



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/711
E/CN.4/Sub.2/170
4 February 1955
ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION
OF MINORITIES

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

New York, 4 to 28 January 1955

Rapporteur: Mr. José D. Ingles

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I. ORGANIZATION OF THE SESSION

A. Opening and duration of the session

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities held its seventh session at the Headquarters of the United Nations, New York, from 4 to 28 January 1955.
2. Mr. Max Sörensen, Chairman of the Sub-Commission at its sixth session, opened the seventh session on 4 January 1955 (143rd meeting).

B. Representation at the session

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

| | |
|--|--|
| Mr. Charles D. Ammoun | (Lebanon) |
| Mr. Mohamed Awad | (Egypt) |
| Mr. Humberto Diaz-Casanueva (Alternate) | (Chile) |
| Mr. Pierre Chatenet ^{1/} | (France) |
| Mr. Nikolai Petrovich Emelyanov | (Union of Soviet Socialist Republics) |
| Mr. A.A. Fomin (Alternate) ^{2/} | (Union of Soviet Socialist Republics) |
| Mr. Philip Halpern | (United States of America) |
| Mr. C. Richard Hiscocks | (United Kingdom of Great Britain and Northern Ireland) |
| Mr. José D. Ingles (Alternate) | (Philippines) |
| Mr. Arcot Krishnaswami | (India) |
| Mr. Eugeniusz Kulaga (Alternate) | (Poland) |
| Mr. Hérard Roy | (Haiti) |
| Mr. Max Sörensen | (Denmark) |

4. Before the session opened, three members of the Sub-Commission, Mr. Jorge Bocobo (Philippines), Mr. Hernan Santa Cruz (Chile), and Mr. Joseph Winiewicz (Poland), informed the Secretary-General that they were unable to attend the session and that, in accordance with Rule 70 of the Rules of Procedure of Functional Commissions of the Economic and Social Council, and with

^{1/} See para. 5 of this Report.

^{2/} See para. 6 of this Report.

the consent of their Governments, they appointed as alternates Mr. José D. Ingles, Mr. Humberto Diaz-Casanueva and Mr. Eugeniusz Kulaga, respectively. The Secretary-General was in full agreement with these nominations and the alternates, therefore, had during the session the same status as members of the Sub-Commission, including the right to vote.

5. Mr. Chatenet was delayed in reaching the Headquarters of the United Nations, and attended the session from the 144th to 170th meetings. At the 171st meeting he informed the Secretary-General that he was unable to attend the remainder of the session and that, in accordance with Rule 70, and with the consent of his Government, he appointed as alternate Mr. Gerard Amanrich. The Secretary-General was in full agreement with this nomination and Mr. Amanrich, therefore, had during the final meeting the same status as a member of the Sub-Commission, including the right to vote.

6. At the 150th meeting Mr. Emelyanov (USSR) informed the Secretary-General that he was unable to attend the remainder of the session and that, in accordance with Rule 70, and with the consent of his Government, he appointed as alternate Mr. A.A. Fomin. The Secretary-General was in full agreement with this nomination and Mr. Fomin, therefore, had during the remainder of the session the same status as a member of the Sub-Commission, including the right to vote.

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

International Labour Organisation:

Mr. R.A. Metall, Director of the ILO Liaison Office with the United Nations

Mr. G. Dunand, of the ILO Liaison Office with the United Nations

United Nations Educational, Scientific and Cultural Organization:

Mr. Solomon V. Arnaldo, Director of the New York Office of UNESCO

Mr. Alfred Métraux, Department of Social Sciences of UNESCO

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

Category A

International Confederation of Free Trade Unions (Miss Toni Sender);
International Federation of Christian Trade Unions (Mr. G. Thormann);
World Federation of Trade Unions (Miss Elinor Kahn); World Federation of United Nations Associations (Mrs. C.B. Fox).

