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SOCIAL COUNCIL



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

New York, 1 to 16 October 1951

Rapporteur: Mr. Arturo Meneses Pallares

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## CHAPTER I

### ORGANIZATION OF THE FOURTH SESSION OF THE SUB-COMMISSION

1. The fourth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities opened on Monday, 1 October 1951, at the Headquarters of the United Nations, New York. The Sub-Commission held twenty meetings and terminated its work on 16 October 1951.

2. The following members of the Sub-Commission, or alternates, attended:

|                      |                                      |  |
|----------------------|--------------------------------------|--|
| <u>Chairman</u>      | <u>Mr. M. R. Masani</u>              | (India)                                  |
| <u>Vice-Chairman</u> | <u>Mr. H. Roy</u>                    | (Haiti)                                  |
| <u>Rapporteur</u>    | <u>Mr. A. Meneses Pallares</u>       | (Ecuador)                                |
| <u>Members:</u>      | <u>Mr. S. Boratynski (Alternate)</u> | (Poland)                                 |
|                      | Mr. C. F. Chang                      | (China)                                  |
|                      | Mr. J. Daniels                       | (United States of America)               |
|                      | Mr. E. Ekstrand                      | (Sweden)                                 |
|                      | Miss E. Monroe                       | (United Kingdom)                         |
|                      | Mr. J. Nisot                         | (Belgium)                                |
|                      | Mr. R. Shafagh                       | (Iran)                                   |
|                      | Mr. S. Spanien                       | (France)                                 |
|                      | Mr. V. M. Zonov (Alternate)          | (Union of Soviet<br>Socialist Republics) |

3. The following representative of a specialized agency was present at the session:

|             |   |
|-------------|---|
| Mr. Métraux | United Nations Educational, Scientific<br>and Cultural Organization |
|-------------|---|

4. The following authorized representatives from non-governmental organizations were present as observers:

#### CATEGORY A

|                |                                     |
|----------------|-------------------------------------|
| Miss Hillquit) | International Confederation of Free |
| Mr. Power )    | Trade Unions                        |
| Miss Kahn      | World Federation of Trade Unions    |

/CATEGORY B

CATEGORY B

|                 |   |
|-----------------|---|
| Mr. Lewin       | Agudas Israel World Organization                |
| Mr. Moskowitz   | Consultative Council of Jewish Organizations    |
| Mr. Bernstein   | Co-ordinating Board of Jewish Organizations     |
| Mr. Beer        | International League for the Rights of Man      |
| Miss Gartlan    | International Union of Catholic Women's Leagues |
| Mr. Jacoby )    | World Jewish Congress                           |
| Mr. Perlzweig ) |   |
| Mr. Ronalds     | World Union for Progressive Judaism             |

Written statements on the future work of the United Nations in the field of prevention of discrimination and protection of minorities in accordance with paragraphs 28 and 29 of resolution 288 B (X) of the Economic and Social Council, were submitted by the following non-governmental organizations in category B consultative status:

- (a) Consultative Council of Jewish Organizations (E/CN.4/Sub.2/NGO/1),
- (b) World Jewish Congress (E/CN.4/Sub.2/NGO/2).

In accordance with rule 75 of the rules of procedure of functional commissions of the Economic and Social Council the Sub-Commission granted hearings at various meetings of the session to the following non-governmental organizations: in category A consultative status: World Federation of Trade Unions (Miss E. Kahn); in category B consultative status: Agudas Israel World Organization (Mr. Isaac Lewin); Consultative Council of Jewish Organizations (Mr. M. Moskowitz); Co-ordinating Board of Jewish Organizations (Mr. Bernstein); International League for the Rights of Man (Mr. M. Beer); World Jewish Congress (Mr. Jacoby and Mr. Perlzweig); and the World Union for Progressive Judaism (Mr. Ronalds).

5. At its 64th meeting, the Sub-Commission re-elected Mr. Masani Chairman and Mr. Meneses Pallares Rapporteur. It elected Mr. Roy Vice-Chairman.

6. Before the session opened, Mr. A. P. Borisov informed the Secretary-General that he was unable to attend the fourth session of the Sub-Commission and that,

/in accordance

in accordance with rule 70 of the rules of procedure of functional commissions, he appointed Mr. V. M. Zonov as his alternate with the consent of the Government of the Union of Soviet Socialist Republics and in consultation with the Secretary-General. Mr. Winiewicz also informed the Secretary-General that he was unable to attend the fourth session of the Sub-Commission and that, in accordance with rule 70 of the rules of procedure of functional commissions, he appointed Mr. Boratynski as his alternate with the consent of the Government of Poland and in consultation with the Secretary-General. Mr. C. E. Black acted as alternate for Mr. Daniels at the 79th and 80th meetings of the Sub-Commission, and Mr. S. Matusiak for Mr. Winiewicz at the 83rd meeting.

7. At the 64th meeting of the Sub-Commission, Mr. Zonov proposed the following draft resolution (E/CN.4/Sub.2/L.1):

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

"Resolves

- "1. To exclude the representative of the Kuomintang group from membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;
- "2. To invite an expert from China, recommended by the Central People's Government of the People's Republic of China, to take part in the work of the Sub-Commission."

Mr. Boratynski supported Mr. Zonov's draft resolution. Mr. Spanien pointed out that the Sub-Commission was not competent to change its membership and that, therefore, the proposal submitted by Mr. Zonov was out of order. A vote was taken on the question of the competence of the Sub-Commission under rule 52, the Sub-Commission deciding by 9 votes to 2 that it was not competent to adopt the proposal submitted to it by Mr. Zonov.

8. Mr. Egon Schwelb, Deputy Director of the Division of Human Rights, represented the Secretary-General. Mr. Edward Lawson acted as Secretary of the Sub-Commission.

9. The expression of the views of the members of the Sub-Commission is contained in the summary records of its meetings (documents E/CN.4/Sub.2/SR.64 to 83).

CHAPTER II  
ADOPTION OF THE AGENDA  
(Item 2 of the Agenda)

10. At its 64th meeting the Sub-Commission considered the provisional agenda prepared by the Secretary-General in consultation with the Chairman (E/CN.4/Sub.2/123/Rev.1). It decided by 11 votes to 0 with 1 abstention to transpose item 5, "Provisions of the Draft International Covenant on Human Rights relating to, or affecting, prevention of discrimination or protection of minorities", and item 8, "Protection of minorities". It unanimously decided to amend item 10 of the provisional agenda to read: "Decision of the Economic and Social Council to discontinue the Sub-Commission, and future work of the United Nations for the prevention of discrimination and the protection of minorities". It rejected, by 9 votes to 3, a proposal by Mr. Zonov that item 7 (a) of the provisional agenda, "Prevention of discrimination and denial of fundamental freedoms in respect of political groups", be deleted.

11. At its 67th meeting the Sub-Commission decided to add an additional item to its agenda, "Joint proposal by Mr. Ekstrand, Mr. Masani and Mr. Moneses Pallares for International Machinery for the Prevention of Discrimination and the Protection of Minorities".

As amended, the agenda of its fourth session was as follows:

1. Election of Officers.
2. Adoption of the agenda.
3. Invitation to the Commission on the Status of Women.
4. Communications relating to prevention of discrimination and protection of minorities.
5. Protection of minorities:
  - (a) Further consideration of the draft resolution relating to a definition of minorities, and to interim measures to be taken for the protection of minorities, prepared by the Sub-Commission at its third session;

/(b) Report

- (b) Report of the Committee on Classification of Minorities;
- (c) Proposals relating to the protection of minorities:
  - (1) Proposal by Mr. Masani on a draft convention for the protection of the ethnic, religious and linguistic traditions and characteristics of minorities;
  - (2) Joint proposal by Mr. Ekstrand, Mr. Masani and Mr. Meneses Pallares for International Machinery for the Prevention of Discrimination and the Protection of Minorities;
  - (3) Proposal by Mr. Shafagh for on-the-spot surveys.
- 6. Information received from governments under resolution 303 F (XI) of the Economic and Social Council.
- 7. Prevention of discrimination:
  - (a) Prevention of discrimination and denial of fundamental freedoms in respect of political groups;
  - (b) Statement on racial problems prepared by UNESCO;
  - (c) Other problems related to the prevention of discrimination.
- 8. Provisions of the draft international covenant on human rights relating to, or affecting, prevention of discrimination or protection of minorities.
- 9. Information concerning prevention of discrimination and protection of minorities to be included in the Yearbook on Human Rights.
- 10. Decision of the Economic and Social Council to discontinue the Sub-Commission, and future work of the United Nations for the prevention of discrimination and the protection of minorities.
- 11. Adoption of the Report of the Sub-Commission.

