, to use without hindrance the name of his group, to learn the language of this group and to use it in public or private life, to be taught in this language, as well as the right to cultural development together with other members of this group, without being subjected on that account to any discrimination whatsoever, and particularly such discrimination as might deprive him of the rights enjoyed by other citizens of the same State.”

15. The Sub-Commission on Prevention of Discrimination and Protection of Minorities proposed the following draft article (E/2256, annex II):

“Persons belonging to ethnic, religious or linguistic 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.”

16. The representative of Chile proposed to add the following clause (E/CN.4/L.261) at the beginning of the draft article submitted by the Sub-Commission:

“In those States in which ethnic, religious or linguistic minorities exist”.

17. The representative of Yugoslavia withdrew his proposal (E/CN.4/L.225) but submitted the following amendment (which was taken from his own proposal) to be added at the end of the draft article proposed by the Sub-Commission:

“without being subjected on that account to any discrimination whatever, and particularly such discrimination as might deprive them of the rights enjoyed by other citizens of the same State”.

18. The representative of Uruguay submitted the following text (E/CN.4/L.260) as the second paragraph of the draft article proposed by the Sub-Commission:

“Such rights may not be interpreted as entitling any group settled in the territory of a State, particularly under the terms of its immigration laws, to form within that State separate communities which might impair its national unity or its security.”

19. At its 371st meeting, the Commission voted on the proposal of the Soviet Union, the proposal of the Sub-Commission and the amendments thereto.

20. The proposal of the Soviet Union was rejected by 8 votes to 4, with 4 abstentions.

21. The Chilean amendment to the draft article of the Sub-Commission was adopted by 5 votes to one, with 10 abstentions. The Yugoslav amendment was rejected by 5 votes to 3, with 8 abstentions; the Uruguayan amendment was rejected by 7 votes to 5,

with 4 abstentions. It was agreed to give expression to these two amendments in the report.

22. The draft article proposed by the Sub-Commission, thus amended, was adopted as a whole by 12 votes to one, with 3 abstentions.

#### ARTICLE 10

23. The representative of France proposed the following article (E/2256, annex II; chapter III, paragraphs 57-58):

"1. All persons deprived of their liberty shall be treated with humanity.

"2. Accused persons shall not be subjected to the same treatment as convicted persons.

"3. The penitentiary system shall comprise treatment directed to the fullest possible extent towards the reformation and social rehabilitation of prisoners."

24. The representative of the United Kingdom proposed to amend paragraph 2 of the French proposal as follows (E/CN.4/L.262):

"2. Accused persons shall be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons."

This amendment was accepted by the representative of France.

25. The French proposal, thus amended, was adopted unanimously by the Commission at its 371st meeting.

#### ARTICLE 3

26. The representative of Chile proposed the following article (E/2256, annex II; chapter III, paragraphs 59-64):

"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."

27. To this proposal the representative of Sweden submitted the following amendment (E/CN.4/L.263): add at the end of the Chilean proposal "set forth in this Covenant".

28. At its 373rd meeting, the Commission by 10 votes to 7, adopted the Swedish amendment; and by 10 votes to 4, with 3 abstentions, adopted the article as amended. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.289) to replace the phrase in the French text "*en pleine égalité aux hommes et aux femmes le droit,*" by "*le droit égal des hommes et des femmes.*"

#### ARTICLE 17

29. The representative of the Philippines proposed the following draft article (E/2256, annex II; chapter III, paragraphs 65-71):

"No one shall be subjected to arbitrary or unlawful interference with his privacy, home or correspondence, nor to attacks on his honour and reputation."

30. The representative of the United States proposed to revise the Philippine draft article to read as follows (E/CN.4/L.265):

"1. No one shall be subjected to unreasonable interference by public authorities with his privacy, home or correspondence.

"2. The law shall provide appropriate remedies for unlawful interference by anyone with the pri-

vacancy, home, or correspondence of another, and for unwarranted attacks by anyone upon the honour or reputation of another."

31. The representative of Pakistan proposed to add the word "unreasonable" before the word "interference".

32. The representative of the Philippines proposed to add the word "unlawful" before the word "attacks" and requested a separate vote on it.

33. The representative of France submitted an amendment proposing the addition of the following sentence at the end of the Philippine text:

"Everyone has the right to the protection of the law against such interference or attacks."

34. At its 376th meeting, the Commission voted on the Philippine proposal and the amendments thereto. The representative of the United States withdrew his amendment. The Pakistani amendment was not adopted, the vote being 5 in favour, 5 against, with 6 abstentions; the Philippine amendment was adopted by 9 votes to none, with 6 abstentions; the French amendment was adopted by 13 votes to none, with 3 abstentions. The Philippine proposal, thus amended, was adopted as a whole by 12 votes to none, with 4 abstentions.

#### ARTICLE 26

35. The Sub-Commission on Prevention of Discrimination and Protection of Minorities proposed the following draft article (E/2256, annex II; chapter III, paragraphs 72-77):

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

36. The representative of Poland submitted the following amendments to this draft article (E/CN.4/L.269):

1. Replace the words "national, racial" by the words "national or racial exclusiveness, hatred and contempt".

2. Replace the words "that constitutes" by the words "particularly of such a nature as to constitute".

37. The representative of Chile submitted the following amendment (E/CN.4/L.270):

Insert the words "hatred and" before the word "violence".

The representative of Egypt submitted an amendment (E/CN.4/L.271), which was subsequently withdrawn, to add after the word "violence" the words "not aiming at the achievement or protection of the rights recognized in this Covenant".

38. At its 379th meeting, the Commission voted on the draft article and the amendments thereto. The first Polish amendment was rejected by 9 votes to 3, with 5 abstentions; the second Polish amendment was rejected by 11 votes to 3, with 3 abstentions; the Chilean amendment was adopted by 8 votes to 5, with 4 abstentions. The draft article, thus amended, was adopted as a whole in a roll-call vote by 11 votes (Chile, Egypt, France, India, Pakistan, Philippines, Poland, Ukrainian SSR, Soviet Union, Uruguay, Yugoslavia) to 3 (Australia, United Kingdom, United States of America), with 3 abstentions (Belgium, China, Sweden).

## ARTICLE 22

39. At its seventh session, the Commission on the Status of Women decided, on 19 March 1953, to recommend (E/CN.4/686) that the Economic and Social Council request the Commission on Human Rights to include in the Covenant on Civil and Political Rights article 16 of the Universal Declaration of Human Rights, which reads as follows (see chapter III, paragraphs 78-86) :

"1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

"2. Marriage shall be entered into only with the free and full consent of the intending spouses.

"3. The family is the natural and fundamental group unit of society and is entitled to the protection of society and the State."

40. To the proposal of the Commission on the Status of Women, the representative of the United Kingdom submitted the following amendment (E/CN.4/L.274) :

Substitute for the first sentence of paragraph 1 the following sentence:

"The right of men and women of full age to marry and to found a family shall be recognized."

41. The representative of Chile proposed the following amendments (E/CN.4/L.275) :

1. Revise the first sentence of paragraph 1 to read as follows: "Men and women of full age as determined by the law of each State have the right, without any limitation due to race, religion, nationality, social origin or wealth, to marry, found a family and enjoy the necessary safeguards and facilities established for that purpose by the law of each State."

2. Add the following sentence after the words "at its dissolution" in paragraph 1: "In the latter case the law shall lay down special measures for the protection of any children of the marriage."

3. Replace paragraph 3 by the following text:

"The States Parties to this Covenant, acknowledging the family to be the organic basis of society, therefore undertake to adopt legislative measures to provide the family with special and effective protection of such a nature as to promote its establishment and development and ensure the fulfilment of its functions."

42. The representative of the Philippines submitted the following amendments (E/CN.4/L.276) :

1. Amend the first sentence of paragraph 1 to read as follows: "Men and women of the full age fixed by law have the right to marry and found a family."

2. Amend paragraph 2 to read as follows: "No marriage shall be entered into without the free and full consent of the intending spouses."

3. Replace the words in paragraph 3 "is entitled to protection by society and the State" by "shall be protected by law".

43. The representative of France proposed the following draft article (E/CN.4/L.273) :

"1. The family, on which society is founded, is entitled to the fullest protection. Its basis is marriage, which must be entered into with the free consent of the intending spouses.

"2. Men and women of full age as determined by the law have the right to marry and to found a family.

"3. The legislation of the States Parties to this Covenant shall be directed towards:

"(a) The abolition of limitations due to the race, nationality or religion of the intending spouses; and

"(b) Equality of rights and responsibilities for the spouses as to marriage, during marriage and at its dissolution."

44. To the French draft proposal, the representative of Poland submitted the following verbal amendments:

1. Add the following sentence at the end of paragraph 2: "They are entitled to equal rights as to marriage, during marriage and at its dissolution".

2. Revise the expression in paragraph 3 "shall be directed towards" to "shall provide for".

45. At its 384th meeting, the Commission decided by 8 votes to 6, with 4 abstentions, to vote first on the proposal of the Commission on the Status of Women and the amendments thereto.

46. There were three amendments to the first sentence of paragraph 1 of the proposal of the Commission on the Status of Women, submitted respectively by the representatives of the United Kingdom, Chile and the Philippines. The United Kingdom amendment, being furthest removed in substance from the original proposal, was put to vote first; it was adopted by 8 votes to 6, with 4 abstentions. The Chilean and Philippine amendments were therefore not put to vote.

47. The second Chilean amendment—to add a sentence after the words "at its dissolution"—was adopted by 7 votes to 5, with 6 abstentions. The second sentence of paragraph 1 of the original proposal was put to a separate vote and was rejected by 9 votes to 7, with 2 abstentions; and the Chilean amendment thereto, although adopted, was thereby annulled.

48. A motion was made to annul the vote on the United Kingdom amendment which had become the adopted text of paragraph 1. The motion was rejected by 8 votes to 6, with 4 abstentions.

49. The Philippine amendment to paragraph 2 was adopted by 10 votes to none, with 8 abstentions.

50. There were two amendments to paragraph 3 submitted respectively by Chile and the Philippines. The Chilean amendment was rejected by 7 votes to 5, with 5 abstentions; the Philippine amendment was rejected by 7 votes to 6, with 5 abstentions.

51. The proposal of the Commission on the Status of Women, thus amended, was adopted by 12 votes to none, with 6 abstentions.

52. Thereupon the representative of France withdrew paragraphs 1, 2 and 3 (a) of his proposal and requested a vote on paragraph 3 (b). The question was raised as to whether the Commission should vote on the French proposal. By a vote of 8 to 5, with 5 abstentions, the Commission decided in the affirmative. To paragraph 3 of the French text the representative of Poland had submitted a verbal amendment which would replace the words "shall be directed towards" by "shall provide for". Before the voting on the French proposal began, the representatives of Yugoslavia and Chile submitted the following verbal amendment:

Insert as sub-paragraph (a) the following text: "(a) The abolition of limitations due to the race,

nationality, religion, social origin or wealth of the intending spouses”.

The Chilean representative further proposed to add the following sentence to paragraph 3 (b) after the words “at its dissolution”: “In the latter case the law shall lay down special measures for the protection of any children of the marriage”.

53. The Polish amendment was rejected by 9 votes to 6, with 2 abstentions; the joint Yugoslav-Chilean amendment was not adopted, the vote being 8 in favour, 8 against and one abstention; the Chilean amendment was adopted by 9 votes to 3, with 5 abstentions. The French proposal—paragraph 3 (b)—was adopted by 8 votes to 4, with 6 abstentions; the French proposal, as amended, was adopted by 9 votes to 2, with 5 abstentions.

54. The representative of France proposed that paragraph 3 of the proposal of the Commission on the Status of Women, as amended, should become paragraph 1, that paragraphs 1 and 2 should become paragraphs 2 and 3, and that the French proposal as amended should become paragraph 4 of the article. The text would then read as follows:

“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 full 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.”

55. The article as a whole, thus rearranged, was adopted by 10 votes to none, with 7 abstentions. Subsequently, the Commission accepted (E/CN.4/SR.409) the suggestions of the Rapporteur (E/CN.4/L.289) to change in the English and Russian text of paragraph 3 the words “full age” to “marriageable age”, and in the French text of paragraph 4 to replace the word “sont” by “seront”.

## B

### MEASURES OF IMPLEMENTATION OF THE COVENANT ON CIVIL AND POLITICAL RIGHTS<sup>1</sup>

#### 1. ARTICLES ADOPTED

##### ARTICLE 27

56. At its 346th meeting, the Commission discussed this article (see chapter III, paragraphs 89-95), the original text (article 33)<sup>2</sup> of which read as follows:

“1. With a view to the implementation of the provisions of the International Covenant on Human Rights, there shall be set up a Human Rights Com-

<sup>1</sup> The measures of implementation of the covenant on economic, social and cultural rights were not considered at the ninth session.

<sup>2</sup> Throughout this section the numbers of the articles and paragraphs thereof referred to are those of the articles contained in the report of the eighth session (E/2256, annex I, section D, part IV), except for the number of the articles in the headings which refer to the draft covenant on civil and political rights, part IV, annex I, section B of this report.

mittee, hereinafter referred to as ‘the Committee’, composed of nine members with 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 capacities.”

57. The representative of the United Kingdom submitted an amendment to paragraph 1 (E/CN.4/L.226 and Corr.1, in French only) reading as follows:

“There shall be established a Human Rights Committee (hereinafter referred to as ‘the Committee’). It shall consist of seven members and shall carry out the functions hereinafter provided.”

58. The proposal that the Human Rights Committee should consist of seven members was rejected by 14 votes to 4, and the Commission decided by 11 votes to 2, with 5 abstentions, that the Committee shall consist of nine members as provided in the original draft of the article. The amendment of the United Kingdom, with the word “nine” instead of the word “seven”, was then adopted by 9 votes to none, with 9 abstentions.

59. The article as a whole, as amended, was adopted by 15 votes to 3. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestions of the Rapporteur (E/CN.4/L.264) to replace in the French text of paragraph 2 the words “*les matières concernant les*” by the words “*le domaine des*” and in the English text of paragraph 3 to replace the word “capacities” by the word “capacity”.

##### ARTICLE 28

60. This article was discussed at the 346th, 351st and 352nd meetings. The original text (article 34) read as follows:

“1. The members of the Committee shall be elected from a list of persons possessing the qualifications prescribed in article 33 and specially nominated for that purpose by the States Parties to the Covenant.

“2. Each State 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. Nominations shall remain valid until new nominations are made for the purpose of the next election under article 39. A person shall be eligible to be renominated.”

61. Amendments to paragraph 2 of the article were submitted by the representatives of Australia (E/CN.4/L.228)<sup>3</sup> and of the United States of America (E/CN.4/L.229),<sup>4</sup> but were subsequently withdrawn.

62. The original text was adopted at the 346th meeting by 15 votes to 3.

<sup>3</sup> The amendment proposed that the first sentence of the second paragraph should read as follows: “Each State may nominate not more than four persons.”

<sup>4</sup> The amendment proposed that paragraph 2 should read as follows: “Each State shall nominate at least two and not more than four persons. These persons shall be nationals of States Parties to the Covenant.”

63. At the 351st meeting, after considering article 42, the Commission decided by 12 votes to none, with 6 abstentions, to reopen the discussion on this article. At the 352nd meeting, the Commission adopted by 9 votes to 2, with 6 abstentions, a United Kingdom amendment (E/CN.4/L.227) to delete the first sentence of paragraph 3.

64. This article as a whole, as amended, was then adopted by 13 votes to 3, with 2 abstentions. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264) to omit from paragraph 1 of the English text the word "especially" and to delete the first sentence of paragraph 3 from both the English and French texts.

#### ARTICLE 29, PARAGRAPH 1

65. This provision was discussed at the 352nd meeting. The original article (article 35) read as follows:

"At least three months before the date of each election to the Committee, the Secretary-General of the United Nations shall address a written request to the States Parties to the Covenant inviting them, if they have not already submitted their nominations, to submit them within two months."

66. The representative of the United Kingdom submitted two amendments (E/CN.4/L.227) to this text. The first was to insert after "Committee" the words "other than an election to fill a vacancy declared in accordance with article 40"; this was adopted by 14 votes to 3. The second amendment was to delete the words "if they have not already submitted their nominations"; this was adopted by 12 votes to none, with 4 abstentions.

67. The article as a whole, as amended, was adopted by 15 votes to 3. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestions of the Rapporteur (E/CN.4/L.264) to insert in the French text the words "*au moins*" after the words "*trois mois*" and to insert in the English text the word "an" before the word "election".

#### ARTICLE 29, PARAGRAPH 2

68. At the 347th meeting the Commission took up the consideration of this provision (see chapter III, paragraphs 96-100), the original text (article 36) of which read as follows:

"The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, and submit it to the International Court of Justice and to the States Parties to the Covenant."

69. An amendment was submitted by the representative of Yugoslavia (E/CN.4/L.232) to replace the words "to the International Court of Justice" by "to the General Assembly of the United Nations".

70. By 10 votes to 4, with 4 abstentions, the Commission rejected the proposal of the representative of the Soviet Union that it should vote on the prior question whether the members of the Committee should be elected by the General Assembly or the International Court of Justice.