Category B

Agudas Israel World Organization (Mr. Isaac Lewin); Catholic International Union for Social Service (Mr. A.D. Vergara and Mrs. Carmen Giroux); Commission of the Churches on International Affairs (Mr. O. Frederick Nolde and Mr. Richard M. Fagley); Consultative Council of Jewish Organizations (Mr. Moses Moskowitz); Co-ordinating Board of Jewish Organizations (Mr. Saul E. Jofte); Friends World Committee for Consultation (Mr. Sydney D. Bailey); International Alliance of Women (Miss Betty Hitchcock and Mrs. Henrietta C. Dodd); International Conference of Catholic Charities (Mr. Louis C. Longarzo); International Federation of Business and Professional Women (Mrs. Esther W. Hymer); International Federation of University Women (Miss Janet Robb); International Federation of Women Lawyers (Miss A. Viola Smith); International League for the Rights of Man (Mr. Max Beer, Mrs. Rose Wishner and Mr. Richard B. Baker); International Movement for a Fraternal Union Among Races and Peoples (Miss Mariette Wickes); International Social Service (Mrs. Charlotte B. Mahon); Nouvelles Equipes Internationales (Mr. K. Sieniewicz); Pax Romana (Mr. J.H. Price); Women's International League for Peace and Freedom (Caroline Malin and Mrs. Gladys D. Walser); World Jewish Congress (Mr. Maurice L. Perlzweig, Mr. Gerhard Jacoby and Mr. Leo Pfeffer); World's Alliance of Young Men's Christian Associations (Mr. Owen E. Pence); World Union for Progressive Judaism (Mrs. Victor Polstein); World Union of Catholic Women's Organizations (Miss Catherine Schaefer); Young Christian Workers (Miss Caroline Pezzullo).

9. Mr. John P. Humphrey, Director of the Division of Human Rights, and Mr. Egon Schwelb, Deputy Director of the Division of Human Rights, represented the Secretary-General. Mr. Edward Lawson acted as Secretary of the Sub-Commission.

C. Election of officers

10. The Sub-Commission at its 143rd meeting re-elected:

Mr. Max Sørensen (Denmark), Chairman;

Mr. Mohamed Awad (Egypt), Vice-Chairman;

Mr. José D. Ingles (Philippines), Rapporteur.

D. Meetings, resolutions and documentation

11. The Sub-Commission held 29 plenary meetings. The views expressed by the members of the Sub-Commission during these meetings are summarized in documents E/CN.4/Sub.2/SR.143-171.

12. In accordance with Rule 75 of the Rules of Procedure of the Functional Commissions of the Economic and Social Council, the Sub-Commission granted hearings at various meetings (E/CN.4/Sub.2/SR.150, 152, 156, 157, 158, 159, 160 and 162) to representatives of the following non-governmental organizations:

Category A

International Confederation of Free Trade Unions (Miss Toni Sender);
International Federation of Christian Trade Unions (Mr. G. Thormann); World Federation of Trade Unions (Miss Elinor Kahn).

Category B

Agudas Israel World Organization (Dr. Isaac Lewin); Commission of the Churches on International Affairs (Dr. O. Frederick Nolde); Consultative Council of Jewish Organizations (Mr. Moses Moskowitz); Nouvelles Equipes Internationales (Mr. K. Sieniewicz); World Jewish Congress (Dr. Gerhard Jacoby).

13. Resolutions adopted by the Sub-Commission appear under the subject matter to which they relate. Draft resolutions for consideration by the Commission on Human Rights are set out in Annex I. Financial implications of decisions of the Sub-Commission, prepared by the Secretariat, will be circulated as an addendum to this report.

14. Documents before the Sub-Commission at its seventh session are listed in Annex II.

II. AGENDA

Item 2 of the agenda

15. At the 143rd and 144th meetings, the Sub-Commission considered the provisional agenda (E/CN.4/Sub.2/158), prepared by the Secretary-General in consultation with the Chairman.

16. Mr. Hiscocks proposed that a new agenda item should be inserted between items 4 and 5 of the provisional agenda, reading "Application in practice of Rule 5, paragraph 2, of the Rules of Procedure of Functional Commissions of the Economic and Social Council to the Sub-Commission on Prevention of Discrimination and Protection of Minorities". Paragraph 2 of Rule 5 reads, "The basic documents relating to each item on the provisional agenda of a session shall be transmitted not less than 42 days before the opening of the session, provided that in exceptional cases its Secretary-General may, for reasons to be stated in writing, transmit such documents not less than twenty-eight days before the opening of the session".