### CHAPTER III

#### INVITATION TO THE COMMISSION ON THE STATUS OF WOMEN

(Item 3 of the Agenda)

12. At its 64th meeting the Sub-Commission decided unanimously to invite the Commission on the Status of Women to send a representative to participate in its deliberations when items relating to discrimination based on sex were to be discussed, in accordance with Part A (5) of resolution 48 (IV) of the Economic and Social Council. Subsequently, the Commission on the Status of Women was represented by Miss Minerva Bernardino (Dominican Republic), who participated in the work of the Sub-Commission.

/CHAPTER IV



CHAPTER IV  
COMMUNICATIONS RELATING TO PREVENTION OF DISCRIMINATION  
AND PROTECTION OF MINORITIES  
(Item 4 of the Agenda)

13. At its 65th meeting, which was held in private, the Sub-Commission received a non-confidential list of communications dealing with the principles involved in prevention of discrimination and protection of minorities received by the United Nations from 30 November 1949 to 11 August 1951 (E/CN.4/Sub.2/CR.3), and a confidential list of communications dealing with discrimination and minorities received during the same period (restricted document Sub.2/Communications List No.1), both of which had been prepared by the Secretary-General in accordance with resolution 75 (V) of the Economic and Social Council, as amended by resolutions 116 A (VI) and 275 B (X).

14. The Sub-Commission established a committee of five members, nominated by the Chairman, composed of Mr. Boratynski, Mr. Chang, Mr. Ekstrand, Mr. Shafagh and Mr. Spanien, to examine the lists of communications and to make recommendations and observations thereon. Because of an objection raised by Mr. Zonov to the nomination of Mr. Chang, each of the five members was elected by a separate vote. Mr. Ekstrand, Mr. Shafagh and Mr. Spanien were elected unanimously; Mr. Boratynski by 9 votes to 0 with 1 abstention; and Mr. Chang by 8 votes to 2, with 1 abstention.

15. The Committee on Communications met in private on 2 October 1951. Mr. Ekstrand was elected Chairman and Mr. Shafagh Rapporteur. The Committee unanimously recommended that the Sub-Commission adopt the following draft resolution:

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

"Takes note of the communications dealing with discrimination and minorities received by the United Nations from 30 November 1949 to 11 August 1951 (document E/CN.4/Sub.2/CR.3 and restricted document Sub.2/Communications List No. 1)."

/16. The report

16. The report of the Committee on Communications was examined by the Sub-Commission at its 74th meeting, also held in private. A proposal that the Sub-Commission, in addition to taking the action suggested by the Committee on Communications, should also express its concern that no adequate procedure has yet been adopted by the United Nations for dealing with complaints of current violations of human rights, was submitted to the Sub-Commission by Mr. Moneses Pallares (E/CN.4/Sub.2/L.6). As a result of its examination of the Report and of this proposal, the Sub-Commission adopted the following resolution by 6 votes for, 0 against and 4 abstentions:

A.

Resolution on Communications

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

Having considered the report of its Committee on Communications (document E/CN.4/Sub.2/139);

Takes note of the lists of communications dealing with discrimination and minorities received by the United Nations from 30 November 1949 to 11 August 1951, prepared for its fourth session by the Secretary-General under resolution 75 (V) of the Economic and Social Council as amended by resolutions 116 A (VI) and 275 B (X) (document E/CN.4/Sub.2/CR.3 and restricted document Sub.2/Communications List No. 1);

Observes with deep concern that no adequate procedure has yet been adopted by the United Nations for dealing with complaints of current violations of human rights, despite the fact that a considerable number of communications have been received since the establishment of the United Nations.

17. Separate votes were taken on the second and third paragraphs of the above resolution. The second was adopted by 9 votes to 0 with 1 abstention, while the third was adopted by 6 votes to 2 with 2 abstentions.

CHAPTER V  
PROTECTION OF MINORITIES  
(Item 5 of the Agenda)

- (a) Further consideration of the draft resolutions relating to a definition of minorities, and to interim measures to be taken for the protection of minorities, prepared by the Sub-Commission at its third session

18. At its third session the Sub-Commission had adopted and forwarded to the Commission on Human Rights a draft resolution on definition of minorities for purposes of protection by the United Nations (draft resolution III, E/CN.4/358/Annex) and a draft resolution on interim measures to be taken for the protection of minorities (draft resolution V, E/CN.4/358/Annex). Both draft resolutions had been considered by the Commission on Human Rights, which had decided not to forward them to the Economic and Social Council in order to enable the Sub-Commission to use them if necessary for the development of its further proposals on minorities.

19. In examining the draft resolution on definition of minorities for purposes of protection by the United Nations, which it had adopted at its third session, the Sub-Commission, taking into account the discussion of this draft resolution in the Commission on Human Rights, decided that several alterations were necessary in the wording of that definition.

20. It first considered a drafting amendment proposed by Miss Monroe, to delete paragraph 2 and to substitute the following text (E/CN.4/Sub.2/L.2):

"Recognizing, however, that among minority groups not requiring protection are such groups as:

"(a) Those numerically inferior to the rest of the population although the dominant group therein; and

(b) 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".

/The Sub-Commission

The Sub-Commission adopted this drafting amendment by 10 votes to 0 with 2 abstentions at its 66th meeting.

21. The Sub-Commission decided, by 8 votes to 0 with 3 abstentions, to substitute the word "preserve" for the word "develop" in section 4 (b) of the draft resolution. It also decided, by 6 votes to 2 with 4 abstentions, to delete the opening words "the members of" from part 4 (c) of the draft resolution.

22. The draft resolution as a whole was reaffirmed, as amended, by 10 votes to 2. It appears as draft resolution II in Annex I of this report.

23. In examining the draft resolution on interim measures to be taken for the protection of minorities, the Sub-Commission took into account the amendments suggested by the ad hoc Committee on Prevention of Discrimination and Protection of Minorities, established by the Commission on Human Rights at its sixth session (document E/1681, paragraph 61, footnote 9 (II)), and amendments proposed by members of the Sub-Commission.

24. The first amendment suggested by the ad hoc Committee was substitution of the word "protecting" for the phrase "displaying its concern for". This suggestion was accepted.

25. The second suggested amendment was addition of the words "as a minimum" in the operative paragraph of the draft resolution. Some members of the Sub-Commission felt that the substance of this amendment had been included in the original wording although not specifically stated there; however, there was no objection to inserting the words and a motion by Mr. Daniels to this effect was adopted by 3 votes to 0 with 2 abstentions.

26. The third suggested amendment was substitution of the phrase "before the courts" for the phrase "in judicial procedure" in section 1 of the operative paragraph. The members of the Sub-Commission saw no justification for such an amendment; generally speaking their view was that any formula was acceptable which respected the right of a member of a minority to know what was going on in court when a case which involved him was being heard. No member of the Sub-Commission sponsored the amendment suggested by the ad hoc Committee, and it was not voted upon.

/27. The fourth

27. The fourth amendment suggested by the ad hoc Committee was addition of the phrase "in those cases where the member of the minority group does not speak or understand the language ordinarily used in the courts" to section 1 of the operative paragraph. This amendment was sponsored by Mr. Daniels and adopted by the Sub-Commission by 5 votes for, 2 against and 5 abstentions.

28. A new amendment to the operative paragraph of the draft resolution was proposed by Miss Monroe, to the effect that the phrase "with due regard to the requirements of judicial and educational efficiency" be added after the words "Member Governments should". This amendment was adopted by 5 votes to 3 with 4 abstentions. Later it was altered by the Sub-Commission at the suggestion of Miss Monroe, to eliminate the reference to "requirements of judicial efficiency" since this point was covered by the revised text mentioned in paragraph 27. The amended resolution on interim measures to be taken for the protection of minorities was confirmed when the draft resolution presented by Miss Monroe and Mr. Daniels under item 10 of the agenda (E/CN.4/Sub.2/L.10) was adopted (See Chapter X). It appears as draft resolution III in Annex I of this report.

(b) Report of the Committee on Classification of Minorities

29. At its third session the Sub-Commission had appointed a Committee on Classification of Minorities, consisting of Miss Monroe (Rapporteur), Mr. Ekstrand and Mr. Shafagh, to improve upon the classification of minorities contained in Chapter III of the memorandum submitted by the Secretary-General on Definition and Classification of Minorities (E/CN.4/Sub.2/85), in order to assist Governments in replying to any inquiry on minorities the United Nations may make of them. The Committee was asked to carry on its work by correspondence during the period between the third and fourth sessions of the Sub-Commission.

30. The Sub-Commission examined the report of the Committee on Classification (E/CN.4/Sub.2/137) at its 68th and 70th meetings. It made two amendments in the report. By the first of these the words "most effective" were substituted for the word "ideal" in paragraph 1 of the recommendation proposed by the Committee.