71. The Commission then rejected the Yugoslav amendment by 9 votes to 5, with 4 abstentions, and adopted the original text by 10 votes to 8. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestions of the Rapporteur (E/CN.4/L.264) to insert in the English text the word "shall" before the word

"submit", and to revise the first part of the French text to read "*Le Secrétaire général des Nations Unies dresse la liste alphabétique de toutes les personnes ainsi présentées et la communique...*"

#### ARTICLE 29, PARAGRAPH 3

72. At its 348th meeting the Commission discussed this provision, the original text (article 37) of which read:

"1. The Secretary-General of the United Nations, on behalf of the States Parties to the Covenant, shall request the International Court of Justice to elect the members of the Committee from the list referred to in article 36 and in accordance with the conditions set out below.

"2. On receipt of the list from the Secretary-General of the United Nations, the President of the International Court of Justice shall fix the time of elections for members of the Committee."

73. The representative of Belgium submitted an amendment (E/CN.4/SR.348) whereby the whole article would be replaced by the following text:

"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 article 36 and in accordance with the conditions set out in the Covenant."

74. The Commission adopted the new text for the article, submitted by the representative of Belgium, by 8 votes to 7, with 3 abstentions. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264) to insert the words "this part of" between the words "in" and "the Covenant" at the end of the article.

#### ARTICLE 30

75. At its 348th meeting the Commission discussed this article (see chapter III, paragraphs 101-106), the original text (article 38) of which read:

"1. No more than one national of any State may be a member of the Committee at any time.

"2. In the election of the Committee consideration shall be given to equitable geographical distribution of membership and to the representation of the main forms of civilization. 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 Court.

"3. The quorum of nine laid down in Article 25, paragraph 3, of the Statute of the Court shall apply for the holding of the elections by the Court."

76. Amendments to paragraph 2 were submitted by the representative of the United Kingdom (E/CN.4/L.227) and the representative of Chile (E/CN.4/L.237).

77. The amendment submitted by the representative of the United Kingdom proposed the addition of the words "present and voting" at the end of paragraph 2, but in its revised form the amendment omitted the words "and voting". This amendment was rejected by 8 votes to 7, with 3 abstentions.

78. The representative of Chile submitted an amendment to substitute the words "the different forms and degrees of civilization" for the words "the main forms of civilization" in the first sentence of paragraph 2. The Commission rejected the words "and degrees"

by 7 votes to 3, with 5 abstentions. The word "different" was substituted for the word "main" by 10 votes to none, with 8 abstentions.

79. The article as a whole was adopted, as amended, by 8 votes to 4, with 6 abstentions. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestions of the Rapporteur (E/CN.4/L.264) to replace in the French text of paragraph 1 the words "*de chaque*" by the words "*d'un même*"; to revise paragraph 1 of the English text to read "The Committee may not include more than one national of the same State", and to omit the words "of nine" in paragraph 3 of the English text.

#### ARTICLE 31

80. At its 349th and 352nd meetings the Commission discussed this article (see chapter III, paragraphs 113-116), the original text (Article 39) of which read:

"The members of the Committee shall be elected for a term of five years and shall be eligible for re-election. 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 the members whose terms expire at the end of the initial period of two years shall be chosen by lot by the President of the International Court of Justice."

81. The representative of Yugoslavia submitted an amendment (E/CN.4/L.232/Rev.1) proposing the deletion of the words "and be eligible for re-election" at the end of the first sentence of the article. An amendment to this text was submitted by the representative of Uruguay (E/CN.4/L.241)<sup>5</sup> but was subsequently withdrawn. The Yugoslav amendment was rejected by 10 votes to 4, with 4 abstentions.<sup>6</sup>

82. An amendment submitted by the representative of the United Kingdom (E/CN.4/L.227) to insert the words "if re-nominated" after the word "re-election" was adopted by 8 votes to none, with 10 abstentions. By 13 votes to none, with 4 abstentions, the Commission also decided to add a new paragraph, proposed by the representative of the United Kingdom, reading as follows:

"Elections at the expiry of terms of office shall be held in accordance with the preceding articles of this part of this Covenant."

83. The article as a whole, as amended, was adopted by 12 votes to 3, with 2 abstentions. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264) that the first sentence of paragraph 1 in both the English and the French texts should be divided into two, the second sentence beginning "They shall be eligible for re-election". The Commission also accepted the suggestion that the third sentence of the English text should read "immediately after the first election, the names of these five members shall be chosen by lot by the

<sup>5</sup> The amendment proposed that the first sentence should read: "The members of the Committee shall be elected for a term of five years; retiring members re-nominated by the State which previously nominated them shall not be eligible for immediate re-election."

<sup>6</sup> As a consequence of this vote, the representative of Yugoslavia withdrew another amendment which provided for the addition of the following paragraph:

"Candidates nominated by States from whose list the retiring members have been selected may not be elected for the succeeding five-year period at the elections held to fill seats vacated by members of the Committee whose terms of office have duly expired under the provisions of this article."

President of the International Court of Justice". It also decided to replace the full stop after "of two years" by a semi-colon in both the English and French texts.

#### ARTICLE 33

84. At its 349th and 351st meetings the Commission discussed this article (see chapter III, paragraphs 117-119) the original text (article 40) of which read as follows:

"1. Should a vacancy arise, the provisions of Articles 35, 36, 37 and 38 shall apply to the election.

"2. A member of the Committee elected to fill a vacancy shall, if his predecessor's term of office has not expired, hold office for the remainder of that term."

85. Amendments to the article were submitted by the representative of the United Kingdom (E/CN.4/L.227). Subsequently a new draft of the United Kingdom amendment was proposed by a working group consisting of the representatives of the United Kingdom, France and Belgium (E/CN.4/L.242).

86. The amendment submitted by the working group to paragraph 1 read as follows:

"When a vacancy is declared in accordance with article 42, the Secretary-General of the United Nations shall notify each State Party to the Covenant, which may, if it so desires, submit within one month, with a view to election to the vacant seat on the Committee, two names of properly qualified persons in addition to the nominations already made in accordance with paragraph 3 of article 34."

To this there was an amendment proposed by the representative of Egypt (E/CN.4/SR.351) to the effect that the last part of the paragraph be amended to read: "...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 nominations to four persons." The Egyptian amendment was adopted by 6 votes to none, with 12 abstentions, and paragraph 1 of the amendment submitted by the working group, as amended, was adopted by 7 votes to none, with 11 abstentions.

87. The next amendment proposed by the working group was the addition of a new paragraph, between paragraphs 1 and 2 of the article, reading as follows:

"The Secretary-General shall prepare a list in alphabetical order of the persons nominated in accordance with paragraph 1 above and with paragraph 3 of article 34 and shall submit it to the International Court of Justice and the States Parties. The election for the vacancy shall then proceed in accordance with articles 37 and 38."

This amendment was adopted by 8 votes to 1, with 9 abstentions.

88. The working group proposed that the following sentence should be added to the second paragraph of the original text: "Provided that if such term of office will expire within six months after declaration of the vacancy in accordance with article 42, no nomination shall be requested and no election shall be held to fill that vacancy." This amendment was adopted by 14 votes to none, with 4 abstentions, and the paragraph, as amended, which became paragraph 3 of the article, was also adopted by 14 votes to none, with 4 abstentions.

89. The article as a whole, as amended, was adopted by 6 votes to 3, with 9 abstentions. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264) to delete the words "in accordance with paragraph 1 above and with paragraph 3 of article 34", to insert the word "those" between "persons" and "nominated" and to insert "to the Covenant" in the English text after "States Parties". The Commission also accepted the suggestion that in paragraph 3 of the English text the first sentence should be revised to read: "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", and in the last sentence of paragraph 3 in the French text to replace "*aura*" by "*a*" following "*la vacance*", and to revise the end of the sentence to read "*ne seront pas priés de procéder à une présentation et il n'y aura pas d'élection pour pourvoir à la vacance*".

#### ARTICLE 34

90. This article was discussed at the 352nd and 353rd meetings (see chapter III, paragraphs 126-128). The original text (article 41) read as follows:

"A member of the Committee shall remain in office until his 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 that case."

91. An amendment submitted by the representative of the United Kingdom (E/CN.4/L.227) proposing that the first part of the article should read "Subject to the provisions of article 42, a member of the Committee shall remain in office until a successor has been elected", was adopted by 14 votes to none, with 3 abstentions.

92. An amendment submitted by the representative of India (E/CN.4/L.234/Rev.1) to substitute for the rest of the text of the article the following: "If when a case is pending a member ceases to hold office, the case shall be continued by the remaining members of the Committee and the successor of the member who has ceased to be a member" was rejected by 8 votes to 4, with 5 abstentions.

93. The Commission adopted by 9 votes to 6, with 2 abstentions, another amendment proposed by the representative of the United Kingdom (E/CN.4/L.227) to add the following new paragraph to the article:

"A member of the Committee elected to fill a vacancy declared in accordance with article 42 shall not act in any case in which his predecessor has acted, unless the quorum provided in article 47 cannot be obtained."

94. The article as a whole, as amended, was adopted by 11 votes to 5, with 1 abstention. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestions of the Rapporteur (E/CN.4/L.264) to substitute in paragraph 1 the word "a" for the word "his" and in the English text, the words "in it" for the words "in that case" at the end of the paragraph.

#### ARTICLE 32

95. At its 352nd meeting, the Commission discussed this article (see chapter III, paragraphs 120-125), the original text (article 42) of which read as follows:

"The resignation of a member of the Committee shall be addressed to the Chairman of the Committee through the Secretary of the Committee who shall immediately notify the Secretary-General of the United Nations and the International Court of Justice."

96. Amendments to the article were submitted by the representative of the United Kingdom (E/CN.4/L.227) who proposed a new substitute text in two paragraphs for the whole article.<sup>7</sup>

97. The Commission adopted by 12 votes to none, with 6 abstentions, as paragraph 1 of the article the following revised text of the United Kingdom amendment:

"If such a member of the Committee has, in the unanimous opinion of the other members, ceased, for any cause other than absence of a temporary character, to carry out his functions, 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."

98. By 14 votes to none, with 4 abstentions, the Commission also adopted as paragraph 2 the following revised amendment of the United Kingdom:

"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 then declare the seat of such member to be vacant from the date of death or the date on which the resignation takes effect."

99. The article as a whole, as amended, was adopted by 12 votes to 3, with 3 abstentions. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264) to revise the beginning of paragraph 1 to read "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..."

#### ARTICLE 36, PARAGRAPHS 1 AND 2

100. At its 354th meeting the Commission discussed these provisions (see chapter III, paragraphs 131-133), the original text (article 44) of which read as follows:

"1. The Secretary of the Committee shall be appointed by the International Court of Justice from a list of three names submitted by the Committee.

"2. The candidate obtaining the largest number of votes and an absolute majority of the votes of all the members of the Court shall be declared elected.

"3. The quorum of nine laid down in article 25, paragraph 3, of the Statute of the Court shall apply for the holding of the election by the Court."

101. By 10 votes to 5, with 1 abstention, the Commission rejected an amendment submitted by the representative of the United Kingdom (E/CN.4/L.227) to have paragraph 1 of the article read:

<sup>7</sup> "1. If by reason of death, illness or any other cause, other than absence of a temporary character, a member of the Committee ceases to carry out his duties, 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. If a member of the Committee resigns his seat on the Committee the Chairman shall immediately notify the Secretary-General who shall declare the seat vacant from the date on which such resignation takes effect."

"The Secretary of the Committee shall be appointed by the Secretary-General of the United Nations."

The second part of the amendment, which proposed to add the words "from among the senior staff of the Secretariat", was consequently not voted upon.

102. By 8 votes to none, with 9 abstentions, the Commission adopted an amendment to paragraph 1 submitted by the representative of Yugoslavia (E/CN.4/L.232) as follows:

"The Secretary of the Committee shall be a high official of the United Nations, appointed by the Committee from a list of three names submitted by the Secretary-General of the United Nations."

103. The Commission, on the proposal of the representative of the Philippines, voted separately on the deletion from paragraph 2 of the words "the largest number of votes and", the vote being 2 in favour, 2 against, with 12 abstentions.

104. An amendment by the representative of Yugoslavia to replace the words in paragraph 2 "of the Court" by the words "of the Committee", was adopted by 9 votes to 1, with 6 abstentions.

105. The Commission also adopted, by 14 votes to none, with 3 abstentions, another amendment submitted by the representative of Yugoslavia, to delete paragraph 3.

106. The article as a whole, as amended, was adopted by 10 votes to 3, with 4 abstentions. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestions of the Rapporteur (E/CN.4/L.264) to replace in both the English and the French texts the words "appointed" and "*désigne*" by the words "elected" and "*élu*" and to change the words "*un des hauts fonctionnaires*" in the French text to "*un haut fonctionnaire*".

#### ARTICLE 37, PARAGRAPH 1

107. At its 354th meeting, the Commission discussed this provision, the original text (article 45) of which read as follows:

"The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations."

108. The original text was adopted by 14 votes to 3.

#### ARTICLE 38

109. At its 354th meeting, the Commission considered (see chapter III, paragraph 129) a proposal for an additional article (E/CN.4/L.238) submitted by the representative of the Philippines, which read as follows:

"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."

110. The proposed article was adopted by 14 votes to 3. Without any objection, the Commission decided that this article should be placed between articles 45 and 46 of the articles relating to measures of implementation.

#### ARTICLE 39, PARAGRAPH 1

111. At its 354th meeting, the Commission discussed this provision, the original text (article 46) of which read as follows:

"The Committee shall, at its initial meeting, elect its Chairman and Vice-Chairman for the period of one year."

112. The representative of the United Kingdom, who had submitted an amendment (E/CN.4/L.227)<sup>8</sup> to this article, withdrew his amendment in favour of an amendment proposed by the representative of Australia. The Australian amendment (E/CN.4/SR.354) read as follows:

"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."

The part of the amendment ending with the words "one year" was adopted by 14 votes to none, with 3 abstentions, the next part ending with the word "re-elected" was adopted by the same vote, and the second sentence of the amendment was also adopted by the same vote.

113. The article as a whole, as amended, was adopted by 14 votes to 3. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264) to replace in the French text the words "*lors de*" by the word "*à*".

#### ARTICLE 39, PARAGRAPH 2

114. At its 387th meeting, the Commission discussed this provision (see chapter III, paragraphs 177-179), the original text (article 47) of which read:

"The Committee shall establish its own rules of procedure, but these rules shall provide that:

"(a) Seven members shall constitute a quorum;

"(b) The work of the Committee shall proceed by a majority vote of the members present; in the event of an equality of votes the Chairman shall have a casting vote;

"(c) All States Parties to the Covenant having an interest in any matter referred to the Committee under article 52 shall have the right to make submissions to the Committee in writing.

"The States referred to in article 52 shall further have the right to be represented at the hearings of the Committee and to make submissions orally.

"(d) The Committee shall hold hearings and other meetings in closed session."

115. *Opening phrase and paragraph (c)*. An amendment by the United Kingdom (E/CN.4/L.227) to insert after the word "provide" the words "*inter alia*" in the opening phrase of the article was adopted by 12 votes to none, with 4 abstentions. Another amendment by the United Kingdom was to substitute for paragraph (c) the following text:

"(c) If a State refers a matter to the Committee under article 52 (i) Such State, the State complained against, and any State Party to this Covenant whose national is concerned in such a 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."

Sub-paragraph (i) was adopted by 10 votes to 3, with 3 abstentions; sub-paragraph (ii) was adopted by 11 votes to none, with 5 abstentions, and the amendment

<sup>8</sup> This amendment proposed the addition of the words, "; they may be re-elected", at the end of the article.

as a whole was adopted by 8 votes to 3, with 5 abstentions.

116. *Paragraph (d)*. The representative of Belgium submitted an amendment (E/CN.4/L.245) to substitute for paragraph (d) the following text:

“The Committee shall hold all meetings in closed session.”

At the 387th meeting, he indicated that if the United Kingdom amendment, which specifically referred to hearings, was adopted he would withdraw his proposal. As the Commission adopted the United Kingdom proposal the Belgian amendment was withdrawn.

117. The article as a whole, as amended, was adopted by 11 votes to 3, with 2 abstentions. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264/Add.1) to revise paragraph (b) to read:

“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.”

#### ARTICLE 37, PARAGRAPHS 2 AND 3

118. At its 354th meeting the Commission discussed these provisions, the original text (article 48) of which read:

“1. 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 52;

“(c) When convened by its Chairman or at the request of not less than five of its members.

“2. The Committee shall meet at the permanent Headquarters of the United Nations or at Geneva.”

119. The Commission voted on the original text; paragraph 1 was adopted by 13 votes to none, with 4 abstentions, paragraph 2 was adopted by 14 votes to none, with 3 abstentions, and the article as a whole was adopted by 14 votes to 3. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264) to change in the French text of paragraph 2 the words “*ses réunions*” to “*les réunions du Comité*” and to add, in the French text of paragraph 1 (c), the words “*au moins*” after “*cinq*”.

#### ARTICLE 35

120. At its 355th meeting, the Commission discussed this article (see chapter III, paragraphs 140-142), the original text (article 50) of which read:

“The members and the Secretary of the Committee shall receive emoluments commensurate with the importance and responsibilities of their office.”