17. The proposal was supported by several members of the Sub-Commission, but others considered that there was no need for a new item on the agenda, since the subject could be dealt with under item 2, "Adoption of the agenda". The proposal was rejected by 3 votes in favour, 5 against, and 2 abstentions.

18. Mr. Halpern proposed that a new agenda item should be inserted between items 6 and 7 of the provisional agenda, reading, "Methods to be adopted by the Sub-Commission in carrying out future studies". The proposal was adopted by 5 votes in favour, 2 against, and 3 abstentions.

19. Mr. Roy suggested that an item reading "Questions of general interest" might well appear somewhere in the agenda. Mr. Ammoun supported the suggestion and pointed out that the Sub-Commission might for example at some stage wish to consider certain matters relating to the United Nations Conference of Non-Governmental Organizations interested in eradicating Prejudice and Discrimination, which had been drawn to its attention by the Secretary-General in an information paper (E/CN.4/Sub.2/168). The Chairman recalled that under Rule 10 of its Rules of Procedure, the Sub-Commission could revise its agenda during the session by adding any matter which it considered to be urgent or important. In view of this

fact, Mr. Roy did not press his suggestion. At the Sub-Commission's request the Secretary-General subsequently circulated a second information paper providing supplementary information on the Conference (E/CN.4/Sub.2/L.78).

20. At the 144th meeting of the Sub-Commission Mr. Hiscocks introduced a draft resolution (E/CN.4/Sub.2/L.77) pointing out that Rule 5 of the Rules of Procedure of Functional Commissions of the Economic and Social Council had not been observed in the case of previous sessions of the Sub-Commission and that in the case of the seventh session none of the basic documents had been transmitted forty-two days before the opening of the session, and requesting the Secretary-General to give his attention to the progressive disregard of Rule 5 and to consider means by which it could be enforced. The draft resolution further requested in particular that in the exceptional cases where documents are transmitted not less than twenty-eight days before the opening of the session, instead of the normal forty-two days, the reasons for the delay should invariably be stated in writing, as provided in Rule 5, and in sufficient detail to make clear the precise cause of the delay.

21. The Representative of the Secretary-General stated that the bulk of the documentation for the seventh session of the Sub-Commission had come from members of the Sub-Commission and from the International Labour Office. In the latter case the delay had been occasioned by the necessity of awaiting a decision by the Governing Body of the International Labour Office held in November 1954. In all instances the Secretariat had forwarded documents in original languages as soon as they were received. Translations were completed as rapidly as priorities and the needs of the General Assembly session would permit. As to documents emanating from the Secretariat, they had been completed in time with the exception of the progress report under item 8 of the provisional agenda, the purpose of which was merely to inform the Sub-Commission that it had not been possible to submit a final version of the study in time for the seventh session.

22. Following an exchange of views on the draft resolution, it was withdrawn by its author, who pointed out, however, that nothing said in the discussion had caused him to alter the attitude which had led him to table the resolution.

23. The Sub-Commission adopted unanimously the following agenda for the seventh session:

1. Election of Officers.
2. Adoption of the Agenda.
3. Invitation to the Commission on the Status of Women (ECCSOC resolution 48 A (IV)).
4. Communications relating to the prevention of discrimination and the protection of minorities (ECCSOC resolutions 75 (V) as amended, and 116 A (VI)).
5. Study of discrimination in the field of education: Progress Report by the Special Rapporteur
(ECCSOC resolution 502 H (XVI); resolution III and paras. 376-418, Report of the tenth session of the Commission on Human Rights, E/2573; and Resolutions B and G (para. 1), and Chapter VI, Report of the sixth session of the Sub-Commission, E/CN.4/703).
6. Study of discrimination in the field of employment and occupation: Progress Report by the International Labour Office
(ECCSOC resolutions 502 H (XVI) and 545 C (XVIII); Resolution VII and paras. 459-485, Report of the tenth session of the Commission on Human Rights, E/2573; and Resolutions C and G (para. 2), and Chapter VII, Report of the sixth session of the Sub-Commission E/CN.4/703).
7. Methods to be adopted by the Sub-Commission in carrying out future studies.
8. Procedure to be followed in carrying out studies of discrimination in the matter of (a) political rights mentioned in the Universal Declaration of Human Rights, (b) religious rights and practices, and (c) emigration, immigration and travel.^{1/}
 - A. Reports by Messrs. Santa Cruz, Halpern and Ingles.