/By the

By the second the phrase "at this stage" was added after "to refrain" in paragraph 3 of the proposed recommendation. The final phrase of the third paragraph, "until it is known who desires and applies for international help", was withdrawn by the Committee. The Sub-Commission, by 8 votes to 0 with 3 abstentions, adopted the following resolution:

B.

Resolution on Classification of Minorities

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

Recognizing that, in the light of the replies received from Governments under resolution 303 F (XI) of the Economic and Social Council, the most effective method of settling minority problems is by internal legislation and practice;

Expresses its satisfaction that so many Governments are using their best endeavours to this end; and

Decides to refrain at this stage, from classifying minorities in greater detail than that afforded by its definition of minorities.

(c) Proposals relating to the protection of minorities

31. At the third session of the Sub-Commission Mr. Masani had submitted a draft resolution under which, if adopted, the Secretary-General would have been asked by the Sub-Commission to prepare and circulate to its members a draft convention on the protection of the ethnic, religious and linguistic traditions and characteristics of minorities (E/CN.4/Sub.2/108). The Sub-Commission had decided to place this item on the provisional agenda of its fourth session. At its 69th meeting Mr. Masani withdrew his draft resolution and introduced a joint proposal prepared by himself, Mr. Ekstrand and Mr. Meneses Pallares for International Machinery for the Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/127).

32. The joint proposal was examined at the 69th and 70th meetings of the Sub-Commission. In a general debate several members expressed the view that it was premature for the Sub-Commission to attempt preparation of any general international instrument on prevention of discrimination and protection of minorities, pending

/completion

completion of the International Covenant on Human Rights. The Sub-Commission decided, by 6 votes to 1 with 3 abstentions, to study the joint proposal as a working document, and to consider relevant points in it later, when it reached item 10 of its agenda. It then examined the proposed draft convention, and the draft resolution attached to it, point by point, singling out certain substantive provisions to be considered under item 10. (See Chapter X)

33. At the third session of the Sub-Commission Mr. Shafagh had submitted a proposal for on-the-spot surveys of the problems of various minorities and the types of discrimination from which they suffer (E/CN.4/Sub.2/91). The Sub-Commission had decided then to place this item on the provisional agenda of its fourth session. At its 72nd meeting Mr. Shafagh withdrew his earlier proposal inasmuch as the substance of it was dealt with in a more comprehensive proposal (E/CN.4/Sub.2/136) which he had submitted for consideration under item 10 of the agenda. (See Chapter X)

CHAPTER VI  
INFORMATION RECEIVED FROM GOVERNMENTS UNDER RESOLUTION 303 F (XI)  
OF THE ECONOMIC AND SOCIAL COUNCIL  
(Item 6 of the Agenda)

34. The Sub-Commission had before it information received from governments under resolution 303 F (XI) of the Economic and Social Council (documents E/CN.4/Sub.2/122 and Add. 1 to 37) and an analysis of this information prepared by the Secretary-General (E/CN.4/Sub.2/132).<sup>1/</sup>

35. At its 71st meeting the Sub-Commission decided to take note of the information received from Governments, to express its appreciation to Governments for having replied, and to express further the hope that Governments which have not as yet furnished such information will do so as soon as possible. The Sub-Commission also stated its desire that all Governments keep up to date the information which they had already furnished, in order that the appropriate bodies of the United Nations might have it before them when dealing with questions relating to prevention of discrimination and protection of minorities.

36. At the request of Mr. Zonov, the following text was inserted in this report:

"During the discussion of this question, Mr. Zonov and Mr. Boratynski pointed out that the information supplied by governments did not give a true picture of the situation with regard to discrimination against minorities in a number of countries, since that information related only to metropolitan States and gave no data on the position in the colonies. Moreover, the information received from governments related only to legislative measures for the prevention of discrimination and the protection of minorities and contained no data on the practical implementation of such measures."

/CHAPTER VII

1/ Replies from the following governments were received in time to be included in the analysis prepared by the Secretary-General: Iceland, E/CN.4/Sub.2/122; Ceylon, E/CN.4/Sub.2/122/Add.1; Norway, Add.2; Colombia, Add.3; Honduras, Add.4; Lebanon, Add.5 and Corr.1; The Philippines, Add.6; Belgium, Add.7; Luxembourg, Add.8; United States of America, Add.9; Ireland, Add.10; Jordan, Add.11; Saudi Arabia, Add.12; Liechtenstein, Add.13; Hungary, Add.14; Union of Soviet Socialist Republics, Add.15; India, Add.16; Argentina, Add.17; El Salvador, Add.18; The Netherlands, Add.19; Finland, Add.20; Byelorussian Soviet Socialist Republic, Add.21; Pakistan, Add.22; Yemen, Add.23; Switzerland, Add.24; Monaco, Add.25; France, Add.26; Afghanistan, Add.27; Denmark, Add.28. Replies from the following governments were received too late to be included in this analysis: Yugoslavia, E/CN.4/Sub.2/122/Add.29; Guatemala, Add.30; Ecuador, Add.31; Italy, Add.32; Japan, Add.33; United Kingdom, Add.34; Egypt, Add.35; Federal Republic of Germany, Add.36; Sweden, Add.37.



CHAPTER VII  
PREVENTION OF DISCRIMINATION  
(Item 7 of the Agenda)

(a) Prevention of discrimination and denial of fundamental freedoms in respect of political groups

37. At its third session the Sub-Commission had decided to place on the provisional agenda of its fourth session the item "Prevention of discrimination and denial of fundamental freedoms in respect of political groups". The Sub-Commission had before it a memorandum on this subject submitted by the Secretary-General (E/CN.4/Sub.2/129). After a discussion at its 71st meeting, Mr. Spanien stated that he would prepare a working paper on this subject which could be considered under item 10 of the Sub-Commission's agenda. (See Chapter X)

(b) Statement on racial problems prepared by UNESCO (and activities of UNESCO in the field of prevention of discrimination and protection of minorities)

38. The Sub-Commission had before it the statement by experts on problems of race issued by UNESCO on 18 July 1950 (E/CN.4/Sub.2/121), and a memorandum on activities of UNESCO in the field of prevention of discrimination and protection of minorities (E/CN.4/Sub.2/121/Add.1). It considered these memoranda at its 71st and 72nd meetings, and heard a representative of UNESCO. A proposal on the work of UNESCO in this field, submitted orally by Mr. Shafagh, was adopted by the Sub-Commission by 9 votes to 2, with 1 abstention, as follows:

C.

Resolution on the activities of UNESCO in the field of prevention of discrimination and protection of minorities

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

Having examined the Statement by Experts on Problems of Race, issued by UNESCO on 18 July 1950 (E/CN.4/Sub.2/121) and the communication from UNESCO on its activities in the field of prevention of discrimination and protection of minorities in 1950 and the first part of 1951 (E/CN.4/Sub.2/Add.1);

/Expresses

Expresses its satisfaction with the work of UNESCO in this field; and  
Recommends that the Commission on Human Rights draw the attention of the Economic and Social Council and of the General Assembly to these activities and particularly to the on-the-spot investigations carried on by UNESCO, such as have been conducted in Brazil.

A draft resolution (resolution IV) for the Commission on Human Rights, on this subject appears in Annex I of this Report.

(c) Other problems related to the prevention of discrimination

39. The Sub-Commission examined a memorandum submitted by the Secretary-General on the status of persons born out of wedlock (E/CN.4/Sub.2/125). Mr. Spanien proposed a draft resolution on the subject (E/CN.4/Sub.2/L.7), which he later revised (E/CN.4/Sub.2/L.7/Rev.1). The revised text was considered at the eighty-first meeting of the Sub-Commission. After Mr. Spanien had accepted two verbal amendments suggested by Miss Monroe, the amended text was put to the vote paragraph by paragraph. The first paragraph was adopted unanimously and the second by 10 votes to 0 with 1 abstention. The recommendation relating to Article 1 of the Draft International Covenant on Human Rights was adopted by 5 votes to 2 with 3 abstentions. That relating to Article 26 was adopted by 8 votes to 2 with 1 abstention. The final paragraph was adopted unanimously. The amended proposal was adopted as a whole by 10 votes to 0 with 1 abstention, as follows:

D.

Resolution on position of persons born out of wedlock

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

Takes note of the report of the Secretary-General on the position of persons born out of wedlock (document E/CN.4/Sub.2/125) and of the work on this subject on which the Social Commission is at present engaged;

/Draws the

Draws the attention of the Commission on Human Rights and of the Social Commission to the discrimination which may, in existing social conditions, be practised against persons born out of wedlock, and to the importance of introducing into the draft international covenant on human rights provisions guaranteeing equal protection to all without distinction as to birth or legitimacy;

Recommends that the Commission on Human Rights amend certain texts of the draft Covenant, in order to make them more explicit, as follows:<sup>1/</sup>

Article 1

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, legitimacy or other status.