121. An amendment submitted by the representative of the United Kingdom (E/CN.4/L.240), which was subsequently revised to include a suggestion of the representative of Belgium, was as follows:

“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 commensurate with the importance and responsibilities of the Committee.”

This was adopted by 13 votes to 3, with 1 abstention.

122. The article as a whole, as amended, was adopted by 14 votes to 3. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264) to revise the English text at the end of the article to read “decide, having regard to the importance of the Committee’s responsibilities.”

#### ARTICLE 36, PARAGRAPH 3

123. At its 355th meeting, the Commission discussed this provision (see chapter III, paragraphs 137-139) the original text (article 51) of which read:

“The Secretary-General of the United Nations shall provide the necessary staff and facilities for the Committee and its members.”

124. An amendment submitted by the representative of Yugoslavia (E/CN.4/L.232), subsequently revised to include a suggestion by the representative of Belgium, read as follows:

“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.”

This amendment was adopted by 14 votes to 3.

125. The article as a whole, as amended, was adopted by 14 votes to 3.

#### ARTICLE 40

126. During the 355th to 362nd meetings, the Commission discussed this article (see chapter III, paragraphs 143-167), the original text (article 52) of which read:

“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 communicating 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 54 below, in serious cases where human life is endangered the Committee may, at the request of a State Party to the Covenant referred to in paragraph 1 of this article, deal forthwith with the case on receipt of the initial communication and after notifying the State concerned.”

127. An amendment was submitted by the representative of Belgium (E/CN.4/L.244) proposing a

substitute text<sup>9</sup> for the whole of the article. A motion to consider the Belgian amendment as an alternative proposal to be voted on after the consideration of the original text and amendments thereto was not adopted by the Commission, the vote being 6 in favour, 6 against, with 6 abstentions (E/CN.4/SR.361). The Belgian text was consequently considered as amendments to the various paragraphs of the original article.

128. *Paragraph 1 of the article*—An amendment by the representative of France (E/CN.4/L.235/Rev.1) to insert after the words “provision of the Covenant” the words “other than those of article 1” was rejected by the Commission in a roll-call vote by 10 votes (Chile, Egypt, India, Lebanon, Pakistan, Philippines, Poland, Ukrainian SSR, USSR, Yugoslavia) to 5 (Australia, Belgium, France, Sweden, United Kingdom), with 3 (China, United States of America, Uruguay) abstentions. The Commission also rejected by 10 votes to 4, with 4 abstentions, a Belgian amendment to replace, in the first sentence, the words “of that State” by the words “of the Committee” (E/CN.4/SR.361). The rest of the amendment of Belgium to paragraph 1 and to paragraph 2 was consequently withdrawn. The original text of paragraph 1 was then adopted by 13 votes to none, with 5 abstentions.

129. *Paragraph 2 of the article*—There were no amendments to this paragraph and the original text was adopted by 15 votes to none, with 3 abstentions.

130. *Paragraph 3 of the article*—By 7 votes to 4, with 7 abstentions, the Commission adopted (E/CN.4/SR.361) an amendment submitted by the representative of Chile (E/CN.4/L.246) to add the words “and urgent” before the word “cases” and to delete the words “where human life is endangered”. The Commission also adopted by 11 votes to 7, a revised amendment submitted by the representative of the United Kingdom (E/CN.4/L.227 and E/CN.4/SR.361) to substitute for the words “deal forthwith with the case on receipt of the initial communication” the words “deal expeditiously with the matter on receipt of that request in accordance with the powers conferred on it by this part of the Covenant”. Paragraph 3 as amended was adopted by 11 votes to none, with 7 abstentions.

<sup>9</sup> “1. If a State Party to the Covenant considers that another State Party is not giving effect to the provisions of article 2 and subsequent articles of the Covenant it may, by written communication, bring the matter to the attention of the Committee.

“The Committee shall then be required to approach the State impugned with a view to clarifying the issue. The Committee may seek to reach a settlement it considers reasonable by semi-official negotiations with the government of the State accused. The Committee shall inform the communicating State of the results of its intervention.

“If the communicating State then considers that it should make a formal charge of violation of the Covenant, the Committee shall act as a conciliating organ.

“2. The Committee may receive, for information, petitions from persons under the jurisdiction of a State Party to the Covenant who complain that they are victims of violation by that State of the provisions of article 2 and subsequent articles of the Covenant.

“The Committee may, if it sees fit, approach the impugned State in order to clarify the issue and may endeavour to reach a settlement it considers reasonable by semi-official negotiations with the government of that State.

“When the issue has been clarified and the results of the Committee’s intervention communicated to the States Parties to the Covenant, if one or more of those States considers that it should make a formal charge of violation of the Covenant, the Committee shall act as a conciliating organ.

“3. Should it be convinced of the final failure of its attempts at conciliation, the Committee shall draw up a report which the Secretary-General shall transmit to all the Members of the United Nations.”

#### *Amendments for inclusion of additional paragraphs*

131. Amendments for the inclusion of additional paragraphs were submitted by the representatives of India (E/CN.4/L.231),<sup>10</sup> Belgium (E/CN.4/L.244)<sup>11</sup> and Chile (E/CN.4/L.246).<sup>12</sup> Subsequently the representatives of Chile and India submitted a joint amendment (E/CN.4/L.252/Rev.1), to which an amendment was submitted by the representative of Uruguay (E/CN.4/L.254).

132. At the 362nd meeting, the Commission rejected by 8 votes to 7, with 3 abstentions, the amendment of Chile and India to add a new paragraph 4 reading as follows:

“The Committee shall also have the right to take the initiative in cases where it recognizes that non-observance of any provisions of this Covenant is serious enough”.

133. Chile and India proposed the addition of a new paragraph 5 reading as follows:

“The Committee shall have the right to receive and consider communications concerning the non-observance of any provision by States Parties to the Covenant from

<sup>10</sup> The amendment proposed the inclusion of the following new paragraphs:

“4. In addition to the right of States Parties to the Covenant to initiate proceedings affecting the non-observance of any provisions of the Covenant, the Committee shall have the right also to initiate proceedings in cases where it concludes that non-observance is serious enough to justify international action by the United Nations.

“5. The Committee shall have the right to receive and consider communications concerning the non-observance of any provision by States Parties to the Covenant from:

“(a) Non-governmental organizations in consultative relationship with the Economic and Social Council;

“(b) Groups of individuals;

“(c) Individuals.

“6. The Committee shall adopt rules concerning the admissibility of communications referred to in paragraph 5 of this article.”

<sup>11</sup> The amendment proposed consisted of paragraph 2 of the Belgian amendment, the text of which will be found in footnote 9 of this annex.

<sup>12</sup> The amendment proposed the inclusion of the following new paragraphs:

“4. If the Committee considers by a unanimous decision of the members present, that action by it is called for in the event of a State Party to the Covenant not applying its provisions, the Committee may invite the said State in writing to consider the question, and subject to its consent, request it to supply such information as it thinks fit within a reasonable time. The Committee may prepare a report on the question and submit it to the State concerned and to the Secretary-General of the United Nations.

“5. The Committee shall have the right to receive and consider communications relating to the failure by any State Party to the Covenant to apply its provisions from:

“(a) Non-governmental organizations with consultative status with the Economic and Social Council of the United Nations, included in a list to be approved annually for the purposes of the present Article by two-thirds of the States Parties to the present Covenant, at a special meeting of the representatives of such States convened by the Secretary-General of the United Nations;

“(b) Persons or groups of persons who, at the time of the alleged violation, are under the jurisdiction of a State Party to the present Covenant provided they have obtained the support of one of the non-governmental organizations defined under (a) above.

“6. The Committee shall adopt rules as to the admissibility, examination and final acceptance of the communications referred to in paragraph 5 of the present Article. The rules in question shall be approved by two-thirds of the States Parties to the present Covenant at a special meeting convened by the Secretary-General of the United Nations.”

“(a) Non-governmental organizations in consultative relationship with the Economic and Social Council;

“(b) Groups of individuals and individuals having obtained the support of one of the non-governmental organizations referred to in sub-paragraph (a) above”.

134. The amendment of Uruguay to sub-paragraph (b) of the joint amendment read as follows (E/CN.4/SR.362):

“Groups of individuals and individuals directly, if they so desire, or through one of the non-governmental organizations referred to in sub-paragraph (a) above”.

It was decided by 7 votes to 4, with 7 abstentions, to include the words “who are injured parties” after the words “groups of individuals and individuals”, as proposed by the representative of Belgium. The words “directly, if they so desire, or” were rejected by 6 votes to 5, with 7 abstentions, and the words “through one of the non-governmental organizations referred to in sub-paragraph (a) above” were adopted by 5 votes to 4, with 9 abstentions. Sub-paragraph (b) of the amendment of Chile and India, as amended by the amendments of Uruguay and Belgium, read as follows:

“(b) Groups of individuals and individuals, who are injured parties, through one of the non-governmental organizations referred to in sub-paragraph (a) above”.

135. Sub-paragraph (a) of the amendment of Chile and India was not adopted, the vote being 7 in favour, 7 against, with 4 abstentions. Sub-paragraph (b), as amended, was rejected by 9 votes to 7, with 2 abstentions. As a consequence of these votes the representatives of Chile and India withdrew their amendment to add a new paragraph 6 reading as follows:

“The Committee shall determine the rules concerning the receivability of communications referred to in paragraph 5 above and obtain the approval of the States Parties to the Covenant regarding these rules.”

136. A revised amendment (E/CN.4/SR.362) for an additional paragraph, submitted by the representative of Belgium, was then voted upon. The text of the amendment was:

“The Committee may receive, for information, petitions from persons who complain that they are victims of violation by a State Party to the Covenant of the provisions of this Covenant.”

An amendment by the representative of China (E/CN.4/SR.362) to add the words “under the jurisdiction of a State Party to the Covenant” after the words “petitions from persons” was rejected by 4 votes to 1, with 13 abstentions. The revised amendment of Belgium was rejected by 8 votes to 6, with 4 abstentions. As a consequence of this vote, the rest of the Belgian amendment was withdrawn.

137. After the various votes, the Commission had before it the three paragraphs of the original article, as amended, and these paragraphs, comprising the whole article, were adopted by 14 votes to 3, with 1 abstention. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264): to replace in the English text of paragraph 1 the words “communicating State” by “complaining State”, and to revise the last clause of the second sentence of the French text of paragraph 1

to read “*des indications sur ses règles de procédure et sur les moyens de recours, soit déjà utilisés, soit en instance, soit encore ouverts*”; to insert in paragraph 2 of the French text the words “*par l'Etat destinataire*” after “*communication originale*”; to replace in both the English and French texts of paragraph 3 the expression “a State Party to the Covenant referred to in paragraph 1 of this Article” by “the complaining State”, and to change the end of the English text of this paragraph to read “States concerned”.

#### ARTICLE 41

138. At its 387th meeting, the Commission discussed this article, the original text (article 54) of which read:

“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.”

139. No amendment was submitted and the original text of the article was adopted by 13 votes to 3.

#### ARTICLE 42

140. At its 388th meeting, the Commission discussed this article (see chapter III, paragraphs 185-189), the original text (article 55) of which read:

“In any matter referred to it the Committee may call upon the States concerned to supply any relevant information.”

141. *Additional paragraph*—The representatives of Egypt and the Philippines submitted an amendment to add a new paragraph (E/CN.4/L.248) to the article. The representative of Chile presented an amendment (E/CN.4/L.280) to this amendment which was accepted by Egypt and the Philippines. The revised joint amendment read as follows (E/CN.4/SR.388):

“If the Committee considers that the information supplied is not sufficient it may, by a vote of two thirds of all its members, conduct an enquiry within the metropolitan area or Non-Self-Governing Territory of any State complained against. The State concerned shall afford full facilities necessary for the efficient conduct of the investigation.”

The amendment was rejected in a roll-call vote by 9 votes (Australia, Belgium, France, Poland, Sweden, Ukrainian SSR, United Kingdom, United States of America, USSR) to 5 (Chile, China, Egypt, Philippines, Uruguay), with 1 abstention (Yugoslavia).

142. The original text was then adopted as the article by 12 votes to 3. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.269/Add.1) to revise the end of the French text to read “... *de lui fournir toute information pertinente*”.

#### ARTICLE 44

143. At its 388th meeting, the Commission discussed this article, the original text (article 56) of which read:

“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.”

144. The original text of the article was adopted by 11 votes to 3, with 1 abstention.

#### ARTICLE 43

145. At its 388th meeting the Commission discussed this article (see chapter III, paragraphs 190-191), the original text (article 57) of which read:

"1. Subject to the provisions of article 54, 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 52, 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. The Committee shall complete its report as promptly as possible, particularly when requested by one of the States Parties where human life is endangered.

"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 state in its report its conclusions on the facts and attach thereto the statements made by the Parties to the case."

146. *Paragraphs 1 and 2*—Paragraph 1 of the original text was adopted by 13 votes to 3. An amendment submitted by the representative of Belgium (E/CN.4/L.245) to delete the last sentence of paragraph 2 was adopted by 8 votes to none, with 8 abstentions, and the paragraph as amended was adopted by 13 votes to 3.

147. *Paragraph 3*—The representative of the United Kingdom submitted an amendment (E/CN.4/L.227) which would replace the second sentence of paragraph 3 by the following:

"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 representative of France proposed (E/CN.4/L.236) to amend the United Kingdom amendment by adding the following:

"The written and oral submissions made by the Parties to the case in accordance with article 47, paragraph (c), shall be attached to the report."

The French amendment was adopted by 11 votes to none, with 5 abstentions, and the United Kingdom amendment, thus amended, was adopted by 13 votes to none, with 3 abstentions. Paragraph 3, as amended, was adopted by 13 votes to none, with 3 abstentions.

148. The article as a whole, as amended, was adopted by 13 votes to 3. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264/Add.1) to replace in the French text of paragraph 1 the words "*une solution amicale*" by "*une solution amiable*"; to replace the words in para-

graph 2 of the French text "*si la solution*" by "*si une solution*".

#### ARTICLE 45

149. At its 389th meeting, the Commission discussed this article (see chapter III, paragraphs 195-197), the original text (article 58) of which read:

"The Committee shall submit to the General Assembly, through the Secretary-General, an annual report of its activities."

150. The representative of the United Kingdom proposed (E/CN.4/L.227) to delete this article. The proposal was rejected by 12 votes to 5, with 1 abstention.

151. The original text of the article was adopted by 12 votes to 5, with 1 abstention. Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264/Add.1) to replace in the English text the word "of" by "on".

#### ARTICLE 47

152. At its 389th meeting, the Commission discussed this article (see chapter III, paragraphs 198-200), the original text (article 59) of which read:

"The States Parties to this Covenant agree not to submit, by way of petition, to the International Court of Justice, except by special agreement, any dispute arising out of the interpretation or application of the Covenant in a matter within the competence of the Committee."

153. The representative of Belgium, who had proposed the deletion of the article (E/CN.4/L.245), or, alternatively, the substitution of the word "renounce" for the word "agree", submitted a revised amendment (E/CN.4/SR.389) to substitute the following text: "The provisions of this Covenant shall not prevent States Parties to this Covenant from submitting to the International Court of Justice any dispute" for the text: "The States Parties to this Covenant agree not to submit, by way of petition, to the International Court of Justice, except by special agreement, any dispute". This amendment was adopted by 10 votes to 5, with 3 abstentions.

154. The article as a whole, as amended, was adopted by 11 votes to 4, with 3 abstentions.

#### ARTICLE 46

155. At its 390th meeting, the Commission discussed (see chapter III, paragraphs 201-205) a new article proposed by the representative of the Philippines (E/CN.4/L.249) for inclusion after article 59. The text of the proposed new article (E/CN.4/SR.390) was as follows:

"The States Parties to this Covenant agree that any State Party which has been found by the Committee to have committed a breach of its obligations under the Covenant, may bring the case before the International Court of Justice."

156. Amendments to the proposal were submitted by the representative of France (E/CN.4/L.279). The first of these amendments, which was revised (E/CN.4/SR.390), proposed the deletion of the words "which has been found by the Committee to have committed a breach of its obligations under the Covenant, may" and the substitution by the following "complained of or lodging a complaint may, if no solution has been reached within the terms of paragraph 1 of article 57".

This amendment was adopted by 6 votes to 3, with 7 abstentions. The other amendment submitted by France was to insert at the end of the proposal the words "after the report provided for in article 57, paragraph 3, of this Covenant has been drawn up". This amendment was adopted by 13 votes to 3.

157. The Commission adopted by 11 votes to 3, with 2 abstentions, the following article:

"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 paragraph 1 of article 57, bring the case before the International Court of Justice after the report provided for in article 57, paragraph 3, of this Covenant has been drawn up."

Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264/Add.1) to omit the words "of this Covenant" at the end of both the English and French texts.

#### ARTICLE 48

158. During its 391st to 393rd meetings, the Commission considered (see chapter III, paragraphs 208-214) a proposal submitted by the representatives of Egypt and India (E/CN.4/L.259) for the following new article:

"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 Human Rights Committee on the measures taken by them to meet the obligations set forth in article 1.