^{1/} By resolution 545 D (XVIII) of 29 July 1954 the Council requested the Sub-Commission "to take as the objective of its study in this field paragraph 2 of article 13 of the Universal Declaration of Human Rights, namely - the right of everyone to 'leave any country, including his own, and to return to his country.'"

B. Considerations as to which further study of discrimination should be undertaken in 1955.

(ECOSOC resolutions 502 H (XVI) and 545 D (XVIII); Resolution VIII and paras. 486-495, Report of the tenth session of the Commission on Human Rights, E/2573; and Resolution D and Chapter VIII, Report of the sixth session of the Sub-Commission, E/CN.4/703).

9. Measures to be taken for the cessation of any advocacy of national, racial or religious hostility that constitutes an incitement to violence (Resolution E and Chapter IX, Report of the sixth session of the Sub-Commission, E/CN.4/703).

10. Protection of minorities: Further study of the whole question, including the definition of the term "minority"

(ECOSOC resolution 502 B.II (XVI); Resolution IV and paras. 419-438, Report of the tenth session of the Commission on Human Rights, E/2573; and Resolution F and Chapter XII, Report of the sixth session of the Sub-Commission, E/CN.4/703).

11. Consideration of the matters dealt with in the draft resolution adopted by the Sub-Commission at its fourth session entitled "Interim Measures to be taken for the Protection of Minorities", and in the portion of the draft resolution of its fifth session entitled "Abolition of Discriminatory Measures" which referred to the taking of effective measures for the protection of minorities.

(Resolution VI and paras. 453-458, Report of the tenth session of the Commission on Human Rights, E/2573; and Resolution H and Chapter XII, Report of the sixth session of the Sub-Commission, E/CN.4/703).

12. Adoption of the report of the Sub-Commission to the Commission on Human Rights.

III. INVITATION TO THE COMMISSION ON THE STATUS OF WOMEN

Item 3 of the agenda

24. At its 143rd 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 its Chairman, Miss Minerva Bernardino (Dominican Republic) who participated in the work of the Sub-Commission (E/CN.4/Sub.2/SR.143, 148, 151 and 157).

IV. COMMUNICATIONS RELATING TO PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Item 4 of the agenda

25. The Sub-Commission received at a private meeting the confidential list of communications concerning prevention of discrimination and protection of minorities received by the United Nations from 4 November 1953 to 1 November 1954 (document Sub.2/Communications List No.4).

26. The list contained a total of 63 communications, of which 35 alleged discrimination on grounds of religion, 14 alleged discrimination on grounds of race (including native populations), 3 alleged discrimination on grounds of language and other ethical considerations, 7 alleged discrimination on grounds of sex, 1 alleged discrimination on political grounds, and 3 alleged discrimination on other grounds.^{1/}

V. STUDY OF DISCRIMINATION IN THE FIELD OF EDUCATION: PROGRESS REPORT BY THE SPECIAL RAPPORTEUR

Item 5 of the agenda

Introduction

27. At its 144th to 150th meetings, the Sub-Commission considered item 5 of its agenda, entitled "Study of Discrimination in the Field of Education: Progress Report by the Special Rapporteur".

^{1/} The data contained in this paragraph were furnished to the Sub-Commission by the United Nations Secretariat. The Sub-Commission has merely reproduced them as they stand for information. Neither the Secretariat nor the Sub-Commission expresses any opinion regarding the accuracy of the facts alleged by the communications referred to or regarding the validity of the conclusions which the authors of these communications draw from these alleged facts.