Article 26

2. Special measures of protection should be taken on behalf of children and young persons, whether born in or out of wedlock;...

Requests the Commission on Human Rights 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.

A draft resolution (resolution V) for the Commission on Human Rights, on this subject, appears in Annex I of this Report.

/CHAPTER VIII

<sup>1/</sup> The proposed amendments are underlined. All provisions proposed by the Sub-Commission for inclusion in the draft Covenant will be found in Annex II of this report.

CHAPTER VIII

PROVISIONS OF THE DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS  
RELATING TO, OR AFFECTING, PREVENTION OF DISCRIMINATION  
OR PROTECTION OF MINORITIES

(Item 8 of the Agenda)

40. At its 67th, 68th and 69th meetings, the Sub-Commission examined the provisions of the draft international covenant on human rights relating to, or affecting, prevention of discrimination or protection of minorities (E/1992, Annex I). It had before it a memorandum submitted by the Secretary-General on this subject (E/CN.4/Sub.2/131). After a general discussion at its 67th meeting, the Sub-Commission decided that members who desired to do so would submit their proposals relating to the draft covenant for discussion and decision at a subsequent meeting. Two such proposals were submitted: one by Mr. Meneses Pallares (E/CN.4/Sub.2/L.3), another by Mr. Zonov (E/CN.4/Sub.2/104). Mr. Zonov's proposal was identical with that which had been submitted to the Sub-Commission at its third session by Mr. Formashev, but which at that time had not been moved for consideration by its author, who had left the session, or by any other member of the Sub-Commission.<sup>1/</sup>

41. The proposal of Mr. Zonov was considered at the 68th and 69th meetings of the Sub-Commission. It was rejected by 2 votes to 6, with 3 abstentions.

42. The proposal of Mr. Meneses Pallares was also considered at the 68th and 69th meetings. After he had accepted amendments proposed verbally by other members of the Sub-Commission, his draft resolution was adopted by the Sub-Commission by 8 votes to 0 with 3 abstentions, as follows:

/E.

<sup>1/</sup> See E/CN.4/358, paragraph 54.

E.1/

Resolution on prevention of discrimination with regard to  
economic, social and cultural rights

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

Recognizing that the unimpeded enjoyment of economic, social and cultural rights constitutes an essential complement which gives full significance to the civic and political rights set forth in the draft international covenant on human rights, in order that a man may "represent the human person whom the Universal Declaration regards as the ideal of the free man;

Recognizing further that it is precisely in this sphere of economic, social and cultural rights that discrimination has been found to exert its most powerful, insidious and oftentimes irreparable harm;

Recommends that a general provision forbidding discrimination in regard to economic, social and cultural rights should precede the formulation of such rights.

43. At its eighty-second meeting the Sub-Commission considered a proposal by Mr. Spanien concerning incitement to violence against a religious group, nation, race or minority (E/CN.4/Sub.2/L.10/Add.1, resolution VII). It adopted Mr. Spanien's proposal by unanimous vote, as follows:

F.

Resolution on condemnation of incitement to violence against  
any religious group, nation, race or minority

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

Having noted document E/CN.4/Sub.2/L.10;

/Considering

1/ All provisions proposed by the Sub-Commission for inclusion in the draft Covenant will be found in Annex II of this report.

Considering, as the Sub-Commission decided at its first session and confirmed at its third session, that it is highly desirable to include in the draft international covenant on human rights a provision formally condemning incitement to violence against any religious group, nation, race or minority;

Recommends that the Commission on Human Rights adopt, in the course of its future work, the following text submitted for its consideration:

"Any advocacy of national, racial or religious hostility that constitutes an incitement to violence shall be prohibited by the law of the State."

44. The Sub-Commission adopted, as a result of its discussion of Item 10 of its agenda (see Chapter X) several additional suggestions with regard to the draft Covenant on Human Rights. It decided to set forth in Annex II of this report all such suggestions adopted at any of its sessions.

CHAPTER IX  
INFORMATION CONCERNING PREVENTION OF DISCRIMINATION AND PROTECTION  
OF MINORITIES TO BE INCLUDED IN THE YEARBOOK ON HUMAN RIGHTS  
(Item 9 of the Agenda)

45. At the second and third sessions of the Sub-Commission Mr. Shafagh had proposed that it request publication of a Yearbook on Minorities, to be issued once every three years. At its third session Mr. Shafagh had withdrawn this proposal on the understanding that it would be considered later.

46. The Sub-Commission had before it a memorandum submitted by the Secretary-General on the contents of the Yearbook on Human Rights relating to the prevention of discrimination and protection of minorities (E/CN.4/Sub.2/138). In this memorandum it was pointed out that in the plan which the Secretary-General had submitted to the seventh session of the Commission on Human Rights, for future Yearbooks on Human Rights, there appear a number of rights or groups of rights especially relevant to the work of the Sub-Commission. The Sub-Commission took note of the Secretary-General's memorandum and unanimously expressed the desire that information on these rights or groups of rights be included in future Yearbooks in as comprehensive a form as possible. Mr. Shafagh thereupon withdrew his proposal for the publication of a Yearbook on Minorities.

/CHAPTER X

## CHAPTER X

### DECISION OF THE ECONOMIC AND SOCIAL COUNCIL TO DISCONTINUE THE SUB-COMMISSION, AND FUTURE WORK OF THE UNITED NATIONS FOR PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES (Item 10 of the Agenda)

47. The Sub-Commission considered this item at its 75th to its 82nd meetings. At its 75th meeting it divided the item into two parts, (a) future work of the United Nations for prevention of discrimination and protection of minorities, and (b) decision of the Economic and Social Council to discontinue the Sub-Commission.

#### PART I

#### Future Work of the United Nations for Prevention of Discrimination and Protection of Minorities

48. The Sub-Commission had before it proposals on this subject by Mr. Shafagh (E/CN.4/Sub.2/136); Miss Monroe and Mr. Daniels (E/CN.4/Sub.2/L.4); Mr. Masani (E/CN.4/Sub.2/L.5); and Mr. Spanien (E/CN.4/Sub.2/L.10 and L.10/Add.1). It examined the operative parts of these proposals in this order, which was the chronological order of their submission, voting on the substantive content of each proposal and reserving the final drafting and the preparation of a joint preamble and of a co-ordinated text until a later stage.

49. The Sub-Commission heard statements by representatives of the Consultative Council of Jewish Organizations (75th meeting), the Co-ordinating Board of Jewish Organizations (75th meeting), the International League for the Rights of Man (75th meeting), the World Federation of Trade Unions (76th meeting), the World Jewish Congress (79th meeting), and the World Union for Progressive Judaism (82nd meeting). The representatives of the Consultative Council of Jewish Organizations and of the World Jewish Congress called attention to memoranda which their organizations had submitted (E/CN.4/Sub.2/NGO/1, and NGO/2 respectively). All of the speakers deplored the decision of the Economic and Social Council to discontinue the Sub-Commission, and expressed the view that the work of the United Nations in the field of prevention of discrimination and protection of minorities should on the contrary be intensified.

/Proposal



Proposal of Mr. Shafagh (E/CN.4/Sub.2/136)

50. The Sub-Commission first examined Part B (I), containing suggestions with regard to the draft international covenant on human rights. Written amendments were submitted by Mr. Zonov (E/CN.4/Sub.2/L.8, paragraph 2), and Mr. Meneses Pallares (E/CN.4/Sub.2/L.9). After the proposal and amendments had been discussed Mr. Nisot submitted an oral amendment as a complete substitution for Mr. Shafagh's text. Mr. Shafagh withdrew his proposal in favour of Mr. Nisot's amendment. Mr. Zonov stated that his amendment fell automatically by reason of the replacement of Mr. Shafagh's text. After the Sub-Commission had rejected by 2 votes to 4 with 4 abstentions the amendment of Mr. Meneses Pallares, it adopted Mr. Nisot's text by 4 votes to 0 with 6 abstentions.

51. After examining Part B (II), containing suggestions with regard to international action, the Sub-Commission unanimously adopted paragraphs (a) (with verbal amendments) and (b). It rejected paragraph (c) by 3 votes to 7 with one abstention, and adopted paragraph (d) by 8 votes to 3 with 1 abstention.

52. After examining Part B (III), containing suggestions with regard to action to be taken by States Members of the United Nations, the Sub-Commission adopted paragraph (a) (with verbal amendments) by 11 votes to 1, and paragraph (b) (with verbal amendments) by 8 votes to 2 with 2 abstentions.