"2. The States Parties to this Covenant who are responsible for the administration of any Non-Self-Governing Territory undertake to hold elections, under the auspices either of the United Nations or of other agreed impartial international body, to determine the political status of any such territory, when called upon to do so by request of the Human Rights Committee. Such request shall be based on evidence of the desire of the inhabitants of such territory as expressed through their political institutions or parties."

Subsequently, paragraph 2 of the proposal was revised (E/CN.4/L.259/Rev.1) to read as follows:

"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 any such territory, when called upon to do so by request of the Human Rights Committee. Such request shall be based on evidence of the desire of the inhabitants of such territory as expressed through their political institutions or parties."

159. *Paragraph 1*—The representative of Poland submitted an amendment (E/CN.4/L.281) to substitute the words "General Assembly" for the words "Human Rights Committee". This amendment was rejected by 10 votes to 4, with 4 abstentions. The Commission decided by 13 votes to 3, with 2 abstentions, to retain the words "including those". The text of paragraph 1 of the proposed article was adopted by 8 votes to 4, with 6 abstentions.

160. *Paragraph 2*—A Polish amendment (E/CN.4/L.281) to delete the words "when called upon to do so by request of the Human Rights Committee" was rejected by 12 votes to 3, with 3 abstentions. An amendment submitted by the representative of Yugoslavia (E/CN.4/L.282) to substitute the phrase "should the Human Rights Committee make a proposal to that effect and such proposal be adopted by the General Assembly" for the phrase "when called upon to do so by request of the Human Rights Committee", was adopted by 8 votes to 1, with 9 abstentions. Another amendment by Yugoslavia (E/CN.4/L.282) to substitute the words "such decision" for the words "such request" was adopted by 6 votes to none, with 12 abstentions. Paragraph 2 as amended was adopted by 9 votes to 6, with 3 abstentions.

161. *Additional paragraph*—By 9 votes to 6, with 3 abstentions, the Commission adopted an amendment by the representative of Chile (E/CN.4/L.283) to add a new paragraph to the proposed text reading as follows:

"The States Parties to this Covenant shall report to the Human Rights Committee any violation of the right laid down in paragraph 3 of article 1".

162. The amended text of the proposal was adopted in a roll-call vote by 9 votes (Chile, China, Egypt, India, Lebanon, Pakistan, Philippines, Uruguay, Yugoslavia) to 6 (Australia, Belgium, France, Sweden, United Kingdom, United States of America), with 3 abstentions (Poland, Ukrainian SSR, USSR). This text reads as follows:

"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 Human Rights Committee on the measures taken by them to meet the obligations set forth in article 1.

"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 any such territory, should the Human Rights 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 Human Rights Committee any violation of the right laid down in paragraph 3 of article 1."

Subsequently the Commission accepted (E/CN.4/SR.409) the suggestion of the Rapporteur (E/CN.4/L.264/Add.1) to add at the end of paragraph 1 in both the English and French texts the words "of this Covenant"; to transfer the words in the French text of paragraph 2 "*le statut politique de ce territoire*" to follow after the words "*à déterminer*" and to delete them at the end of the sentence; to delete the word "any" before the words "such territory" in the English text of this paragraph; in the French text of paragraph 2, to replace the words "*dans le cadre*" by the words "*par la voie*"; and to revise the end of the French text of paragraph 3 to read "...*défini au paragraphe 3 de l'article premier*".

## 2. ARTICLES REJECTED OR WITHDRAWN

### ARTICLE 43

163. At its 350th meeting, the Commission discussed this article (see chapter III, paragraphs 107-112), the original text of which read as follows:

"The members of the Committee and the Secretary, when engaged on the business of the Committee, shall enjoy diplomatic privileges and immunities."

164. An amendment by the representative of the United Kingdom (E/CN.4/L.239) proposed that the text be substituted by the following:

"The members of the Committee shall, when engaged upon the business of the Committee, enjoy in the territory of each State Party to this Covenant such privileges and immunities as may be agreed between such State and the Secretary-General of the United Nations."

This amendment was adopted by 6 votes to 5, with 7 abstentions.

165. The article as a whole, as amended, was rejected by 8 votes to 7, with 3 abstentions.

### ARTICLE 49

166. At its 354th meeting, the Commission discussed this article (see chapter III, paragraphs 134-135), the original text of which read:

"The Secretary of the Committee shall attend its meetings, make all necessary arrangements, in accordance with the Committee's instructions, for the preparation and conduct of the work, and carry out any other duties assigned to him by the Committee."

167. The Commission rejected the original text by 11 votes to 4, with 2 abstentions.

### ARTICLE 53

168. At its 385th and 386th meetings, the Commission discussed this article (see chapter III, paragraphs 168-176), the original text of which read:

"The Committee shall deal with any matter referred to it under article 52 save that it shall have no power to deal with any matter:

"(a) For which any organ or specialized agency of the United Nations competent to do so has established a special procedure by which the States concerned are governed; or

"(b) With which the International Court of Justice is seized other than by virtue of article ... of the present Covenant."

169. *Alternative text*—The representative of Yugoslavia submitted an amendment (E/CN.4/L.232) to replace the existing text of the article by the following:

"The Committee shall deal with any matter referred to it under article 52. Its competence shall not be impaired by the fact that any given matter falls within the competence of another organ or specialized agency of the United Nations. The Committee shall decide how far it should make use of the findings and investigations carried out by such bodies."

The representative of Yugoslavia accepted an amendment submitted by the representative of China (E/CN.4/L.278 and E/CN.4/SR.386) to add the following paragraph at the end of his amendment:

"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."

An amendment to the first paragraph of the Yugoslav amendment was submitted by the representatives of China and Egypt (E/CN.4/L.277) proposing the addition of the words "with the exception of the International Court of Justice when it is already seized with the matter" after the words "or specialized agency of the United Nations" at the end of the second sentence. This amendment was adopted by 12 votes to 3, with 1 abstention. The Yugoslav amendment as a whole, as amended, was rejected by 9 votes to 7.

170. *Opening phrase and paragraph (a)*—An amendment submitted by the representative of Belgium (E/CN.4/L.245 and E/CN.4/SR.386) to substitute for the words "save that it shall have no power to deal with any matter" the words "but it shall take no action with regard to any matter" was adopted by 7 votes to 3 with 6 abstentions. An amendment by the representative of France to insert after the words "United Nations" the phrase "or any organ established under the auspices of the United Nations or one of its specialized agencies and" in sub-paragraph (a) was not adopted, the vote being 6 in favour, 6 against, with 4 abstentions. The Belgian amendment to delete the word "or" at the end of sub-paragraph (a) was adopted by 3 votes to none, with 8 abstentions.

171. *Paragraph (b)*—The Commission adopted by 11 votes to none, with 5 abstentions, the following text for sub-paragraph (b), submitted by the representative of Belgium (E/CN.4/L.245):

"(b) With which the International Court of Justice is already seized."

172. The Commission then voted on the paragraph, as amended, which read as follows:

"The Committee shall deal with any matter referred to it under article 52, but however it shall not take action with regard to any matter:

"(a) For which any organ or specialized agency of the United Nations competent to do so has established a special procedure by which the States concerned are governed;

"(b) With which the International Court of Justice is already seized."

This text was rejected by 9 votes to 6, with 1 abstention.

173. *Additional paragraph*—An amendment submitted by the representative of France (E/CN.4/L.235/Rev.3 and E/CN.4/SR.386) to add at the end of the article the following paragraph:

"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 Par-

ties to the said instrument or from sources other than States”

was withdrawn after the vote mentioned in the preceding paragraph.

174. A motion to reconsider the article was not adopted, the vote being 6 for, 6 against, with 3 abstentions.

#### NEW ARTICLE

175. The representative of Australia submitted a proposal (E/CN.4/L.228) for a new article to be included after article 47, the text of which was as follows:

“1. A State Party to the Covenant concerned in a case referred to the Committee may, if none of its nationals is a member of the Committee, designate as a member, to participate with the right to vote in the deliberations on the case under consideration, a person chosen from the list referred to in article 34.

“2. Should there be several States in the same interest they shall, for the purpose of paragraph 1 of this article, be reckoned as one only. Any doubt upon this point shall be settled by the Committee.”

176. This proposal was discussed at the 387th meeting of the Commission during which it was revised (E/CN.4/SR.387) to read as follows:

“A complaining State or a State complained against may, if none of its nationals is a member of the Committee, designate as a member, to participate with the right to vote in the deliberations on the case under consideration, a person chosen from the list referred to in Article 34.”

Subsequently the proposal was withdrawn by the representative of Australia (see chapter III, paragraphs 181-184).

#### NEW ARTICLE

177. At its 389th meeting, the Commission discussed a new article proposed by the representative of Chile (E/CN.4/L.247) for inclusion after article 57. The text of the proposed new article was as follows:

“It shall be the duty of the Committee to consider any request for information or assistance, and any proposal or project which any State Party to the present Covenant may wish to submit, with a view to promoting the application of the present Covenant, without reference to the provisions of article 52.”

178. The proposal was subsequently withdrawn (see chapter III, paragraphs 192-194).

#### NEW ARTICLE

179. At its 355th and 390th meetings, the Commission considered a proposal for a new article submitted by the representative of the United States (E/CN.4/L.229). The text was as follows:

“Each State Party to the Covenant undertakes to inform the Secretary-General of the United Nations with respect to the manner in which the provisions of the Covenant are being given effect in that State.”

180. At the 355th meeting, consideration of the proposal was deferred until the discussion on the system of periodic reports provided for in part V of the draft measures of implementation included in annex I, section D, of the report of the eighth session of the Commission (E/2256). At the 390th meeting, the proposal was withdrawn for the time being since the Commission had agreed not to consider part V at the ninth session (see chapter III, paragraphs 206-207).

### *Annex IV*

#### **Proposals and amendments relating to prevention of discrimination and protection of minorities and voting thereon**

##### **A**

#### **RESOLUTION ON MEMBERSHIP OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES**

1. The representative of India proposed the following draft resolution (E/CN.4/L.285; chapter IV, paragraphs 219-225):

*“The Commission on Human Rights,*

*“Considering that the term of office of the members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities should expire on 31 December of this year and that it is necessary to elect the new members of this Sub-Commission,*

*“1. Decides to elect the new members during this session of the Commission after considering item 4 of its agenda;*

*“2. Decides that the term of office of the members of the Sub-Commission shall be three years;*

*“3. Decides that the Sub-Commission shall meet at least once a year and that this annual session shall last three weeks;*

*“4. Requests the Economic and Social Council to convene the next session of the Sub-Commission in...”.*

2. The representative of China suggested that the preamble might be reworded as follows:

*“Considering that the members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities have held office since January 1948 and that it is desirable to elect new members of this Sub-Commission”.*

He further suggested that the words “shall be three years” in paragraph 2 of the operative part might be changed to “shall terminate on 31 December 1956”; and that the words “in January 1954 in order that the report of the Sub-Commission may be discussed at the tenth session of the Commission on Human Rights” might be added at the end of paragraph 4 of the operative part. These suggestions were accepted by the representative of India.

3. The Chairman stated that it was the Economic and Social Council’s prerogative to fix the dates of sessions of its functional commissions and sub-commissions. It was then agreed that the last two operative paragraphs in the draft resolution should be amalgamated to read:

"3. *Requests* the Economic and Social Council

"(a) To provide that the Sub-Commission will meet at least once a year and that its session will last three weeks; and

"(b) To convene the next session of the Sub-Commission in January 1954."

4. At its 395th meeting, the Commission voted on the draft resolution. The preamble was adopted by 7 votes to none, with 7 abstentions; paragraph 1 of the operative part was adopted by 13 votes to none, with 2 abstentions; paragraph 2 by 14 votes to none, with 1 abstention; sub-paragraph (a) of paragraph 3 of the operative part by 11 votes to none, with 4 abstentions; sub-paragraph (b) of paragraph 3 by 15 votes to none. The resolution as a whole was adopted by 12 votes to none, with 3 abstentions.

## B

### RESOLUTIONS RELATING TO PREVENTION OF DISCRIMINATION

#### RESOLUTION ON COLLECTION OF ANTI-DISCRIMINATION PROVISIONS

5. The Sub-Commission on Prevention of Discrimination and Protection of Minorities proposed a draft resolution on the collection of anti-discrimination provisions, the text of which reads as follows (E/CN.4/670, annex I, draft resolution B; chapter IV, paragraph 227):

*"The Commission on Human Rights*

*"Recommends* to the Economic and Social Council the adoption of the following resolution:

*"The Economic and Social Council,*

*"Noting* that anti-discrimination provisions have been included in various instruments prepared by or under the auspices of the United Nations such as trusteeship agreements, constitutions, and statutes,

*"Considering* it desirable that existing anti-discrimination clauses should be made available as precedents for the convenience of organs or authorities having to formulate similar provisions, whether or not under the auspices of the United Nations,

*"Requests* the Secretary-General to arrange for all anti-discrimination provisions formulated under the League of Nations system or by organs of, or under the auspices of, the United Nations, to be collected, made available and kept up-to-date, to serve as a body of suitable precedents for use when constitutional or statutory provisions are to be elaborated, particularly in the case of new States."

6. The Chinese representative submitted the following amendments:

1. Delete the words: "*Recommends* to the Economic and Social Council the adoption of the following resolution: *The Economic and Social Council*".

2. Insert the words "in particular those" before the word "formulated" in the operative paragraph.

7. The United Kingdom representative proposed to delete the word "all" before the words "anti-discriminatory provisions" in the operative paragraph.

8. At its 396th meeting, the Commission voted on the draft resolution and the amendments thereto. The first

Chinese amendment was adopted by 14 votes to none; the United Kingdom amendment was adopted by 10 votes to 4, with 3 abstentions; the second Chinese amendment by 11 votes to none, with 3 abstentions. Separate votes were taken on the following phrases: the phrase "under the League of Nations system or" was adopted by 14 votes to 3; the phrase "to serve as a body of suitable precedents" was adopted by 7 votes to 5, with 5 abstentions; the phrase "particularly in the case of new States" was rejected by 6 votes to 2, with 9 abstentions. The draft resolution, as amended, was adopted by 13 votes to none, with 4 abstentions.

#### RESOLUTION ON ABOLITION OF DISCRIMINATORY MEASURES

9. The Sub-Commission on Prevention of Discrimination and Protection of Minorities proposed a draft resolution on the abolition of discriminatory measures, the text of which reads as follows (E/CN.4/670, annex I, draft resolution E; see chapter IV, paragraph 228):

*"The Commission on Human Rights*

*"Recommends* to the Economic and Social Council the adoption of the following draft resolution:

*"The Economic and Social Council,*

*"Having* noted resolution 323 (IV) of the General Assembly and resolution 127 (VI) of the Trusteeship Council, on social advancement in Trust Territories,

*"Considering* that the prevention of discrimination in metropolitan territories, and in Non-Self-Governing Territories other than those encompassed by the Trusteeship System, is as important as the prevention of discrimination in Trust Territories,

*"Considering* further that in certain countries or territories minorities may exist which require protection otherwise than by implementation of the principle of non-discrimination,

*"Recommends* to governments of States Members of the United Nations that they review their national legislation and administrative practices with a view to abolishing all measures of discrimination that may exist in countries and territories under their jurisdiction, and to taking effective measures for the protection of minorities, if any, in those countries and territories."

10. To this draft resolution the representative of the United Kingdom submitted the following amendments (E/CN.4/L.288):

"1. Add at the end of the first paragraph of the preamble the following words: 'and resolution 644 (VII) of the General Assembly on racial discrimination in Non-Self-Governing Territories'.

"2. Delete the words, 'and in Non-Self-Governing and Trust Territories other than those encompassed by the Trusteeship System' from the second paragraph of the preamble.

"3. In the second paragraph of the preamble insert between the word 'trust' and the word 'territories' the words 'and other non-self-governing'."

Amendments to subsequent paragraphs were, after discussion, withdrawn.

11. At its 397th meeting, the Commission voted on the draft resolution and the amendments thereto. The first United Kingdom amendment was adopted by 15

votes to none; the second amendment was adopted by 9 votes to 3, with 3 abstentions; the third amendment was adopted by 15 votes to none. The draft resolution, thus amended, was adopted unanimously by 15 votes.

#### RESOLUTION ON STUDIES OF ERRONEOUS VIEWS CONCERNING RELIGION

12. The Sub-Commission on Prevention of Discrimination and Protection of Minorities submitted a draft resolution on studies of erroneous views concerning religion, which reads as follows (E/CN.4/670, annex I, draft resolution J; see chapter IV, paragraph 229):

*"The Commission on Human Rights*

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

*"The Economic and Social Council,*

*"Considering that superstition and ignorance are at the root of certain erroneous views which have contributed to discriminatory and hostile treatment directed against certain religious groups, and also to inter-religious hostility and tensions in general,*

*"Invites UNESCO to consider the possibility of including in its programme of future work:*

*"(a) A thorough study of the existence and background of such erroneous views; and*

*"(b) Preparation, on the basis of this study, of a series of suggestions explaining and clarifying the misrepresentations, misinterpretations, and misunderstandings of any religion by the adherents of any other religion, and emphasizing the dignity of the various religions of mankind."*

13. The French representative proposed that the Commission should refer the draft resolution back to the Sub-Commission with a request that it review the problem; this proposal was rejected by 6 votes to 5, with 5 abstentions.