28. The Sub-Commission had before it the Progress Report (E/CN.4/Sub.2/163) submitted by its Special Rapporteur, Mr. Charles D. Ammoun, in accordance with resolution B (E/CN.4/703, paragraph 97), adopted by the Sub-Commission at its sixth (1954) session, as amended by resolution III (E/2573, paragraph 418), adopted by the Commission on Human Rights at its tenth (1954) session. Mr. Ammoun introduced his report at the Sub-Commission's 144th meeting.

29. The Special Rapporteur's report was divided into two parts. In Part I the Special Rapporteur reviewed previous attempts by United Nations organs to prepare a precise and scientific definition of the term "discrimination", and summarized the main points of view which had been expressed in the course of drafting article 26 of the Universal Declaration of Human Rights, on the right to education. In Part II he described in detail how he had discharged his terms of reference, and presented his notes and observations on the progress of his work to date and on the spirit in which he had approached his task.

30. The Sub-Commission began its examination of the report with a general debate, in which statements were made by each member present at the session, by the representatives of UNESCO, and by the representative of the Commission on the Status of Women. The Sub-Commission subsequently turned to a detailed examination of two draft resolutions submitted by Mr. Ingles, the first on the work of the Special Rapporteur (E/CN.4/Sub.2/L.79), the second on collaboration of UNESCO in the study on discrimination in education (E/CN.4/Sub.2/L.80).

A. General debate

31. In the course of the general debate, four main problems were discussed by members of the Sub-Commission, as follows:

1. The question of a definition of discrimination for purposes of the study;
2. The question of the relationship between educational systems and discrimination in education;
3. The question of the sources to be utilized by the Special Rapporteur in obtaining materials for the study; and
4. The question of the relationship between UNESCO and the Special Rapporteur.

In addition, the Special Rapporteur answered questions on a number of points relating to his work put to him by various members of the Sub-Commission, and the representative of the Commission on the Status of Women drew attention to the relevant activities of that organ.

32. The Sub-Commission did not discuss the substance of the problem of discrimination in education, but directed its attention mainly to the problems referred to in the paragraph above, and to the question whether the Special Rapporteur had correctly interpreted his terms of reference.

1. The question of a definition of discrimination for purposes of the study

33. In his report the Special Rapporteur pointed out (E/CN.4/Sub.2/163, paragraphs 6-16) that although the Sub-Commission at its first session had submitted a text relating to prevention of discrimination to the Commission on Human Rights, which the Commission subsequently had approved, neither the Sub-Commission nor the Commission had ever considered this text to be a legal definition of the term "discrimination". The text in question reads:

"Prevention of discrimination is the prevention of any action which denies to individuals or groups of people equality of treatment which they may wish."

34. Mr. Sörensen raised the question, in the general debate, whether this text should be taken as a basis for the work of the Special Rapporteur in studying discrimination in education, or whether an effort should first be made to prepare a more precise definition of the term "discrimination".

35. Mr. Diaz-Casanueva said that it would be necessary to furnish governments with the greatest possible amount of background material on "discrimination," since, in his opinion, in the absence of a definition, it was difficult to reach an agreement between the Special Rapporteur and those from whom he sought information. Mr. Emelyanov, on the other hand, considered it sufficient to recognize that by "discrimination" is meant certain violations of human rights that should be enjoyed by all. Mr. Hiscocks, pointing out that words were useful as a means of communication even when not precisely defined, expressed the view that the Special Rapporteur should show respect for the Sub-Commission's text, but

need not feel himself to be completely bound by it. Mr. Krishnaswami also felt that absolute precision might not be necessary, or even possible, in dealing with such a phenomenon as discrimination, and that the meaning of the term was already sufficiently well understood even though different authorities might define it in somewhat different ways. He suggested that the phrase "which they may wish" might well be deleted from the Sub-Commission's text. Mr. Sörensen, while expressing the view that the Sub-Commission's text relating to discrimination omitted certain important elements, drew the Special Rapporteur's attention to the useful concepts relating to discrimination set forth in a memorandum entitled "The Main Types and Causes of Discrimination", submitted to the Sub-Commission by the Secretary-General at an earlier session (E/CN.4/Sub.2/40/Rev.1).^{1/}

36. The general consensus of opinion in the Sub-Commission was that it should not attempt to agree upon a rigid definition of "discrimination" which might at some stage tie the hands of the Special Rapporteur or even the Sub-Commission itself; but that the views expressed by the various members could be taken into account by the Special Rapporteur as he proceeded with his work.