53. After examining Part B (IV), containing suggestions with regard to action to be taken by the Secretary-General, the Sub-Commission adopted paragraphs (a) (with verbal amendments) by 6 votes to 3 with 2 abstentions, and paragraph (c) by 7 votes to 4 with 0 abstentions. Paragraph (b) was withdrawn by Mr. Shafagh inasmuch as its substance was covered by the amended text of paragraph (a) as adopted. Paragraph (d) was withdrawn when sub-paragraph (i) was rejected by 5 votes to 5, with 0 abstentions. Paragraph (e) was rejected by 4 votes to 5 with 2 abstentions. Paragraph (f) was withdrawn.

Proposal of Miss Monroe and Mr. Daniels (E/CN.4/Sub.2/L.4)

54. The Sub-Commission first examined Part I, on general principles. As amended verbally during the discussion, this part was adopted by 9 votes to 2.

55. After examining Part II, on definition of the term minority, this part was adopted as amended verbally by 9 votes to 2.

56. After examining Part III, on Measures of Protection by the United Nations, this part was adopted as amended verbally by 10 votes to 2.

/57. Part IV,

57. Part IV, on future activities of the United Nations in the field of protection of minorities, was considered paragraph by paragraph. Paragraph 1 as verbally amended was adopted by 10 votes to 2. Paragraph 2 as verbally amended was adopted by 8 votes to 0 with 3 abstentions. Paragraph 3 was adopted unanimously. Paragraph 4 as verbally amended was adopted by 10 votes to 0 with 2 abstentions. Paragraph 5 as verbally amended was adopted by 10 votes to 0 with 2 abstentions. Paragraph 6 and the addendum to the proposal were withdrawn. The text of Part IV as a whole was adopted by 10 votes to 2.

Proposal of Mr. Masani (E/CN.4/Sub.2/L.5)

58. Mr. Nisot proposed an oral amendment to the introductory part of paragraph 1, by which the Sub-Commission would suggest establishment, as part of the general implementation of the covenant on human rights, of an appropriate body for securing prevention of discrimination and protection of minorities. This amendment was adopted by 5 votes to 2 with 4 abstentions. The Sub-Commission then considered the functions proposed for such a body in sub-paragraphs (a) to (h) of Mr. Masani's proposal. Sub-paragraph (a) was adopted as verbally amended by 2 votes to 0 with 8 abstentions; sub-paragraph (b) was adopted by 6 votes to 3 with 1 abstention, sub-paragraph (d) was adopted by 8 votes to 2, and sub-paragraph (g) was adopted by 9 votes to 0 with 2 abstentions. Sub-paragraphs (c), (e) and (h) were withdrawn. Sub-paragraph (f) was rejected by 5 votes to 5.

59. Part II was withdrawn. The proposal of Mr. Masani, as a whole was adopted as amended by 9 votes to 2.

Proposal of Mr. Spanien (E/CN.4/Sub.2/L.10 and L.10/Add.1)

60. Mr. Meneses Pallares proposed an amendment to draft resolution I (E/CN.4/Sub.2, L.12). The amendment, with verbal alterations, was accepted by Mr. Spanien and adopted by the Sub-Commission by 7 votes to 1 with 3 abstentions. Draft resolution III (see resolution G below) was adopted by 8 votes to 2 with 0 abstentions and draft resolution VI (see resolution H below) was adopted unanimously. Draft resolution VII had already been considered under item 8 of the agenda (see Chapter VIII). Draft resolutions III and IV were withdrawn. The text of the adopted resolutions was as follows:

/G.

G.

Resolution on definition and protection of  
political groups

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

Having noted document E/CN.4/Sub.2/L.10,

Considering that it is desirable to undertake studies required for the definition and protection of political groups;

Considering that the proposal to discontinue the Sub-Commission would prevent it from carrying out this task,

Recommends that the Commission on Human Rights place these studies on its agenda as soon as possible.

H.

Resolution on injuries suffered by groups through  
the total or partial destruction of their media  
of culture and their historical monuments

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

Having noted document E/CN.4/Sub.2/L.10,

Considering that injuries suffered by groups through the total or partial destruction of their media of culture and their historical monuments call for appropriate prevention and punishment;

Considering that the proposal to discontinue the Sub-Commission would prevent it from carrying out this task,

Recommends that the Commission on Human Rights place the study of this important problem on its agenda.

61. Preamble

A preamble drafted jointly by the sponsors of the various proposals discussed under this item was unanimously adopted by the Sub-Commission at its 82nd meeting.

62. Co-ordination of the adopted texts

A drafting committee, composed of the authors of the proposals, was appointed by the Chairman to co-ordinate the texts which had been adopted. The Committee submitted the following text, which the Sub-Commission decided to include in its report:

I.

Resolution on Future Work of the United Nations in the Field of  
Prevention of Discrimination and Protection of Minorities

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

Having noted Resolution 414 (XIII) of the Economic and Social Council,  
Recommends that the United Nations, in pursuing its work in the field  
of prevention of discrimination and protection of minorities, should give  
effect to the following suggestions:

A. IN THE GENERAL FIELD OF PREVENTION OF DISCRIMINATION  
AND PROTECTION OF MINORITIES

I. With regard to the draft international covenant on Human Rights<sup>1/</sup>

It is suggested:

1. that the Commission on Human Rights, when reviewing the draft international covenant on Human Rights, consider including the measures which are practicable in the field of prevention of discrimination and protection of minorities suggested by the Sub-Commission; (Vote: 4-0-6)
2. that the future work of the United Nations should include establishment, as part of the general implementation of the international covenant on human rights, of an appropriate body for securing prevention of discrimination and protection of minorities. (Vote: 5-2-4) The functions of this body would be:
  - (a) to seek a solution of urgent and important problems in these fields; (Vote: 2-0-8)
  - (b) to draw to the attention of the Secretary-General of the United Nations any matter concerning prevention of discrimination or protection of minorities which in its opinion may threaten the maintenance of international peace and security; (Vote: 6-3-1)
  - (c) to be available for co-operation, with such Governments as may desire co-operation, in regard to the evaluation of measures for prevention of discrimination and protection of minorities, through the appointment of commissioners or special commissions; (Vote: 8-2-0)

<sup>1/</sup> All provisions suggested by the Sub-Commission for inclusion in the draft Covenant will be found in Annex II of this report.

/(d) to co-operate

- (d) to co-operate with governments, UNESCO and other inter-governmental organizations, and non-governmental organizations, in scientific and educational activities designed to combat prejudice which hampers prevention of discrimination and protection of minorities.

(Vote: 9-0-2)

II. With regard to other international action

It is suggested:

1. that the Economic and Social Council recommend to all States Members of the United Nations that they incorporate, in any appropriate international instrument to which they become parties, adequate safeguards against violation of the principle of non-discrimination as set forth in the Charter of the United Nations and in the Universal Declaration of Human Rights; (Vote: 11-0)
2. that the Economic and Social Council recommend that in the preparation of international treaties which establish new States, or new boundary lines between States, special attention should be paid to the protection of any minorities which may be created thereby; (Vote: 11-0)
3. that the Economic and Social Council arrange for the preparation of an international convention for the protection of minorities. (Vote: 8-3-1)

III. With regard to action to be taken by Member States of the United Nations

It is suggested:

1. that the Economic and Social Council recommend 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 territories under their jurisdiction, and of taking effective measures for the protection of minorities, if any, in those territories. (Vote: 11-1)
2. that the Council recommend to Governments, Members of the United Nations, that they encourage the establishment of national and local committees composed of highly qualified persons, including members of minorities, if any, to study and survey the extent to which measures of discrimination on grounds of race, nationality, religion, or language may exist in law or in fact within

/territories

territories under their jurisdiction, and to recommend to their governments legal, educational and other appropriate means whereby such discrimination may be eliminated and prevented from occurring in the future. (Vote: 8-2-2)

IV. With regard to action to be taken by the Secretary-General

It is suggested:

1. that the Secretary-General periodically review all activities of the United Nations and its subsidiary bodies, verify that these activities are in accordance with the principle of non-discrimination, and report on these matters to the General Assembly, in order to ensure full realization and implementation of the principle of non-discrimination. (Vote: 5-4-2)
2. that the Secretary-General study the possibility and desirability of formulating standard provisions on non-discrimination which may be used when constitutional provisions are to be elaborated, particularly in the case of new States, by the United Nations or under its auspices. (Vote: 7-4-0)

B. IN SOME PARTICULAR FIELDS OF PREVENTION OF DISCRIMINATION

I. With regard to the Convention on Prevention and Punishment of the Crime of Genocide <sup>1/</sup>

1. It is suggested that inasmuch as genocide, one of the gravest forms of discrimination, constitutes a crime under international law, and inasmuch as the widespread knowledge of the nature and importance of the Convention on Prevention and Punishment of the Crime of Genocide will further its humanitarian and civilizing purposes, the General Assembly be requested:

- (a) to reiterate its appeal to Governments to accelerate their ratifications of and 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, and ratified the Convention. (Vote: 7-1-3)

2. It is suggested that, considering the desirability of organizing international penal jurisdiction as provided for in Article VI of the /convention

<sup>1/</sup> A draft resolution (resolution VI) for the Commission on Human Rights, on this subject, appears in Annex I of this report.

convention on genocide, the General Assembly be requested, when it examines the report of the Ad Hoc Committee on International Criminal Jurisdiction at its 1952 session, to give effect to this Committee's wish to draw up, together with the instrument establishing the international penal tribunal, a protocol empowering the tribunal to deal with the crime of genocide.