14. The representative of China proposed that the Commission should take note of the Sub-Commission's draft resolution; this proposal was rejected by 3 votes to 2, with 8 abstentions.

15. The Chairman then put the draft resolution to the vote. It was rejected by 8 votes to none, with 8 abstentions.

#### RESOLUTION ON CO-OPERATION OF NON-GOVERNMENTAL ORGANIZATIONS

16. The Sub-Commission on Prevention of Discrimination and Protection of Minorities submitted a draft resolution on co-operation of non-governmental organizations, which reads as follows (E/CN.4/670, annex I, draft resolution L; see chapter IV, paragraph 230):

*"The Commission on Human Rights*

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

*"The Economic and Social Council,*

*"Noting that a number of non-governmental organizations, including organizations in consultative status with the Council, are actively engaged in activities designed to eradicate prejudice and discrimination,*

*"Considering however that unco-ordinated action in this field is conducive to duplication, and furthermore that certain important aspects of the work may be overlooked,*

*"Considering further that some organizations having as their objective the promotion of social progress generally might well be encouraged to devote a larger proportion of their resources to the vital problem of eradicating prejudice and discrimination,*

*"1. Appeals to non-governmental organizations active in the field of eradicating prejudice and discrimination, or having as their objective the promotion of social progress generally:*

*"(i) To devote as large a proportion of their resources as possible to activities designed to eradicate prejudice and discrimination; and*

*"(ii) To co-ordinate their endeavours in this work;*

*"2. Requests the Secretary-General, in collaboration with competent specialized agencies, to consult the non-governmental organizations in consultative relationship with the Economic and Social Council or the specialized agency concerned, in order to determine if it would be advisable to convene them in periodic conferences in order that they may:*

*"(i) Exchange views concerning the most effective means of combating discrimination;*

*"(ii) Co-ordinate their endeavours in this work if they find it desirable and feasible; and*

*"(iii) Consider the possibility of establishing common objectives and programmes;*

*"3. Further requests the Secretary-General, after consultation with the non-governmental organizations and the specialized agencies concerned, to report to the Council on the advisability of convening such conferences in accordance with resolution 479 (V) of the General Assembly."*

17. To this draft resolution, the representative of the Philippines proposed to replace the words "a larger proportion of their resources" in the third preambular paragraph by the words "particular attention".

18. The representative of the United Kingdom submitted the following amendments:

1. Delete sub-paragraph (i) of the operative paragraph 1.

2. Replace the words "advisable to convene them" in operative paragraph 2 by the words "advisable to convene the interested non-governmental organizations".

3. Replace the words "periodic conferences" in the operative paragraph 2 by the words "one or more conferences".

4. Replace the words "convening such conferences" in operative paragraph 3 by the words "convening one or more such conferences".

19. At its 397th meeting, the Commission voted on the draft resolution and the amendments thereto. The Philippine amendment was adopted by 14 votes to none, with 1 abstention; the first United Kingdom amendment was adopted by 6 votes to 4, with 5 abstentions; the second United Kingdom amendment by 10 votes to none, with 5 abstentions; the third by 9 votes to none, with 6 abstentions; the fourth by

9 votes to none, with 5 abstentions. The draft resolution, as amended, was adopted by 15 votes to none.

#### RESOLUTION ON POSITION OF PERSONS BORN OUT OF WEDLOCK

20. The Sub-Commission on Prevention of Discrimination and Protection of Minorities submitted a draft resolution on the position of persons born out of wedlock, which reads as follows (E/CN.4/641, annex I, draft resolution V; see chapter IV, paragraphs 231-232):

*"The Commission on Human Rights*

*"Having noted* resolution of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the position of persons born out of wedlock,

*"1. Requests* the Economic and Social Council to draw the attention of the Social Commission to the discrimination which may, in existing social conditions, be practised against persons born out of wedlock;

*"2. Further requests* the Council to draw the attention of the competent organs of the United Nations to the necessity of pursuing their work with a view to eliminating, with due regard to the principle set forth in article 16, paragraph 3, of the Universal Declaration of Human Rights, any discrimination which may, in existing social conditions, be practised against persons born out of wedlock, and in particular to prohibit all measures tending to the disclosure of illegitimacy in extracts from official documents delivered to third parties."

21. The representative of the United States submitted an amendment to replace the two operative paragraphs of the draft resolution by the following paragraph (E/CN.4/L.290):

*"Requests* the Economic and Social Council to draw the attention of the Social Commission and interested non-governmental organizations

*"(a) To the discrimination* which may, in existing social conditions, be practised against persons born out of wedlock; and

*"(b) To the desirability* of preparing recommendations with a view to eliminating, with due regard to the principle set forth in article 16, paragraph 3, of the Universal Declaration of Human Rights, any discrimination which may, in existing social conditions, be practised against persons born out of wedlock, and in particular of preparing recommendations with a view to eliminating the disclosure of illegitimacy in extracts from official documents delivered to third parties".

22. The representative of France proposed to add to the United States amendment the words "any other competent inter-governmental organs and" before the words "interested non-governmental organizations"; this was accepted by the United States representative.

23. The representative of Belgium proposed to add to the United States amendment the words "as far as possible" before the words "the disclosure of illegitimacy", in sub-paragraph (b).

24. At its 398th meeting, the Commission voted on the draft resolution and the amendments thereto. The Belgian amendment was rejected by 7 votes to 6, with 1 abstention. The United States amendment was di-

vided into two parts which were voted upon separately, as follows: the part reading

*"Requests* the Economic and Social Council to draw the attention of the Social Commission and any other competent intergovernmental organs and interested non-governmental organizations

*"(a) To the discrimination* which may, in existing social conditions, be practised against persons born out of wedlock and

*"(b) To the desirability* of preparing recommendations with a view to eliminating, with due regard to the principles set forth in article 16, paragraph 3, of the Universal Declaration of Human Rights, any discrimination which may, in existing social conditions, be practised against persons born out of wedlock."

was adopted by 11 votes to none, with 3 abstentions.

The part reading "and in particular of preparing recommendations with a view to eliminating" was adopted by 6 votes to none, with 8 abstentions; the remaining words "the disclosure of illegitimacy in extracts from official documents delivered to third parties" were in the original text of the draft resolution submitted by the Sub-Commission. At the suggestion of the Rapporteur, the Commission agreed to replace, in the French text, the words "*visant à proscrire*" by "*tendant à éviter*".

25. At the suggestion of the Chairman, the preamble in the draft resolution submitted by the Sub-Commission was deleted.

26. The draft resolution of the Sub-Commission, as amended, was adopted by 14 votes to none.

#### RESOLUTION ON CONVENTION ON PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

27. The Sub-Commission on Prevention of Discrimination and Protection of Minorities submitted a draft resolution on the Convention on Prevention and Punishment of the Crime of Genocide, which reads as follows (E/CN.4/641, annex I, draft resolution VI; see chapter IV, paragraphs 233-235):

*"The Commission on Human Rights,*

*"A*

*"Having noted* that the General Assembly, in its resolution 368 (IV) of 3 December 1949, invited Member States to accelerate ratification of the Convention on Prevention and Punishment of the Crime of Genocide,

*"Considering* that genocide, one of the gravest forms of discrimination, constitutes a crime under international law,

*"Considering further* that the widespread knowledge of the nature and importance of the convention will further its humanitarian and civilizing purposes,

*"Recommends* that the Economic and Social Council request the General Assembly:

*"(a) To reiterate* its appeal to governments to accelerate their ratifications or adherences to the Convention; and

*"(b) To undertake* all necessary measures designed to assure the widest possible diffusion of the nature, contents and purposes of the Convention, and in particular make known the list of States having

voted for, signed, ratified or adhered to the Convention;

## “B

“*Considering* further that it is desirable to organize an international penal jurisdiction as provided for in article VI of the Convention,

“*Recommends* that the Economic and Social Council request the General Assembly, when it examines the report of the Committee on International Criminal Jurisdiction, to give effect to this Committee’s wish to draw up, together with the instrument establishing the international penal tribunal, a protocol empowering that tribunal to deal with the crime of genocide.”

28. At its 398th meeting, the Commission took the following votes on the draft resolution: A motion that the Commission take no decision on part B of the draft resolution was adopted by 9 votes to 3, with 2 abstentions. A second motion that the Commission take no decision on part A of the draft resolution was rejected by 10 votes to 3, with 1 abstention.

29. At the suggestion of the Chairman, the first preambular clause of part A was changed to read:

“Having noted General Assembly resolution 368 (IV) of 3 December 1949”.

This clause was adopted by 10 votes to 2, with 2 abstentions. Sub-paragraph (a) of the operative paragraph was adopted by 10 votes to 3, with 1 abstention. The resolution as a whole (i.e., part A of the draft resolution) was adopted by 11 votes to none, with 3 abstentions.

## C

### RESOLUTIONS RELATING TO PROTECTION OF MINORITIES

#### RESOLUTIONS ON DEFINITION OF MINORITIES AND ON INTERIM MEASURES FOR THE PROTECTION OF MINORITIES

30. The Sub-Commission on Prevention of Discrimination and Protection of Minorities submitted a draft resolution on the definition of minorities for purposes of protection by the United Nations, and a draft resolution on interim measures to be taken for the protection of minorities (E/CN.4/641, annex I, draft resolutions II and III; see chapter IV, paragraphs 237-245).

31. Draft resolution II reads as follows:

“*The Commission on Human Rights,*

“*Recognizing* that there are among the nationals of many States distinctive population groups, usually known as minorities, possessing ethnic, religious, or linguistic traditions or characteristics different from those of the rest of the population, and that among these are groups that need to be protected by special measures, national or international, so that they can preserve and develop the traditions or characteristics in question,

“*Recognizing,* however, the special factor that among minority groups not requiring protection are such groups as:

“1. Those numerically inferior to the rest of the population, although the dominant group therein; and

“2. 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 covenant on human rights that are directed towards the prevention of discrimination,

“*Recognizing* at the same time that any definition of minorities that is made with a view to their protection by the United Nations must take into account complex situations such as:

“1. The undesirability of imposing unwanted distinctions upon individuals belonging to a group who, while possessing the distinctive characteristics described above, do not wish to be treated differently from the rest of the population;

“2. The undesirability of interfering with the spontaneous developments which take place when impacts such as that of a new environment, or that of modern means of communication, produce a state of rapid racial, social, cultural, or linguistic evolution;

“3. The risk of taking measures that might lend themselves to misuse amongst a minority whose members’ spontaneous desire for a tranquil life as contented citizens of a State might be disturbed by parties interested in fomenting amongst them a disloyalty to that State;

“4. The undesirability of affording protection to practices which are inconsistent with human rights as proclaimed in the Universal Declaration of Human Rights; and

“5. The difficulties raised by claims to the status of a minority by groups so small that special treatment would, for instance, place a disproportionate burden upon the resources of the State;

“*Resolves* that from the standpoint of such measures of protection of minorities as the United Nations may wish to take, and in the light of the special factors and the complexities set out above:

“(i) The term minority includes only those non-dominant groups in a population which possess and wish to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population;

“(ii) Such minorities should properly include a number of persons sufficient by themselves to preserve such traditions or characteristics; and

“(iii) Such minorities must be loyal to the State of which they are nationals.”

32. Draft resolution III reads as follows:

“*The Commission on Human Rights*

“*Recommends* that the Economic and Social Council adopt and transmit to the General Assembly the following draft resolution on interim measures to be taken for the protection of minorities:

“*The Economic and Social Council,*

“*Considering* that the problem of the fate of minorities was referred to the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities by the General Assembly in resolution 217 C (III),

“*Considering* that the Sub-Commission on Prevention of Discrimination and Protection of Minorities has adopted a definition of minorities for purposes of protection by the United Nations, in draft resolution II of its fourth session; and that the Sub-Commission is now engaged in a further study of the problem of minorities in order that the United Nations may be able to take effective measures for such protection,

“*Considering* that the rights traditionally desired by minorities were extensively set forth in the minorities treaties and declarations which came into force after the First World War,

“*Considering* that many of the rights traditionally claimed by minorities are proclaimed in the Universal Declaration of Human Rights, and that, pending the coming into force of an international covenant on human rights, it is not feasible fully to determine what further measures will become necessary for the protection of minorities,

“*Considering* however, that neither the Universal Declaration of Human Rights nor the draft international covenant on human rights fully covers the right of using the minority language before the courts, or of teaching the minority language as one of the courses of study in State-supported schools,

“*Recommends* that, as an interim means of protecting minorities, the General Assembly adopt, and so place the full weight of its authority behind, the following draft resolution on facilities to be provided for minorities, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its second session:

““*The General Assembly,*

““*Considering* that the discriminatory treatment of minorities has been and could be a major cause of international tension leading to war,

““*Considering* at the same time that rights accorded minorities entail a corresponding obligation on their part towards the larger society in which they live and must not, therefore, be used to threaten or undermine the unity and security of States,

““*Considering* that provision has been made in the Universal Declaration of Human Rights and in the draft international covenant on human rights for the recognition of such traditional minority rights as freedom of religion, speech, assembly and association,

““*Recommends* that, in the interest of enabling recognized minority groups to maintain their cultural heritage when they desire to do so, Member Governments should provide, as a minimum, adequate facilities, in districts, regions and territories where they represent a considerable proportion of the population, for:

““(a) The use in judicial procedure of languages of such groups, in those cases, where the member of the minority group does not speak or understand the language ordinarily used in the courts;

““(b) The teaching in State-supported schools of languages of such groups, with due regard to

the requirements of educational efficiency, provided that such groups request it and that the request in reality expresses the spontaneous desire of such groups;

““2. Affirms that such groups shall possess these or other rights so long as they are not used for the purpose of threatening or undermining the unity or security of States””.

33. The Commission considered draft resolutions II and III simultaneously.

34. The representative of Poland proposed the following draft resolution with respect to draft resolutions II and III of the Sub-Commission (E/CN.4/L.292):

“*The Commission on Human Rights,*

“*Having considered* draft resolutions II and III, submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, concerning the definition of minorities and interim measures to be taken for the protection of minorities respectively,

“*Decides* to send back the draft resolutions in question to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for further consideration and revision at its next session in the light of the relevant discussions at the ninth session of the Commission on Human Rights.”

35. The representative of Belgium proposed the following draft resolution (E/CN.4/L.297/Rev.2) in which a number of suggestions by other members of the Commission had been incorporated:

“*The Commission on Human Rights,*

“*Having studied* the Sub-Commission’s work on the principles and definition of minorities,

“1. *Notes* the results with appreciation without expressing an opinion on the definition itself; and

“2. *Requests* the Sub-Commission to proceed with its work on the definition and protection of minorities, bearing in mind the discussions which have taken place in the Commission during its ninth session, and to make its recommendations for the tenth session of the Commission.”

36. The phrase “with appreciation” in paragraph 1 of the operative part was suggested by the representative of China; the phrase “without expressing an opinion on the definition itself” was suggested by the representative of Uruguay; the words “definition and” in paragraph 2 of the operative part were suggested by the representative of Chile; the phrase “and to make its recommendations for the tenth session of the Commission” was suggested by the representative of China.

37. At its 399th meeting, the Commission rejected the Polish proposal by 7 votes to 3, with 7 abstentions.

38. At its 402nd meeting, the Commission voted on the Belgian draft resolution. The preamble was adopted by 14 votes to none, with 1 abstention; the phrase “with appreciation” by 12 votes to 3; the phrase “without expressing an opinion on the definition itself” by 8 votes to 1, with 6 abstentions; paragraph 1 of the operative part by 9 votes to 3, with 3 abstentions; paragraph 2 by 13 votes to none, with 2 abstentions. The resolution as a whole was adopted by 13 votes to none, with 2 abstentions.

39. There were a number of amendments to draft resolutions II and III, but having adopted the Belgian

resolution, the Commission did not take any action thereon. These amendments were as follows:

40. To draft resolution II the Yugoslav representative submitted the following amendments (E/CN.4/L.284):

1. Add at the end of the third paragraph of the preamble, sub-paragraph 5, the phrase "it being however understood that such groups must be accorded minority rights whenever no such difficulties would arise therefrom".

2. Insert the words "and develop" between the words "wish to preserve" and "stable" in sub-paragraph (i) of the operative part.

3. Add at the end of sub-paragraph (iii) of the operative part the following: "the State in question being however bound to respect the fundamental rights and freedoms enunciated in the Charter of the United Nations and the Universal Declaration of Human Rights".

41. To draft resolution II, the representative of Uruguay proposed an amendment to add the following text as a first sub-paragraph in the third paragraph of the preamble (E/CN.4/L.293):

"The undesirability of considering as minorities groups established or becoming established within a State by virtue of its immigration laws or its settlement or industrialization plans and works, whether spontaneously or under international agreements."

42. To draft resolution II, the representative of the United Kingdom proposed (E/CN.4/L.294) to replace the words "of which they are nationals" in sub-paragraph (iii) of the operative part by the words "in which they live".