(Vote: 8-2-1)

II. With regard to the protection of political groups

It is suggested that, in view of the desirability of undertaking studies required for the definition and protection of political groups, the Commission on Human Rights place these studies on its agenda as soon as possible.

(Vote: 9-2-0)

C. IN THE PARTICULAR FIELD OF PROTECTION OF MINORITIES

I. Statement of Principles and Facts on Minorities for Purposes of Protection by the United Nations

The Sub-Commission, prior to setting forth its suggestions in this field, desires to affirm that the following principles and facts should govern the protection of minorities:

1. General Principles

(Vote: 9-2)

- (a) 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.
- (b) Some, but not all, such groups desire to preserve the special traditions or characteristics in question.
- (c) The variety of the wishes of minorities, and of the rights which they traditionally claim, reflects the wide diversity of conditions that exist in different parts of the world.
- (d) There exists a considerable body of domestic measures concerned with the preservation of the traditions or characteristics of minorities which so desire. There also exist some international instruments of local application formulated by the United Nations or between nations of goodwill.

/(e) Of the

- (e) Of the rights traditionally desired by minorities, and which range from limited educational facilities to extensive political and social rights, many are desired by all human beings and are proclaimed in the Charter of the United Nations and Universal Declaration of Human Rights and form part of the draft international covenant on human rights.
- (f) The right to preserve ethnic, religious or linguistic traditions or characteristics different from those of the rest of the population is, by contrast, an exceptional right, and claims to it enjoy a diversity that renders them difficult fully to meet by measures that are worldwide in scope.

2. Definition of the Term Minority

(Vote: 9-2)

- (a) The term minority, from the standpoint of such measures of protection of minorities as the United Nations may wish to take, should be defined in the following terms:
  - (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;
  - (iii) such minorities must be loyal to the State of which they are nationals.
- (b) In developing such measures, consideration should be given:
  - (i) to the special factor that among minority groups not requiring such protection are:
    - (1) those numerically inferior to the rest of the population although the dominant group therein;
    - (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.
  - /(ii) to complex



(ii) to 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 of 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.

II. Recommendations on Measures of Protection for the Special Characteristics of Minorities

(Vote: 10-2)

In the light of the above principles and facts the Sub-Commission makes the following recommendations:

1. Measures of Protection

The Sub-Commission recommends that, in addition to the rights and freedoms to preserve special characteristics set forth in the Charter of the United Nations, the Universal Declaration of Human Rights and the draft international covenant on human rights, the right of minorities to use their own language may be regarded as deserving of special protection by the United Nations, and that as a minimum contribution towards that end the United Nations

/(a) embody

- (a) embody the following article in the draft covenant on human rights;<sup>1/</sup>

"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 where they spontaneously so desire."

- (b) adopt the following interim recommendation to governments;<sup>2/</sup>

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 the 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:

1. The use in judicial procedure of language 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

<sup>1/</sup> All provisions proposed by the Sub-Commission for inclusion in the draft covenant will be found in Annex II of this Report.

<sup>2/</sup> A draft resolution (resolution III) for the Commission on Human Rights on this subject, appears in Annex I of this report.

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;

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.

2. Future Activities of the United Nations in the Field of Protection of Minorities

(Vote as whole: 10-2)

The Sub-Commission recommends:

- (a) prompt action upon the measures for improving international protection set out in Part II, recommendation 1, above; (Vote: 10-2)
- (b) prompt and continuous action, taking into consideration in particular the results of UNESCO's surveys on racial problems and other relevant social tensions, to promote educational activities destined to reduce prejudice both against minorities and on the part of minorities; (Vote: 8-0-3)
- (c) encouragement of the improvement of domestic measures, and of an increase of local international instruments for the protection of minorities, by devoting a section of a forthcoming Yearbook on Human Rights to examples of existing legislation in both fields, and by keeping this section up to date in successive Yearbooks; (Vote: 11-0)
- (d) drafting of model clauses for inclusion in international instruments which deal with the protection of minorities, and notably for safeguarding minority rights in newly established States; (Vote: 10-0-2)
- (e) establishment, as part of the general implementation of the international covenant on human rights, of international machinery directly accessible to minorities, a method which would remedy the situation that, as matters now stand, a minority cannot put its case before the United Nations except through a foreign government whose intervention may create international tension. (Vote: 10-0-2)

### III. Protection of Media of Culture and Historical Monuments

The Sub-Commission recommends that, inasmuch as injuries suffered by groups through the total or partial destruction of their media of culture and their historical monuments call for appropriate prevention and punishment, the Commission on Human Rights place the study of this question on its agenda as soon as possible. (Vote: 11-0)

## PART II

### Decision of the Economic and Social Council to Discontinue the Sub-Commission

63. At its 81st meeting the Sub-Commission considered Part A of Mr. Shafagh's proposal (E/CN.4/Sub.2/136), and adopted it unanimously. It then examined the draft resolution submitted jointly by Mr. Ekstrand, Mr. Masani, Mr. Meneses Pallares and Mr. Roy (E/CN.4/Sub.2/L.11). It adopted the operative paragraph of this resolution unanimously after verbal amendments had been accepted.

64. The Chairman requested the authors of the two proposals to submit a joint draft preamble to precede the adopted texts. This preamble (E/CN.4/Sub.2/L.14) was considered at the 82nd meeting of the Sub-Commission. Paragraphs 1, 2 and 3 were adopted unanimously. An amendment which had been proposed by Mr. Zonov to Mr. Shafagh's draft resolution (E/CN.4/Sub.2/L.8, paragraph 1) was submitted by its author as an amendment to paragraph 4 of the draft preamble. It was rejected by 3 votes to 5 with 3 abstentions. A reference to lack of precision in the terms of reference of the Sub-Commission was deleted by 9 votes to 1 with 1 abstention. Paragraph 4 as amended was adopted by 9 votes to 0 with 2 abstentions. Paragraphs 5, 6 and 7 were adopted unanimously. Paragraph 8 was adopted as verbally amended by 8 votes to 0 with 3 abstentions. Paragraph 9 was adopted by 10 votes to 0 with 1 abstention. The remaining paragraphs were all adopted unanimously. The resolution as a whole was adopted unanimously as follows:

J.

### Resolution on Decision of the Economic and Social Council to Discontinue the Sub-Commission on Prevention of Discrimination and Protection of Minorities

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

/Noting

Noting that the Economic and Social Council at its thirteenth session decided to discontinue the Sub-Commission until 31 December 1954 (resolution 414 (XIII) );

Recalling that the terms of reference of the Sub-Commission are (E/1371, paragraph 13):

- "1. to undertake studies, particularly in the light of the Universal Declaration of Human Rights, and to make recommendations to the Commission on Human Rights concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities; and
- "2. to perform any other functions which may be entrusted to it by the Economic and Social Council or the Commission on Human Rights."

Recalling that the General Assembly (Resolution 217 C (III) ) the Economic and Social Council (Resolution 191 (VIII) ), and the Commission on Human Rights (document E/1371, paragraph 13), have requested the Sub-Commission to "make a thorough study of the problem of minorities, in order that the United Nations may be able to take effective measures for the protection of racial, national, religious or linguistic minorities;"

Pointing out that the Sub-Commission has functioned since its establishment under the limitations that its sessions were repeatedly postponed, cancelled or shifted about the calendar without regard to the rhythm of its work; and that each of its four sessions was of less than three weeks' duration;

Recalling that despite these handicaps the Sub-Commission has been able to forward a number of recommendations to the Commission on Human Rights,

/including

including many which have been acted upon,<sup>1/</sup> and others which are awaiting consideration by the Commission or the Economic and Social Council;

Recalling further that the Sub-Commission requested the Secretary-General to prepare numerous technical studies relating to prevention of discrimination and protection of minorities, many of which have upon completion proved of general interest and value;<sup>2/</sup>

/Considering

- 1/ Among the recommendations so acted upon, the following are cited as examples:
- (a) the Sub-Commission drafted a text relating to the term "prevention of discrimination" which was approved by the Commission on Human Rights (E/600, para. 39);
  - (b) the Sub-Commission prepared detailed recommendations for the inclusion of texts relating to prevention of discrimination and protection of minorities in the Universal Declaration of Human Rights (E/CN.4/52, Section I), which were considered by the Commission on Human Rights (E/600, Chapter 8, para. 34), and in the International Covenant on Human Rights (E/351, Annex, Draft Resolution III, and E/358, Chapters VIII and IX), which are awaiting consideration;
  - (c) the Sub-Commission made detailed recommendations as to educational programmes in the field of prevention of discrimination (E/CN.4/52, Section VII and E/358, Annex, Draft Resolution II) which were accepted in substance by the Commission on Human Rights and the Economic and Social Council, and which led to close co-operation between the United Nations and UNESCO in this field (resolution 116 B (VI)) of the Economic and Social Council and E/1681, Annex IV, draft resolution VII);
  - (d) the Sub-Commission made a recommendation on the method of securing thorough and precise information from Governments on prevention of discrimination and protection of minorities; this was adopted by the Commission on Human Rights (E/1681, Annex IV, draft resolution VI) and the Economic and Social Council (resolution 303 F (XI), and has induced 38 governments to provide information on these subjects (E/CN.4/Sub.2/122 and Add. 1 to 37).
- 2/ Among these are: Provisions of National Constitutions concerning the Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/4); International Protection of Minorities under the League of Nations (E/CN.4/Sub.2/6); the Main Types and Causes of Discrimination (E/CN.4/Sub.2/40/Rev.1); Definition and Classification of Minorities (E/CN.4/Sub.2/85); Suggested Studies on the Problem of Minorities (E/CN.4/Sub.2/89); Contribution of the Convention on the Prevention and Punishment of the Crime of Genocide to the prevention of discrimination and protection of minorities (E/CN.4/Sub.2/80); Memorandum on the Draft International Covenant on Human Rights (E/CN.4/Sub.2/131); Analysis of Information from Governments relating to prevention of discrimination and protection of minorities (E/CN.4/Sub.2/132); Memorandum on prevention of discrimination and denial of fundamental freedoms in respect of political groups (E/CN.4/Sub.2/129); Memorandum on the Position of Persons born out of Wedlock (E/CN.4/Sub.2/125); Memorandum on the Procedure for the International Protection of Minorities in Upper Silesia (1922-1937) (E/CN.4/Sub.2/126); Memorandum on Treaties and International Instruments concerning the Protection of Minorities (E/CN.4/Sub.2/133); Memorandum on the principle of non-discrimination as applied in the Convention relating to the Status of Refugees (E/CN.4/Sub.2/135); Study of the Legal Validity of the Undertakings concerning Minorities (E/CN.4/367 and Add.1)

Considering that the knowledge and experience which the Sub-Commission has gained during its four sessions should not be cast aside;

Considering that a body of independent experts constitutes a suitable forum for the discussion of these problems;

Considering that the existence of the Sub-Commission has made it possible for persons from a large number of countries and regions to participate in the effort of the United Nations directed toward prevention of discrimination and protection of minorities than would otherwise have been possible;

Considering that discontinuance of the Sub-Commission creates the impression that the struggle against discrimination and for the protection of minorities has been weakened, or at least that insufficient regard is being paid to the importance which these problems have in the eyes of a large number of people throughout the world, as has been emphasized by representatives of non-governmental organizations having consultative status;

Emphasizing the paramount importance of full realization and implementation of the principle of non-discrimination, as set forth in the Charter of the United Nations and in the Universal Declaration of Human Rights, which in the opinion of the Sub-Commission should be a primary objective in the work of all organs and agencies of the United Nations;

Considering that prevention of discrimination and protection of minorities are two among the most important items of constructive work undertaken by the United Nations;

Considering that these are exceedingly complex and delicate questions, as the General Assembly already has recognized in its Resolution 217 C (III);

Considering that the Commission on Human Rights has an overloaded agenda and would be assisted in its work in the field of prevention of discrimination and protection of minorities if precise proposals and recommendations were formulated for its consideration by a subsidiary body;

Considering that in the thirteenth session of the Economic and Social Council there was an almost even division of opinion in respect of the proposal to discontinue the Sub-Commission;

A. 1/

Requests the Commission on Human Rights to recommend that the Economic and Social Council reconsider its decision to discontinue the Sub-Commission so as to ensure that the functions of prevention of discrimination and protection of minorities are carried out by a body of independent experts appropriate to the purpose.

Noting however that neither the Commission on Human Rights nor the Economic and Social Council is scheduled to convene before the sixth session of the General Assembly;

B.

Requests the Secretary-General to convey directly to the General Assembly, in connexion with its discussion during its sixth session of the Report of the Economic and Social Council, the deep regret of the Sub-Commission that it will not be able to continue its work on the study called for in Resolution 217 C(I) of the General Assembly, at least until 31 December 1954.

/CHAPTER XI

1/ A draft resolution (resolution VII) on this subject, for the Commission on Human Rights, appears in Annex I of this Report.



CHAPTER XI

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

(Item 11 of the Agenda)

65. For the convenience of the Commission on Human Rights, the Sub-Commission decided to append to its report in Annex I draft resolutions submitted to the Commission for consideration and adoption. It also decided to set forth in Annex II the proposals which the Sub-Commission had at its various sessions forward to the Commission on Human Rights for inclusion in the draft international covenant on human rights.

66. At its 83rd meeting, the Sub-Commission adopted this report of its fourth session to the Commission on Human Rights by 10 votes to 2 with no abstentions.

A N N E X I  
DRAFT RESOLUTIONS SUBMITTED TO THE COMMISSION ON HUMAN RIGHTS  
FOR CONSIDERATION AND ADOPTION

I.

The Commission on Human Rights

Takes note of the report of the fourth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/641) and of the recommendations contained therein.

II.

Definition of minorities for purposes of protection  
by the United Nations

(Adopted at the third session of the Sub-Commission, and  
amended at its fourth session)

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

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 factor and the complexities set out above:

- (1) 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.

### III.

#### Interim measures to be taken for the protection of minorities

(Adopted at the third session of the Sub-Commission and amended at its fourth session)

#### 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 part C of resolution 217 (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

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:

- (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;

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.

IV.

Activities of UNESCO in the field of prevention of  
discrimination and protection of minorities

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;<sup>1/</sup>

Having noted the satisfaction expressed by the Sub-Commission with the work of UNESCO in this field;

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

Requests the Council to draw these activities to the attention of the General Assembly.

V.

Position of Persons Born out of Wedlock

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;<sup>2/</sup>

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;

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.

/ VI.

<sup>1/</sup> Resolution C, paragraph 38 of this report.

<sup>2/</sup> Resolution D, paragraph 38 of this report.

VI.

Convention on Prevention and Punishment of the  
Crime of Genocide

The Commission on Human Rights,

Having noted that the General Assembly, in its resolution 260 (III) 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;

A.

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;

Considering further that it is desirable to organize an international penal jurisdiction as provided for in Article VI of the convention,

B.

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.

/ VII.

VIII.

Decision of the Economic and Social Council to Discontinue the  
Sub-Commission on Prevention of Discrimination and Protection  
of Minorities<sup>1/</sup>

The Commission on Human Rights,

Noting that the Economic and Social Council at its thirteenth session decided to discontinue the Sub-Commission on Prevention of Discrimination and Protection of Minorities, until 31 December 1954 (resolution 414 (XIII) );

Recalling that the terms of reference of the Sub-Commission are (E/1371, paragraph 13):

- "1. to undertake studies, particularly in the light of the Universal Declaration of Human Rights, and to make recommendations to the Commission on Human Rights concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities; and
- "2. to perform any other functions which may be entrusted to it by the Economic and Social Council or the Commission on Human Rights."

Recalling that the General Assembly (Resolution 217 C (III)), the Economic and Social Council (Resolution 191 (VIII) ), and the Commission (document E/1371, paragraph 13), have requested the Sub-Commission to "make a thorough study of the problem of minorities, in order that the United Nations may be able to take effective measures for the protection of racial, national, religious or linguistic minorities;"

Pointing out that the Sub-Commission has functioned since its establishment under the limitations that its sessions were repeatedly postponed, cancelled or shifted about the calendar without regard to the rhythm of its work; and that each of its four sessions was of less than three weeks' duration;

/Recalling

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1/ Based on resolution J, paragraph 64 of this report.