43. To draft resolution II, the representative of Chile submitted the following amendments (E/CN.4/L.295):

1. Insert in sub-paragraph 2 of the third paragraph of the preamble, after the words "such as that of" the phrase "groups of immigrants or that of";

2. Replace the phrase "modern means of communication" in the same sub-paragraph by the phrase "modern civilization".

44. To draft resolution III, the representative of Yugoslavia proposed to substitute for sub-paragraph (b) of the operative part, in the second part of the draft resolution beginning with the words "The General Assembly", the following text (E/CN.4/L.291):

"(b) The teaching in State-supported schools in the languages of such groups".

45. To draft resolution III, the representative of the United Kingdom proposed (E/CN.4/L.296) to substitute for the words "of languages of such groups" in sub-paragraph (a) of paragraph 1 of the operative part the words "by a member of a minority group of the language of such group".

#### RESOLUTION ON PROTECTION OF NEWLY-CREATED MINORITIES

46. The Sub-Commission on Prevention and Protection of Minorities submitted a draft resolution on the protection of newly-created minorities, which reads as follows (E/CN.4/670, annex I, draft resolution C; see chapter IV, paragraph 246):

*"The Commission on Human Rights*

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

*"The Economic and Social Council*

*Recommends* that in the preparation of any international treaties, decisions of international organs, or other acts which establish new States, or new boundary lines between States, special attention should be paid to the protection of any minority which may be created thereby."

47. At its 400th meeting, the Commission adopted the resolution unanimously.

#### RESOLUTION ON COLLECTION OF PROVISIONS ON PROTECTION OF MINORITIES

48. The Sub-Commission on Prevention of Discrimination and Protection of Minorities submitted a draft resolution on the collection of provisions on protection of minorities, which reads as follows (E/CN.4/670, annex I, draft resolution D; see chapter IV, paragraph 247):

*"The Commission on Human Rights*

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

*"The Economic and Social Council,*

*In view* of the importance of possessing the fullest possible documentation on the subject,

*Requests* the Secretary-General to arrange for as complete as possible a collection of provisions for the protection of minorities to be made available, and kept up-to-date, to serve as a body of suitable precedents for use in the drafting of clauses to be included in international instruments which deal with the protection of minority rights, notably in cases when minority rights are to be safeguarded in newly-established States, but also in cases when minorities are to be protected following upon the establishment of new boundary lines between States."

49. The following amendments were submitted: An amendment to change the words "on the subject" in the preamble into "on protection of minorities" was submitted by the representative of Belgium; an amendment to insert in the operative paragraph the expression "should the occasion arise" before the words "as a body of suitable precedents" was submitted by the representative of France; an amendment to insert the words "and national" after the word "international" in the operative paragraph was submitted by the representative of Chile. It was agreed that the words "Recommends to the Economic and Social Council the adoption of the following draft resolution: The Economic and Social Council" should be deleted.

50. At its 400th meeting, the Commission voted on the draft resolution and the amendments thereto. The Belgian amendment was adopted unanimously. The French amendment was adopted by 8 votes to none, with 8 abstentions. The words "to serve, should the occasion arise, as a body of suitable precedents" were rejected by 6 votes to 4, with 6 abstentions. The Chilean amendment was adopted unanimously. The last two clauses reading "notably in cases... new boundary lines between States" were adopted by 7 votes to 5, with 4 abstentions. The draft resolution, as amended, was adopted by 13 votes to none, with 3 abstentions.

## D

### RESOLUTIONS OF A GENERAL CHARACTER

#### RESOLUTION RELATING TO THE ACTIVITIES OF UNESCO

51. The Sub-Commission on Prevention of Discrimination and Protection of Minorities proposed two draft resolutions relating to the activities of UNESCO in the field of prevention of discrimination and protection of minorities (E/CN.4/641, annex I, draft resolution IV, and E/CN.4/670, annex I, draft resolution M; see chapter IV, paragraph 249):

52. Draft resolution IV reads as follows:

*"The Commission on Human Rights*

*"Having considered the resolution of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the activities of UNESCO in this field,*

*"Having noted the satisfaction expressed by the Sub-Commission with the work of UNESCO in this field,*

*"1. Draws the attention of the Economic and Social Council to these activities, and particularly to the on-the-spot investigations carried on by UNESCO, such as have been conducted in Brazil; and*

*"2. Requests the Council to draw these activities to the attention of the General Assembly."*

53. Draft resolution M reads as follows:

*"The Commission on Human Rights*

*"Recommends to the Economic and Social Council the adoption of the following draft resolution:*

*"The Economic and Social Council,*

*"Recalling its resolutions 116 (VI), 303 G (XI), and 443 (XIV), by which it has called for collaboration between the United Nations and UNESCO, and has requested UNESCO, as a matter of high priority, to continue its studies in educational activities designed to eradicate prejudice and discrimination,*

*"Considering that one of the purposes of UNESCO under its constitution is to promote collaboration among the nations through education, science and culture in order to further universal respect for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language, or religion, by the Charter of the United Nations, and that the protection of culture is one of the main means of achieving this purpose,*

*"Considering that UNESCO, among its fundamental programmes, is engaged in an active campaign designed to assure the dissemination of scientific data and of the conclusions of modern thinking on the problems of race, in respect not only to biology and genetics, but also to sociology, psychology, cultural traditions, economic theories and the attitude of certain religions towards these problems,*

*"Considering that UNESCO makes use of these findings when preparing basic material for education at all stages, which is the most powerful weapon in the struggle against prejudice,*

*"Considering also that UNESCO's work in the field of protection of minorities includes the study of sociological, cultural and educational problems*

involved in the social integration of these minorities, without impairing the preservation of their artistic and intellectual heritage of the values contained in their original cultures,

*"Considering that the Economic and Social Council in resolution 443 (XIV) of 26 June 1952 invited UNESCO, as a matter of high priority, to continue its studies and work on educational methods and projects best designed to overcome prejudice and discriminatory attitudes and measures, and to report thereon to the Council in 1953,*

*"Invites UNESCO to devote each year a special report to a review of its activities designed to eradicate prejudice and discrimination and to protect minorities'."*

54. At its 400th meeting, the Commission took note of a statement of the representative of UNESCO on these two draft resolutions (see chapter IV, paragraph 249), and did not act on them.

#### RESOLUTION ON TECHNICAL ASSISTANCE

55. The Sub-Commission on Prevention of Discrimination and Protection of Minorities proposed a draft resolution on technical assistance in the fields of prevention of discrimination and protection of minorities which reads as follows (E/CN.4/670, annex I, draft resolution K; see chapter IV, paragraph 250):

*"The Commission on Human Rights*

*"Recommends to the Economic and Social Council the adoption of the following draft resolution:*

*"The Economic and Social Council*

*"Recommends*

*"(a) To the organizations participating in the technical assistance and other programmes providing aid or advice at the request of Member States, that they give sympathetic consideration to the requests which governments may submit for such technical assistance in connexion with measures aimed at the eradication of prejudice or discrimination or at the protection of minorities;*

*"(b) To the General Assembly, the adoption of a resolution authorizing the Secretary-General to render, at the request of Members of the United Nations, expert technical advice and other services in order to assist these Members of the United Nations in the eradication of prejudice or discrimination or in the protection of minorities;*

*"(c) That the services to be so authorized should include, but need not be restricted to, technical expert advice regarding the drafting of legislation and the establishment of administrative and judicial machinery, and also extend to educational programmes designed to combat prejudice and discrimination'."*

56. At its 400th meeting, the Commission adopted the draft resolution by 8 votes to 4, with 4 abstentions.

#### RESOLUTION ON A PUBLICATION CONCERNING PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

57. The Sub-Commission on Prevention of Discrimination and Protection of Minorities submitted three draft resolutions concerning publications in the field of prevention of discrimination and protection of minor-

ities (E/CN.4/670, annex I, draft resolutions G, H and I; see chapter IV, paragraphs 251-252).

58. Draft resolution G reads as follows:

*"The Commission on Human Rights*

*"Recommends to the Economic and Social Council the adoption of the following draft resolution:*

*"The Economic and Social Council,*

*"Considering that the Sub-Commission on Prevention of Discrimination and Protection of Minorities is the only body in the United Nations whose sole duty it is to promote the elimination of discrimination and the protection of minorities,*

*"Recognizing that the best method of achieving this purpose is through the education of world public opinion on the subject,*

*"Considering that victims of discrimination and members of minority groups have the right to know what the Sub-Commission has accomplished and is planning on their behalf,*

*"Considering that the most important studies carried out on its own initiative, such as "The main types and causes of discrimination" (E/CN.4/Sub.2/40/Rev.1) and "Definition and classification of minorities" (E/CN.4/Sub.2/85) have only been available to and suitable for a limited public,*

*"Requests the Secretary-General to produce a popular booklet describing in broad outlines the achievement, plans, and objectives of the Sub-Commission, and to give it the widest possible circulation, especially amongst educational institutions."*

59. Draft resolution H reads as follows:

*"The Commission on Human Rights*

*"Recommends to the Economic and Social Council the adoption of the following draft resolution:*

*"The Economic and Social Council,*

*"Recalling that at the suggestion of the Sub-Commission on Prevention of Discrimination and Protection of Minorities it invited governments, Members and non-members of the United Nations, to provide the United Nations with certain information relating to the prevention of discrimination and the protection of minorities within their jurisdiction (resolution 303 F (XI) of 9 August 1950),*

*"Noting that many governments of States Members and non-members of the United Nations have complied with this request and have transmitted to the United Nations very valuable information,*

*"Recalling that an analysis of the information then available was presented to the fourth session of the Sub-Commission (E/CN.4/Sub.2/122),*

*"Considering that the important material thus collected should be made accessible to a wider public,*

*"Requests the Secretary-General:*

*"(a) To bring the analysis up to date; and*

*"(b) To publish the revised analysis, together with all the relevant information furnished by governments, in the form of a printed booklet presented in a way to be intelligible and useful for the general public."*

60. Draft resolution I reads as follows:

*"The Commission on Human Rights*

*"Recommends to the Economic and Social Council the adoption of the following draft resolution:*

*"The Economic and Social Council,*

*"Having noted the descriptive list of research projects and action programmes on discrimination and minority problems initiated or being planned by United Nations organs, bodies, and specialized agencies (E/CN.4/Sub.2/144), and the reports on the activities of the United Nations in the fields of prevention of discrimination and protection of minorities (E/CN.4/Sub.2/128 and 145),*

*"Considering that the material contained, or referred to, in this descriptive list and these reports should be given the widest possible circulation, in order that everyone may know what the United Nations organs, bodies, and specialized agencies have done, are doing, and plan to do in the fields of prevention of discrimination and protection of minorities,*

*"Requests the Secretary-General to prepare, publish in printed form, and circulate as widely as possible a pamphlet setting forth this material in scientifically accurate, but popular form."*

61. The representative of Australia submitted the following draft resolution (E/CN.4/L.299/Rev.1):

*"The Commission on Human Rights*

*"1. Takes note of the Sub-Commission's proposals concerning publication of information as set forth in resolutions G, H and I of the Sub-Commission's draft resolutions on future work (E/CN.4/670, annex I), and*

*"2. Requests the Secretary-General to prepare a publication containing an account of the work of the United Nations and an analysis of the information from governments in the field of prevention of discrimination and protection of minorities."*

62. At its 402nd meeting, the Commission adopted the Australian draft resolution unanimously.

## E

### RESOLUTION ON PROGRAMME OF WORK OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

63. The Sub-Commission proposed a draft resolution on its programme of work, the text of which reads as follows (E/CN.4/670, annex I, draft resolution F; see chapter IV, paragraphs 253-259):

*"The Commission on Human Rights,*

*"Noting the resolution on programme of work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/670, paragraph 48),*

*"1. Approves the programme of work contained therein;*

*"2. Recommends to the Economic and Social Council that:*

*"(a) It arrange for co-operation with the Special Rapporteur appointed in connexion with the study of discrimination in the field of education on the part of UNESCO and other appropriate specialized*

agencies, and national and international non-governmental organizations; and

“(b) It note the financial implications of this programme of work.”

64. The Sub-Commission's programme of work was divided into two parts, part A relating to prevention of discrimination and part B to protection of minorities (E/CN.4/670, paragraph 48).

65. Part A reads as follows:

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

“*Considering it to be its urgent duty to suggest recommendations on concrete measures for hastening the eradication of discrimination,*

“*Considering that in order to pave the way for the elaboration of such recommendations, with respect to discrimination and minorities problems, objective studies of actual conditions in the various parts of the world should be undertaken,*

“1. *Decides* that among the measures to combat discrimination that it will study, with a view to recommending further action to be taken by the Commission on Human Rights and the Economic and Social Council, will be those in the fields of education, employment and occupation, political rights, religious rights and practices, residence and movement, immigration and travel, the right to choose a spouse, and the enjoyment of family rights;

“2. *Also decides* that at its sixth session, the Sub-Commission shall discuss and suggest measures to be taken for the cessation of any advocacy of national, racial or religious hostility that constitutes an incitement to violence;

“3. *Further decides* to initiate the study of discrimination in the field of education immediately, and for this purpose, to appoint a Special Rapporteur;

“4. *Appoints Mr.* <sup>1</sup> *as a Special Rapporteur in connexion with the study of discrimination in the field of education;*

“5. *Directs* the Special Rapporteur to formulate a provisional plan of work;

“6. *Requests* the Commission on Human Rights to recommend that the Economic and Social Council arrange:

“(a) For co-operation with the Special Rapporteur on the part of UNESCO and other appropriate specialized agencies, and national and international non-governmental organizations;

“(b) For such expenses as may be involved in the implementation of this plan;

“7. *Plans* to consider at its sixth session an interim report of the Special Rapporteur, which shall be circulated to members of the Sub-Commission not less than six weeks before the commencement of its sixth session, and which may include, *inter alia*:

“(a) A formal statement of his proposals for a plan of work;

“(b) Any relevant information relating to his plan of work received from governments, specialized agencies, or national or international non-governmental organizations;

“(c) Summaries of any other relevant material he may consider pertinent to the question under study; and

“(d) Such further proposals for concrete recommendations concerning practical action on the part of the Sub-Commission as he may be in a position to make;

“8. *Places* on the provisional agenda of its sixth session the following item:

“Consideration of the procedure to be followed in studying discrimination in the field of employment and occupation.

“9. *Requests* the Secretary-General, in collaboration with the International Labour Office, 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 discrimination in the field of employment and occupation.”

66. Part B reads as follows:

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

“*Considering* that it should study, as a matter of equal priority, measures for the protection of all minority rights through legislative measures, judicial decisions, and administrative practices,

“1. *Decides* to study at its sixth session the variety and scope of the above-mentioned problems, with a view to:

“(a) Recommending action that it may be desirable for the Council to take for the protection of minorities;

“(b) Collecting existing measures on the protection of minorities which may be given publicity in order to promote higher standards in this field; and

“(c) Drafting legislative and administrative proposals that may be made available to governments desiring to take action in this field;

“2. *Requests* the Secretary-General to compile, analyse, and circulate to the members of the Sub-Commission, not later than sixty days before its sixth session, information received from governments, specialized agencies, and national or international non-governmental organizations, in regard to legislation, judicial decisions, administrative practices, and other measures related to the above-mentioned problems that has been submitted to the United Nations by Member Governments, including especially information contained in:

“(a) Responses to resolution 303 F (XI) of the Council;

“(b) Reports submitted to the Secretary-General pursuant to Article 73 e of the Charter, with regard to Non-Self-Governing Territories;

“(c) Replies to the Questionnaire submitted pursuant to Article 88 of the Charter, with regard to Trust Territories; and

“(d) The Yearbook on Human Rights;

“3. *Suggests* that in compiling this information, the Secretary-General organize this material under substantive headings, including among these headings all means for the protection of, and practices in regard to, the protection of minorities;

<sup>1</sup> After the adoption of this programme of work, the Sub-Commission, at its 107th meeting, appointed Mr. M. R. Masani as Special Rapporteur.

"4. *Decides* that the Sub-Commission will study the information compiled by the Secretary-General in draft form and when it completes its study, will request the Secretary-General to issue it as a Sub-Commission document."

#### *Part A of the programme of work*

67. With respect to Part A of the programme of work, the following amendments were submitted:

68. The representative of the United Kingdom proposed (E/CN.4/L.303) to insert after the first paragraph of the preamble, the following clause:

"*Considering* that for this purpose studies on discrimination should be undertaken in particular fields in accordance with the programme approved by the Commission on Human Rights".

The representative of France proposed (E/CN.4/L.301) the addition at the end of the United Kingdom amendment of the following sentence: "with special reference to the most serious and widespread forms of discrimination".

The phrase "with special reference to the most serious and widespread forms of discrimination" was adopted by 16 votes to none; the clause as a whole was adopted by 12 votes to 3, with 1 abstention.

69. The representative of the United Kingdom proposed (E/CN.4/L.303) to substitute for the second paragraph of the preamble the following:

"*Considering further* that for the purpose of such studies it is necessary to obtain all relevant information from governments, specialized agencies, and national or international non-governmental organizations, and any other relevant material;"

This amendment was adopted by 6 votes to 3, with 7 abstentions.

70. The representative of the United Kingdom further proposed to delete paragraph 1 of the operative part; this was defeated by 7 votes to 6, with 3 abstentions. The representative of Poland proposed (E/CN.4/L.287) to substitute "social field, including education, culture and health" for the words "fields of education" in paragraph 1 of the operative part; this was defeated by 5 votes to 4, with 6 abstentions. He also proposed to substitute "the economic field, including the hire of labour and occupation, and the fields of" for the words "employment and occupation" in the same paragraph; this was defeated by 7 votes to 6, with 3 abstentions.

71. The representative of the United Kingdom proposed (E/CN.4/L.303) to delete paragraph 2 of the operative part; this was defeated by 9 votes to 6, with 1 abstention. The representative of Poland proposed (E/CN.4/L.287) to replace the words "national, racial" by the words "national or racial exclusiveness, hatred and contempt" in the same paragraph; this was defeated by 7 votes to 3, with 6 abstentions. The representative of Chile proposed verbally to replace the word "violence" by the words "hatred and violence jointly or separately"; this was adopted by 8 votes to 3, with 5 abstentions.

72. The representative of the United Kingdom proposed (E/CN.4/L.303) to substitute for paragraph 3 of the operative part the following:

"*Decides* to begin with a study of discrimination in the field of education, with a view to making

concrete recommendations concerning practical action in the field".

This was defeated by 6 votes to 4, with 5 abstentions.

73. The representative of the United Kingdom proposed (E/CN.4/L.303) to substitute for paragraphs 4 to 9 of the operative part the following:

"4. *Requests* the Secretary-General, in collaboration with UNESCO and any other specialized agencies concerned, and national and international non-governmental organizations, to obtain and submit to the Sub-Commission the necessary material for study of this subject by the Sub-Commission at its next session;

"5. *Proposes* to submit to the Commission on Human Rights for its approval at its next session the subject of its next study and at following sessions the subjects of further studies."

This amendment was defeated by 8 votes to 6, with 2 abstentions.

#### *Part B of the programme of work*

74. With respect to part B of the programme of work, the following amendments were submitted:

75. The representative of the United Kingdom proposed (E/CN.4/L.303) to delete sub-paragraphs (b) and (c) of paragraph 1 of the operative part; this was defeated by 9 votes to 5, with 2 abstentions.

76. The representative of the United Kingdom proposed (E/CN.4/L.303) to substitute for paragraph 2 of the operative part the following:

"*Requests* the Secretary-General to make available to the Sub-Commission, if possible at its sixth session, the collection of provisions for the protection of minorities referred to in resolution D of the fifth session of the Sub-Commission, together with any other available information in regard to legislation, judicial decisions or administrative practices related to the above-mentioned problem."

This amendment was defeated by 9 votes to 6 with 1 abstention.

77. The representative of the United Kingdom proposed (E/CN.4/L.303) to delete paragraph 3 of the operative part; this was defeated by 8 votes to 4, with 4 abstentions. He also proposed to delete paragraph 4 of the operative part; this was defeated by 9 votes to 5, with 2 abstentions.

#### *Draft resolution F of the Sub-Commission*

78. With respect to draft resolution F, the following amendments were submitted:

79. The representative of the United Kingdom proposed (E/CN.4/L.303) to add at the end of the preamble the words "as amended by the Commission on Human Rights"; this was adopted by 15 votes to none, with 1 abstention.

80. The Chairman suggested to add at the end of paragraph 1 of the operative part the words "subject to the following amendments". Paragraph 1 of the operative part, thus amended, was adopted by 11

votes to 3, with 2 abstentions (for the complete text see paragraph 259).

81. Sub-paragraph (a) of paragraph 2 of the operative part was adopted by 10 votes to none, with

6 abstentions; sub-paragraph (b) by 9 votes to 2, with 5 abstentions.

82. Draft resolution F, thus amended, was adopted by 10 votes to 1, with 5 abstentions.

## Annex V

### Draft resolutions for the Economic and Social Council

#### 1. RESOLUTIONS RELATING TO PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

##### A

MEMBERSHIP AND FUTURE SESSIONS OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES<sup>1</sup>

*The Economic and Social Council,*

Having considered the resolution of the Commission on Human Rights (E/2447, paragraph 224) concerning the membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the future sessions of the Sub-Commission,

Decides that:

(a) The Sub-Commission shall meet at least once a year and that each session shall last three weeks;

(b) The next session of the Sub-Commission shall be convened in January 1954 in order that its report may be discussed at the tenth session of the Commission on Human Rights.

##### B

ABOLITION OF DISCRIMINATORY MEASURES<sup>2</sup>

*The Economic and Social Council,*

Having noted resolution 323 (IV) of the General Assembly and resolution 127 (VI) of the Trusteeship Council, on social advancement in Trust Territories, and resolution 644 (VII) of the General Assembly on racial discrimination in Non-Self-Governing Territories,

Considering that the prevention of discrimination in metropolitan territories is as important as prevention of discrimination in Trust and other Non-Self-Governing Territories,

Considering further that in certain countries or territories minorities may exist which require protection otherwise than by implementation of the principle of non-discrimination,

Recommends to governments of States Members of the United Nations that they review their national legislation and administrative practices with a view to abolishing all measures of discrimination that may exist in countries and territories under their jurisdiction, and to taking effective measures for the protection of minorities, if any, in those countries and territories.

<sup>1</sup> See chapter IV, paragraphs 223-225, annex IV, paragraphs 1-4, and annex VII, section B.

<sup>2</sup> See chapter IV, paragraph 228, and annex IV, paragraphs 9-11.

##### C

CO-OPERATION OF NON-GOVERNMENTAL ORGANIZATIONS<sup>3</sup>

*The Economic and Social Council,*

Noting that a number of non-governmental organizations, including organizations in consultative status with the Council, are actively engaged in activities designed to eradicate prejudice and discrimination,

Considering however that unco-ordinated action in this field is conducive to duplication, and furthermore that certain important aspects of the work may be overlooked,

Considering further that some organizations having as their objective the promotion of social progress generally might well be encouraged to devote particular attention to the vital problem of eradicating prejudice and discrimination,

1. Appeals to non-governmental organizations active in the field of eradicating prejudice and discrimination, or having as their objective the promotion of social progress generally, to co-ordinate their endeavours in this work;

2. Requests the Secretary-General, in collaboration with competent specialized agencies, to consult the non-governmental organizations in consultative relationship with the Economic and Social Council or the specialized agency concerned, in order to determine if it would be advisable to convene the interested non-governmental organizations in one or more conferences in order that they may:

- (i) Exchange views concerning the most effective means of combating discrimination;
- (ii) Co-ordinate their endeavours in this work if they find it desirable and feasible; and
- (iii) Consider the possibility of establishing common objectives and programmes.

3. Further requests the Secretary-General, after consultation with the non-governmental organizations and the specialized agencies concerned, to report to the Council on the advisability of convening one or more such conferences in accordance with resolution 479 (V) of the General Assembly.

##### D

POSITION OF PERSONS BORN OUT OF WEDLOCK<sup>4</sup>

*The Economic and Social Council*

Draws the attention of the Social Commission, other intergovernmental organs and interested non-governmental organizations:

<sup>3</sup> See chapter IV, paragraph 230, and annex IV, paragraphs 16-19.

<sup>4</sup> See chapter IV, paragraphs 231-232, and annex IV, paragraphs 20-26.

(a) To the discrimination which may, in existing social conditions, be practised against persons born out of wedlock; and

(b) To the desirability of preparing recommendations with a view to eliminating, with due regard to the principle set forth in Article 16, paragraph 3, of the Universal Declaration of Human Rights, any discrimination which may, in existing social conditions, be practised against persons born out of wedlock, and in particular of preparing recommendations with a view to eliminating the disclosure of illegitimacy in extracts from official documents delivered to third parties.

## E

### CONVENTION ON PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE<sup>5</sup>

#### *The Economic and Social Council*

1. *Draws the attention* of the General Assembly to the resolution of the Commission on Human Rights (E/2447, paragraph 235) relating to the Convention on Prevention and Punishment of the Crime of Genocide; and

2. *Requests* the General Assembly:

(a) To reiterate its appeal to governments to accelerate their ratifications or adherences to the Convention; and

(b) To undertake all necessary measures designed to assure the widest possible diffusion of the nature, contents, and purposes of the Convention, and in particular make known the list of States having voted for, signed, ratified or adhered to the Convention.

## F

### PROTECTION OF NEWLY-CREATED MINORITIES<sup>6</sup>

#### *The Economic and Social Council*

*Recommends* that in the preparation of any international treaties, decisions of international organs, or other acts which establish new States, or new boundary lines between States, special attention should be paid to the protection of any minority which may be created thereby.

## G

### TECHNICAL ASSISTANCE IN THE FIELDS OF PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES<sup>7</sup>

#### *The Economic and Social Council*

##### *Recommends*

(a) To the organizations participating in the technical assistance and other programmes providing aid or advice at the request of Member States, that they give sympathetic consideration to the requests which governments may submit for such technical assistance in connexion with measures aimed at the eradication of prejudice or discrimination or at the protection of minorities;

<sup>5</sup> See chapter IV, paragraphs 233-235, and annex IV, paragraphs 27-29.

<sup>6</sup> See chapter IV, paragraph 246, and annex IV, paragraphs 46-47.

<sup>7</sup> See chapter IV, paragraph 250, and annex IV, paragraphs 55-56.

(b) To the General Assembly, the adoption of a resolution authorizing the Secretary-General to render, at the request of Members of the United Nations, expert technical advice and other services in order to assist these Members of the United Nations in the eradication of prejudice or discrimination or in the protection of minorities; and that the services to be so authorized should include, but need not be restricted to, technical expert advice regarding the drafting of legislation and the establishment of administrative and judicial machinery, and also extend to educational programmes designed to combat prejudice and discrimination.

## H

### PROGRAMME OF WORK OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES<sup>8</sup>

#### *The Economic and Social Council,*

*Noting* the resolution of the Commission on Human Rights (E/2447, paragraph 259) relating to the programme of work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

1. *Requests* UNESCO and other appropriate specialized agencies, and national and international non-governmental organizations, to co-operate with the Special Rapporteur appointed in connexion with the study in the field of education; and

2. *Notes* the financial implications of this programme.

## 2. OTHER RESOLUTIONS

## I

### DEVELOPMENT OF THE WORK OF THE UNITED NATIONS FOR WIDER OBSERVANCE OF, AND RESPECT FOR, HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS THROUGHOUT THE WORLD<sup>9</sup>

#### *The Economic and Social Council*

1. *Decides* to transmit to Member States and to the specialized agencies the draft resolutions contained in documents E/CN.4/L.266/Rev.2, E/CN.4/L.267/Rev.1 and E/CN.4/L.268 together with the amendments submitted thereto (documents E/CN.4/L.304/Rev.1, E/CN.4/L.305/Rev.1, E/CN.4/L.306, E/CN.4/L.307, E/CN.4/L.308 and E/CN.4/L.309/Rev.1) and the records of the discussions thereon (E/CN.4/SR.391, E/CN.4/SR.403-406) in the Commission on Human Rights; and

2. *Requests* Member States and the specialized agencies to submit their comments on the draft resolutions and amendments to the Secretary-General by 1 October 1953.

## J

### REPORT OF THE NINTH SESSION OF THE COMMISSION

#### *The Economic and Social Council*

*Takes note* of the report of the ninth session of the Commission on Human Rights (E/2447).

<sup>8</sup> See chapter IV, paragraphs 253-259; annex IV, paragraphs 63-82, and annex VII, section C.

<sup>9</sup> See chapter V, paragraphs 281-284.

## Annex VI

### List of documents before the Commission at its ninth session

#### 1. DOCUMENTS ISSUED IN THE GENERAL SERIES

E/CN.4/165	Report of the Secretary-General on the situation (fifth session) with regard to communications concerning human rights		United Nations for wider observance of, and respect for, human rights and fundamental freedoms throughout the world
165/Corr.1	Ditto	535/Add.1	Ditto
165/Add.1	Communication from the deputy permanent representative of the Union of South Africa to the United Nations	554	Text of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950
362	Summarized documentation on measures for the benefit of aged persons and on their standard of living	554/Add.1	Text of the Protocol of 20 March 1952 to the European Convention for the Protection of Human Rights and Fundamental Freedoms
362/Add.1	Ditto	590	Note by the Secretary-General on existing procedures for periodic reporting to specialized agencies
367	Study by the Secretary-General of the continuing validity of minorities treaties and declarations	590/Add.1-4	Ditto
367/Corr.1	Ditto	641	Report of the fourth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (1951)
367/Add.1	Ditto	641/Corr.1	Ditto
511	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.	644	Memorandum by the Secretary-General on the "criteria for priorities" and the "procedure for establishment of priorities"
511/Rev.1 (English only)	Ditto	651	The federal clause: report by the Secretary-General
512	Memorandum by the Secretary-General on the draft declaration on the rights of the child	652	Definition and protection of political groups; note by the Secretary-General
517	Memorandum by the Secretary-General on annual reports on human rights	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
518	Note by the Secretary-General concerning old age rights (welfare of the aged)	654	Observations submitted by Member States on the proposed covenant on economic, social and cultural rights in pursuance of resolution 543 (VI) of the General Assembly
518/Rev.1 (English only)	Ditto	654/Add.1-9	Ditto
519	Memorandum by the Secretary-General on local Human Rights Committees	655	Observations submitted by specialized agencies on the proposed covenant on economic, social and cultural rights in pursuance of resolution 543 (VI) of the General Assembly
519/Add.1	Ditto	655/Add.1-4	Ditto
520	Memorandum by the Secretary-General on the right of asylum	660	Observations and suggestions on the draft international covenants on human rights and measures of implementation by non-governmental organizations in consultative status: memorandum by the Secretary-General
520/Add.1	Ditto	670	Report of the fifth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (1952)
521	Note by the Secretary-General concerning the international court of human rights	670/Corr.1	Ditto
521/Corr.1 (English only)	Ditto	671	Provisional agenda of the ninth session of the Commission on Human Rights
522	Memorandum by the Secretary-General concerning the Yearbook on Human Rights	672	Memorandum by the Secretary-General concerning review of the human rights programme
524	Memorandum by the Secretary-General on the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950	672/Add.1	Ditto
528	Memorandum by the Secretary-General on the general adequacy of the first eighteen articles of the draft international covenant on human rights	673	Memorandum by the Secretary-General concerning the provisions of the draft covenant on economic, social and cultural rights as drafted at the eighth session
528/Add.1	Ditto		
528/Corr.1	Ditto		
530	Memorandum by the Secretary-General on measures of implementation		
530/Add.1	Ditto		
535	Note by the Secretary-General on the development of the work of the		

674	Memorandum by the Secretary-General concerning the provisions of the draft covenant on civil and political rights, as drafted at the eighth session	E/CN.4/SR.339-410	Summary records of the meetings of the ninth session of the Commission
		E/1721	Report by the Secretary-General on the federal and colonial clauses
675	Memorandum by the Secretary-General on provisions relating to measures of implementation	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
676	Note by the Secretary-General on recommendations concerning international respect for the right of peoples to self-determination		
676/Add.1	Ditto		
677	Memorandum by the Secretary-General on the question of reservations	E/1992/Add.1	Note by the Secretary-General on the financial implications of the provisions relating to the establishment of a Human Rights Committee
678	Memorandum by the Secretary-General concerning the final clauses		
679	Note by the Secretary-General on the reports of the fourth and fifth sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities	E/2256	Report of the eighth session of the Commission on Human Rights
		E/2371	Observations made by the permanent representative of Greece to the United Nations on allegations regarding infringements of trade union rights received from the Federation of Greek Maritime Unions
680	Note by the Secretary-General on membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities		
680/Add.1	Ditto	A/2219	Report of the Committee on Information from Non-Self-Governing Territories to the General Assembly (seventh session)
681	Memorandum by the Secretary-General on General Assembly resolution 644 (VII) concerning racial discrimination in Non-Self-Governing Territories	A/2296	Report of the Fourth Committee of the General Assembly (seventh session) on questions concerning Non-Self-Governing Territories
682	Note by the Secretary-General on the procedure for handling communications relating to human rights		
683	Note by the Secretary-General on the draft international covenants on human rights and measures of implementation	A/C.3/564	Memorandum submitted by Uruguay to the Third Committee of the General Assembly (sixth session) concerning the bases of its proposal to establish a United Nations High Commissioner for Human Rights
684	Letter from UNESCO on the right to participate in cultural life	A/C.3/565	Memorandum presented to the Third Committee of the General Assembly (sixth session) by Israel giving a concise account of the considerations which led to the preparation of the draft resolution in A/C.3/L.193
685	Memorandum by the Secretary-General on consultation with governments concerning the draft international covenants on human rights and measures of implementation		
686	Note by the Secretary-General on the resolution of the Commission on the Status of Women (seventh session 1953) concerning the right to marriage and the protection of the family by society and the State	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
687	Membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities: text of a letter from the permanent representative of France to the United Nations on the nomination of Mr. Chatenet	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
688	List of nominees to the Sub-Commission on Prevention of Discrimination and Protection of Minorities	A/INF/50	Report by the Secretary-General on the third anniversary of the proclamation of the Universal Declaration of Human Rights
688/Corr.1 (French only)	Ditto	A/INF/50/Add.1	Ditto
688/Corr.2	Ditto		
E/CN.4/INF.5	Arrangements for the ninth session of the Commission on Human Rights		
INF/5/Add.1	Ditto		
E/CN.4/CR.22 CR.22/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 28 April 1952 to 31 March 1953, prepared by the Secretary-General	E/CN.4/L.219	Union of Soviet Socialist Republics: draft resolution concerning the representation of China