Recalling that despite these handicaps the Sub-Commission has been able to forward a number of recommendations to the Commission, including many which have been acted upon,<sup>1/</sup> and others which are awaiting consideration by the Commission or the Economic and Social Council;

/Recalling

1/ Among the recommendations so acted upon, the following are cited as examples:

- (a) the Sub-Commission drafted a text relating to the term "prevention of discrimination" which was approved by the Commission (E/600, para.39);
- (b) the Sub-Commission prepared detailed recommendations for the inclusion of texts relating to prevention of discrimination and protection of minorities in the Universal Declaration of Human Rights (E/CN.4/52, Section I), which were considered by the Commission (E/600, Chapter 8, para. 34), and in the International Covenant on Human Rights (E/351, Annex, Draft Resolution III, and E/358, Chapters VIII and IX), which are awaiting consideration;
- (c) the Sub-Commission made detailed recommendations as to educational programmes in the field of prevention of discrimination (E/CN.4/52, Section VII and E/358, Annex, Draft Resolution II) which were accepted in substance by the Commission and the Economic and Social Council, and which led to close co-operation between the United Nations and UNESCO in this field (resolution 116 B (VI) of the Economic and Social Council and E/1681, Annex IV, draft resolution VII);
- (d) the Sub-Commission made a recommendation on the method of securing thorough and precise information from Governments on prevention of discrimination and protection of minorities; this was adopted by the Commission (E/1681, Annex IV, draft resolution VI) and the Economic and Social Council (resolution 303 F (XI)), and has induced 38 governments to provide information on these subjects (E/CN.4/Sub.2/122 and Adds. 1 to 37).

Recalling further that the Sub-Commission requested the Secretary-General to prepare numerous technical studies relating to prevention of discrimination and protection of minorities, many of which have upon completion proved of general interest and value;<sup>1/</sup>

Considering that the knowledge and experience which the Sub-Commission has gained during its four sessions should not be cast aside;

Considering that a body of independent experts constitutes a suitable forum for the discussion of these problems;

Considering that the existence of the Sub-Commission has made it possible for persons from a large number of countries and regions to participate in the effort of the United Nations directed toward prevention of discrimination and protection of minorities than would otherwise have been possible;

Considering that discontinuance of the Sub-Commission creates the impression that the struggle against discrimination and for the protection of minorities

<sup>1/</sup> Among these are: Provisions of National Constitutions concerning the Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/4); International Protection of Minorities under the League of Nations (E/CN.4/Sub.2/6); the Main Types and Causes of Discrimination (E/CN.4/Sub.2/40 Rev.1); Definition and Classification of Minorities (E/CN.4/Sub.2/85); Suggested Studies on the Problem of Minorities (E/CN.4/Sub.2/89); Contribution of the Convention on the Prevention and Punishment of the Crime of Genocide to the prevention of discrimination and protection of minorities (E/CN.4/Sub.2/80); Memorandum on the Draft International Covenant on Human Rights (E/CN.4/Sub.2/131); Analysis of Information from Governments relating to prevention of discrimination and protection of minorities (E/CN.4/Sub.2/132); Memorandum on prevention of discrimination and denial of fundamental freedoms in respect of political groups (E/CN.4/Sub.2/129); Memorandum on the Position of Persons born out of Wedlock (E/CN.4/Sub.2/125); Memorandum on the Procedure for the International Protection of Minorities in Upper Silesia (1922-1937) (E/CN.4/Sub.2/126); Memorandum on Treaties and International Instruments concerning the Protection of Minorities (E/CN.4/Sub.2/133); Memorandum on the principle of non-discrimination as applied in the Convention relating to the Status of Refugees (E/CN.4/Sub.2/135); Study of the Legal Validity of the undertakings concerning Minorities (E/CN.4/367 and Add.1).

minorities have been weakened, or at least that insufficient regard is being paid to the importance which these problems have in the eyes of a large number of people throughout the world, as has been emphasized by representatives of non-governmental organizations having consultative status;

Emphasizing the paramount importance of full realization and implementation of the principle of non-discrimination, as set forth in the Charter of the United Nations and in the Universal Declaration of Human Rights, which in the opinion of the Sub-Commission and of the Commission should be a primary objective in the work of all organs and agencies of the United Nations;

Considering that prevention of discrimination and protection of minorities are two among the most important items of constructive work undertaken by the United Nations;

Considering that these are exceedingly complex and delicate questions, as the General Assembly already has recognized in its Resolution 217 C (III);

Considering that the Commission has an overloaded agenda and would be assisted in its work in the field of prevention of discrimination and protection of minorities if precise proposals and recommendations were formulated for its consideration by a subsidiary body;

Considering that in the thirteenth session of the Economic and Social Council there was an almost even division of opinion in respect of the proposal to discontinue the Sub-Commission;

Recommends that the Economic and Social Council reconsider its decision to discontinue the Sub-Commission so as to ensure that the functions of prevention of discrimination and protection of minorities are carried out by a body of independent experts appropriate to the purpose.

A N N E X II

PROVISIONS PROPOSED BY THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION  
AND PROTECTION OF MINORITIES FOR INCLUSION IN THE  
DRAFT COVENANT ON HUMAN RIGHTS

I.<sup>1/</sup>

Provision on non-discrimination in respect of governmental  
licensing arrangements

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

....

Recommends that the Commission include in the Draft Covenant a provision pledging the contracting States not to use governmental licensing arrangements, or to permit restrictions, prohibiting the entry into any business, profession, vocation or employment of a citizen by reason of his race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

II.<sup>2/</sup>

Provision on measures for the protection of minorities

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

....

Having adopted, in resolution C of its third session, a definition of minorities for purposes of protection by the United Nations,<sup>3/</sup>

Is of the opinion that the most effective means of securing such protection would be the inclusion in the international covenant on human rights of the following article:

"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 practice their own religion, or to use their own language."

/III

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- <sup>1/</sup> Adopted at the second session of the Sub-Commission (E/CN.4/351, paragraph 18, resolution D)
- <sup>2/</sup> Adopted at the third session of the Sub-Commission (E/CN.4/358, paragraph 47, Resolution E)
- <sup>3/</sup> This definition, as amended at the fourth session of the Sub-Commission, is reproduced as draft resolution II in Annex I of this Report.

III.<sup>1/</sup>

Provisions on position of persons born out of wedlock

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

....

Recommends that the Commission on Human Rights amend certain texts of the draft Covenant, in order to make them more explicit, as follows:

Article 1

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, legitimacy<sup>2/</sup> or other status.

Article 26

2. Special measures of protection should be taken on behalf of children and young persons, whether born in or out of wedlock<sup>3/</sup>....

IV <sup>4/</sup>

Provision on prevention of discrimination with regard to  
economic, social and cultural rights

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

....

Recommends that a general provision forbidding discrimination in regard to economic, social and cultural rights should precede the formulation of such rights.

/ V

<sup>1/</sup> See Resolution D, paragraph 39.

<sup>2 and 3/</sup> The proposed amendment is underlined.

<sup>4/</sup> See Resolution E, paragraph 42 of this Report.

VI<sup>1/</sup>

Provision on condemnation of incitement to violence against  
any religious group, nation, race or minority

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

....

Recommends that the Commission on Human Rights adopt, in the course of its future work, the following text submitted for its consideration:

"Any advocacy of national, racial or religious hostility that constitutes an incitement to violence shall be prohibited by the law of the State."

VI<sup>2/</sup>

Suggestion on including measures in the field of prevention  
of discrimination and protection of minorities in the  
draft international covenant on human rights

"....that the Commission on Human Rights, when reviewing the draft international covenant on human rights, consider including the measures which are practicable in the field of prevention of discrimination and protection of minorities suggested by the Sub-Commission."

VII<sup>3/</sup>

Suggestions on Measures of Implementation

"....the future work of the United Nations should include establishment, as part of the general implementation of the international covenant on human rights, of an appropriate body for securing prevention of discrimination and protection of minorities. The functions of this body would be:

- "(a) to seek a solution of urgent and important problems in these fields;
- "(b) to draw to the attention of the Secretary-General of the United Nations any matter concerning prevention of discrimination and protection of minorities which in its opinion may threaten the maintenance of international peace and security;

/v(c) to be

<sup>1/</sup> See Resolution E, paragraph 43 of this Report.

<sup>2/</sup> See Resolution I, part A-I-1 of this report.

<sup>3/</sup> See Resolution I, part A-I-2 of this report. See also suggestions on this subject made by the Sub-Commission during its third session (E/CN.4/358, paragraph 58, resolution G).

- "(c) to be available for co-operation, with such Governments as may desire co-operation, in regard to the evaluation of measures for prevention of discrimination and protection of minorities, through the appointment of commissioners or special commissions; and
- "(d) to co-operate with governments, UNESCO and other inter-governmental organizations, and non-governmental organizations, in scientific and educational activities designed to combat prejudice which hampers prevention of discrimination and protection of minorities."

- - - - -