<sup>1</sup> Every article the number of which is quoted in this annex refers to the provisions on measures of implementation, report of the eighth session of the Commission on Human Rights, E/2256, annex I, section D, part IV, as considered in connexion with the draft covenant on civil and political rights. All references to the "Sub-Commission" refer to the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

- L.220 United States of America: draft resolution concerning membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
- L.221 Union of Soviet Socialist Republics: additional article for the draft covenant on civil and political rights on the rights of universal and equal suffrage and the rights of persons to participate in the government of the State
- L.222 Union of Soviet Socialist Republics: draft additional article for the draft covenant on civil and political rights on the right of every member of a minority to make use of its national language and develop its culture, etc.
- L.223 United Kingdom: proposal on the attendance at the ninth session of the Commission on Human Rights of the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
- L.224 Yugoslavia: revised draft of an additional article for the draft covenant on civil and political rights on the right of universal and equal suffrage and the right of persons to participate in the government of the State
- L.224/Corr.1 Ditto  
(French only)
- L.224/Rev.1 France and Yugoslavia: new revised draft of an additional article for the draft covenant on civil and political rights on the right of universal and equal suffrage and the right of persons to participate in the government of the State
- L.224/Rev.2 Ditto
- Rev.3 Ditto
- Rev.4 Ditto
- L.225 Yugoslavia: revised draft of an additional article for the draft covenant on civil and political rights on the right of every member of a minority to make use of its national language and develop its culture, etc.
- L.226 United Kingdom: amendment to article 33 (E/2256, annex I, section D, measures of implementation, part IV)
- L.226/Corr.1 Ditto  
(French only)
- L.227 United Kingdom: amendments to articles 35, 36, 38, 39, 40, 41, 42, 44, 46, 47, 49, 52, 57, 58, and proposals concerning the re-arrangement of articles and paragraphs on measures of implementation (part IV)
- L.228 Australia: amendment to article 34 and draft additional article on measures of implementation
- L.229 United States of America: amendment to article 34, and draft additional article on measures of implementation
- L.230 Union of Soviet Socialist Republics: draft additional article on federal State clause for inclusion in both covenants
- L.231 India: amendment to article 52
- L.232 Yugoslavia: amendments to articles 36, 37, 38, 39, 42, 44, 50, 51 and 53
- L.232/Rev.1 Yugoslavia: revised amendment to article 39
- L.233 France: draft resolution concerning the Commission's procedure with regard to the consideration of measures of implementation
- L.234 India: amendments to articles 41 and 43
- L.234/Rev.1 India: revised amendment to article 41
- L.235 France: amendments to articles 52 and 53
- L.235/Rev.1 Ditto
- L.235/Rev.2 France: revised amendment to article 53
- L.235/Rev.3 Ditto
- L.236 France: amendment to the amendment to article 57 submitted by the United Kingdom (E/CN.4/L.227)
- L.237 Chile: amendment to article 38
- L.238 Philippines: draft additional article on measures of implementation
- L.239 United Kingdom: amendment to article 43
- L.240 United Kingdom: amendment to article 50
- L.241 Uruguay: amendment to the revised amendment to the first sentence of article 39 submitted by Yugoslavia (E/CN.4/L.232/Rev.1)
- L.242 Working party composed of the representatives of France, United Kingdom and the Rapporteur: amendment to the amendment to article 40 submitted by the United Kingdom (E/CN.4/L.227)
- L.243 United Kingdom: amendment to article 34
- L.244 Belgium: amendment to article 52
- L.245 Belgium: amendments to articles 47, 53, 57 and 59
- L.246 Chile: amendments to article 52
- L.247 Chile: draft additional article on measures of implementation
- L.248 Egypt, Philippines: amendment to article 55
- L.248/Corr.1 Ditto  
(French only)
- L.249 Philippines: draft additional article on measures of implementation
- L.250 Egypt and India: draft additional article on measures of implementation
- L.251 Egypt: draft additional article on measures of implementation
- L.252 Chile and India: amendments to article 52
- L.252/Rev.1 Ditto
- L.253 Uruguay: draft resolution on article 52
- L.254 Uruguay: amendment to the revised amendments to article 52 submitted by Chile and India (E/CN.4/L.252/Rev.1)
- L.255 Uruguay: amendment to the draft additional article proposed by the Union of Soviet Socialist Republics (E/CN.4/L.221)
- L.255/Rev.1 Ditto
- L.256 Philippines: amendment to the draft additional article proposed by the Union of Soviet Socialist Republics (E/CN.4/L.221)
- L.257 Philippines: amendment to the new revised draft of an additional article proposed by France and Yugoslavia (E/CN.4/L.224/Rev.2)

- L.258 Chile and Uruguay: amendment to the new revised draft of an additional article proposed by France and Yugoslavia (E/CN.4/L.224/Rev.2)
- L.259 Egypt and India: draft additional article (revision of E/CN.4/L.250 and E/CN.4/L.251 on measures of implementation)
- L.259/Rev.1 Ditto
- L.260 Uruguay: amendment to the draft additional article proposed by Yugoslavia (E/CN.4/L.225) and to the draft additional article proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/2256, annex II, section A, III)
- L.261 Chile: amendment to the draft additional article proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/2256, annex II, section A, III)
- L.262 United Kingdom: amendment to the draft additional article proposed by France (E/2256, annex II, section A, V)
- L.263 Sweden: amendment to the draft additional article proposed by Chile (E/2256, annex II, section A, II)
- L.264 Suggestions made by the Rapporteur concerning the drafting of articles 33 to 52 on measures of implementation as adopted at the ninth session
- L.264/Add.1 Suggestions made by the Rapporteur concerning the drafting of articles 54 to 59 and of additional articles on measures of implementation as adopted at the ninth session
- L.264/Add.2 Suggestions made by the Rapporteur concerning the rearrangement of articles on measures of implementation as adopted at the ninth session
- L.265 United States of America: amendment to the draft additional article proposed by the Philippines (E/2256, annex II, section A, VI)
- L.266 United States of America: draft resolution on annual reports
- L.266/Add.1 United States of America: financial implications of the draft resolution on annual reports
- L.266/Rev.1 United States of America: revised draft resolution on annual reports
- L.266/Rev.2 Ditto
- L.267 United States of America: draft resolution on advisory services
- L.267/Add.1 United States of America: financial implications of the draft resolution on advisory services
- L.267/Rev.1 United States of America: revised draft resolution on advisory services
- L.268 United States of America: draft resolution on specific aspects of human rights
- L.268/Add.1 United States of America: financial implications of the draft resolution on specific aspects of human rights
- L.269 Poland: amendment to the draft additional article proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/2256, annex II, section A, IV)
- L.270 Chile: amendment to the draft additional article proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/2256, annex II, section A, IV)
- L.271 Egypt: amendment to the draft additional article proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/2256, annex II, section A, IV)
- L.272 Union of Soviet Socialist Republics: draft resolution on the drafting of a single covenant on civil and political rights and on economic, social and cultural rights
- L.273 France: draft additional article for the draft covenant on civil and political rights on marriage
- L.274 United Kingdom: amendment to the draft additional article proposed by the Commission on the Status of Women (E/CN.4/686)
- L.275 Chile: amendments to the draft additional article proposed by the Commission on the Status of Women (E/CN.4/686)
- L.276 Philippines: amendment to the draft additional article proposed by the Commission on the Status of Women (E/CN.4/686)
- L.277 China and Egypt: amendment to the amendment to article 53 submitted by Yugoslavia (E/CN.4/L.232)
- L.278 China: admendment to the amendment to article 53 submitted by Yugoslavia (E/CN.4/L.232)
- L.279 France: amendment to the draft additional article on measures of implementation proposed by the Philippines (E/CN.4/L.249)
- L.280 Chile: amendment to the amendment to article 55 submitted by Egypt and the Philippines (E/CN.4/L.248)
- L.281 Poland: amendment to the draft additional article on measures of implementation proposed by Egypt and India (E/CN.4/L.259)
- L.282 Yugoslavia: amendment to the draft additional article on measures of implementation proposed by Egypt and India (E/CN.4/L.259)
- L.283 Chile: amendment to the draft additional article on measures of implementation proposed by Egypt and India (E/CN.4/L.259)
- L.284 Yugoslavia: amendment to the draft resolution submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the definition of minorities for purposes of protection by the United Nations (E/CN.4/641, paragraphs 18-22, and annex I, draft resolution II)
- L.285 India: draft resolution on the membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
- L.286 Egypt, India, Philippines and Uruguay: draft resolution on communications
- L.287 Poland: amendment to part A (Prevention of Discrimination) of the pro-

- gramme of work of the Sub-Commission (E/CN.4/670, paragraph 48)
- L.287/Rev.1 Ditto
- L.288 United Kingdom: amendments to the draft resolution submitted by the Sub-Commission on the abolition of discriminatory measures (E/CN.4/670, paragraph 33, and annex I, draft resolution E)
- L.289 Suggestions made by the Rapporteur on the drafting of the additional articles on civil and political rights as adopted at the ninth session
- L.290 United States of America: amendment to the draft resolution submitted by the Sub-Commission on the position of persons born out of wedlock (E/CN.4/641, paragraph 38 and annex I, draft resolution V)
- L.291 Yugoslavia: amendment to the draft resolution submitted by the Sub-Commission on interim measures to be taken for the protection of minorities (E/CN.4/641, paragraphs 23-28 and annex I, draft resolution III)
- L.292 Poland: draft resolution on draft resolutions submitted by the Sub-Commission concerning the definition of minorities for purposes of protection by the United Nations and interim measures to be taken for the protection of minorities (E/CN.4/641, paragraphs 18-29, and annex I, draft resolutions II and III)
- L.293 Uruguay: amendment to the draft resolution submitted by the Sub-Commission on definition of minorities for purposes of protection by the United Nations (E/CN.4/641, paragraphs 18-23 and annex I, draft resolution II)
- L.294 United Kingdom: amendment to the draft resolution submitted by the Sub-Commission on definition of minorities for purposes of protection by the United Nations (E/CN.4/641, paragraphs 18-23 and annex I, draft resolution II)
- L.295 Chile: amendment to the draft resolution submitted by the Sub-Commission on definition of minorities for purposes of protection by the United Nations (E/CN.4/641, paragraphs 18-23 and annex I, draft resolution II)
- L.296 United Kingdom: amendment to the draft resolution submitted by the Sub-Commission on interim measures to be taken for the protection of minorities (E/CN.4/641, paragraphs 23-29 and annex I, draft resolution III)
- L.297 Belgium: draft resolution concerning the draft resolutions submitted by the Sub-Commission on definition of minorities for purposes of protection by the United Nations and interim measures to be taken for the protection of minorities (E/CN.4/641, paragraphs 19-29 and annex I, draft resolutions II and III)
- L.297/Rev.1 Ditto
- L.297/Rev.2 Ditto
- L.298 and L.298/Add.1-5 Draft report of the ninth session of the Commission on Human Rights
- L.299 Australia: draft resolution concerning the draft resolutions submitted by the Sub-Commission on the publication of the work of the United Nations and the Sub-Commission in the fields of prevention of discrimination and protection of minorities (E/CN.4/670, paragraphs 54-57 and annex I, draft resolutions G, H and I)
- L.299/Rev.1 Ditto
- L.300 Uruguay: amendment to the draft resolution submitted by Belgium (E/CN.4/L.297) on the draft resolutions of the Sub-Commission (E/CN.4/641, paragraphs 19-29, annex I, draft resolutions II and III)
- L.301 France: amendment to part A (Prevention of Discrimination) of the resolution of the Sub-Commission concerning the programme of work of the Sub-Commission (E/CN.4/670, paragraph 48)
- L.302 [The symbol number of this document was assigned to a proposal which was withdrawn before circulation]
- L.303 United Kingdom: amendments to the resolutions of the Sub-Commission on the programme of work of the Sub-Commission (E/CN.4/670, parts A and B in paragraph 48, annex I, draft resolution F)
- L.304 France: amendments to the draft resolution on annual reports (E/CN.4/L.266) submitted by the United States of America
- L.304/Rev.1 Ditto
- L.305 Yugoslavia: amendments to the draft resolution on annual reports (E/CN.4/L.266) submitted by the United States of America
- L.305/Rev.1 Ditto
- L.306 Yugoslavia: amendments to the draft resolution on advisory services (E/CN.4/L.267/Rev.1) submitted by the United States of America
- L.307 Yugoslavia: amendments to the draft resolution on specific aspects of human rights (E/CN.4/L.268) submitted by the United States of America
- L.308 Egypt and India: amendments to the draft resolution on annual reports (E/CN.4/L.266) submitted by the United States of America
- L.309 Chile: amendment to the amendment submitted by France (E/CN.4/L.304) to the United States draft resolution on annual reports (E/CN.4/L.266)
- L.309/Rev.1 Chile: amendment to the United States draft resolution on annual reports (E/CN.4/L.266/Rev.2)
- L.310 Sweden: draft resolution on the draft resolutions submitted by the United States (E/CN.4/L.266/Rev.2, E/CN.4/L.267/Rev.1 and E/CN.4/L.268)
3. DOCUMENTS ISSUED IN THE NON-GOVERNMENTAL ORGANIZATIONS SERIES
- E/CN.4/NGO/41 Women's International League for Peace and Freedom (Category B): Equal opportunities for men and women
- 42 Women's International League for Peace and Freedom (Category B): Freedom of thought and of action

- 43 International Alliance of Women (Category B): Suggestions concerning the Universal Declaration of Human Rights and the draft covenants on human rights
- 44 International Union for Child Welfare (Category B): Suggestions concerning the Declaration of the Rights of the Child
- 45 International League for the Rights of Man (Category B): Measures of implementation
- 46 Co-ordinating Board of Jewish Organizations (Category B): A future United Nations programme on human rights
- 47 Co-ordinating Board of Jewish Organizations (Category B): Draft international covenants on human rights and measures of implementation
- 48 International Federation of Business and Professional Women (Category

- B): Observations relating to measures of implementation, the rights of petition, and the nationality of married women in the draft covenant on human rights
- 49 World Jewish Congress (Category B): Measures of implementation
- 50 International Federation of Christian Trade Unions (Category B): Observations concerning racial discrimination
- 51 International Catholic Child Bureau (Category B): Draft declaration on the rights of the child
- 52 International League for the Rights of Man (Category B): Programme of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities
- 53 Pax Romana (Category B): Programme of the Commission on Human Rights

**Annex VII**

**Financial implications of decisions of the Commission  
(prepared by the Secretariat)**

**A. ESTABLISHMENT OF A HUMAN RIGHTS COMMITTEE<sup>1</sup>**

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
Printing of report—100 pages in English and French .....		2,950
<b>TOTAL</b>		<b>15,100</b>

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. Should the payment of fees be decided upon, the above estimates would have to be adjusted accordingly.

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 of the Committee, to be appointed by the Committee from a list of three names submitted by the Secretary-General, would also be provided from the existing establishment.

**B. NEXT SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES<sup>2</sup>**

1. If the proposal of the Commission were approved and the Sub-Commission were convened for a three

<sup>1</sup> See annex I, section B, part IV.

<sup>2</sup> See chapter IV, paragraphs 222-224, and annex V, draft resolution A.

weeks' session in January 1954 at Headquarters the costs would be:

	\$	
Travel of twelve members: \$1,000 per member ...	12,000	
<i>Per diem</i> of twelve members: \$25 per day per member .....	6,300	
TOTAL		18,300

2. Travel costs have been estimated in round figures, and would of course be reduced or increased depending upon the distance between the home of the representative and the place of the Sub-Commission's session.

C. PROGRAMME OF WORK OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES<sup>3</sup>

	\$	\$
Travel expenses in connexion with any necessary consultations between the Special Rapporteur and the United Nations Secretariat:		
<i>Per diem</i> : \$25 per day for 10 days ....	250	
Travel .....	1,000	1,250

	\$	\$
Travel expenses in connexion with any necessary consultations between the Special Rapporteur and interested international organizations (e.g., UNESCO):		
<i>Per diem</i> : \$20 per day for 10 days ....	200	
Travel .....	1,000	1,200
TOTAL		2,450

1. Travel costs have been estimated in round figures and would, of course, be reduced or increased depending upon the distance between the home of the Special Rapporteur and the point where consultations with the United Nations Secretariat or other interested international organizations (e.g., UNESCO) take place.

2. It is assumed that the consultations referred to above will be undertaken primarily through correspondence, and to the extent that such consultations can be completed by this method, the costs involved may be reduced.

<sup>3</sup> See chapter IV, paragraphs 253-259 and annex V, draft resolution H.