2. The question of the relationship between educational systems and discrimination in education

37. In his Progress Report the Special Rapporteur referred to two types of discriminatory measures in the following terms (E/CN.4/Sub.2/163, paragraph 134):

"... There is static discrimination, the result of social climate, economic situation, and geography. More important, there is deliberate discrimination, the result of human will, actual, active, and premeditated."

1/ The memorandum states inter alia:

- "(a) Discriminatory practices are those detrimental distinctions which do not take account of the particular characteristics of an individual as such, but take into account only collective qualifications deriving from his membership in a certain social or other group;
- "(b) Certain distinctions, which do not constitute discrimination, are justified. These include: (1) differences of conduct imputable or attributable to an individual, that is to say, controlled by him (i.e., industriousness, idleness; carefulness, carelessness; decency, indecency; merit, demerit; lawfulness, delinquency); and (2) differences in individual qualities not imputable to the person, but having a social value (physical or mental capacity)."

38. Several members of the Sub-Commission, in their comments on the report, referred to this statement, some approving it while others criticized the distinction which it attempted to draw. Mr. Awad pointed out that the Sub-Commission was not interested only in discrimination by public authorities, but also in discrimination by individuals and societies; and that so-called "static" discrimination could be equally as serious as that which was the result of deliberate action. Mr. Diaz-Casanueva underlined the extreme difficulty of determining what action was in fact deliberate, and added that discriminatory practices frequently developed even in educational systems where the authorities spared no effort to implement the principle of non-discrimination. Mr. Emelyanov considered that even though a Government might have every intention of providing education without discrimination, it might not find it possible to provide certain types of education for all its people because of prevailing economic or social conditions. Mr. Halpern expressed the opinion that no Government was completely perfect with respect to discrimination in education, and that wherever there was a limitation of facilities due to such conditions there could usually be found a tendency to discriminate on improper grounds. Mr. Sörensen recalled that at its sixth session the Sub-Commission had referred to deficiencies in educational systems and had agreed that such deficiencies could not automatically be considered discriminatory in nature, but that any deficiencies provided possibilities for discrimination which could not exist in a perfect school system.

39. The consensus of opinion in the Sub-Commission was that the Special Rapporteur should not neglect to study the varying systems of education existing in different countries, in view of the possibility that discrimination in education may be inherent in the educational system itself even in the absence of concrete instances of discriminatory practices.

3. The question of sources to be utilized by the Special Rapporteur in obtaining materials for the study

40. In his Progress Report the Special Rapporteur referred (E/CN.4/Sub.2/163, paragraphs 78-86) to the four sources of information expressly mentioned in Section I of the Sub-Commission's resolution B, i.e., (a) Governments (b) the Secretary-General, (c) specialized agencies, and (d) non-governmental

organizations; and recalled that the Commission on Human Rights had added a fifth source, (e) writings or recognized scholars and scientists. He stated that "it was certainly the Sub-Commission's intention that the first four should be the main sources of information, and that the rest should be merely supplementary."

41. Although several members agreed with Mr. Ammoun's conclusion that an order of priority or importance had been established amongst the possible sources of information, others felt that no special priority should be accorded to any one of the five enumerated sources of information, and that all should be considered as being on an equal footing. Mr. Halpern and Mr. Roy in particular expressed the view that information received from Governments should not be given greater weight than information received from other sources, and underlined the importance which they attached to the writings of recognized scholars and scientists. The consensus of opinion was that all the sources enumerated in Resolution B as amended were to be considered as "main" sources, and that careful account should be taken by the Special Rapporteur of the credibility of any sources from which he received information.

42. Mr. Diaz-Casanueva expressed the view that greater use should be made of materials collected from international and national organizations of teachers, which might be requested through UNESCO to supply additional information. Mr. Kulaga pointed out that relevant information collected by the Trusteeship Council and the Committee on Information from Non-Self-Governing Territories should not be overlooked.

4. The question of the relationship between UNESCO and the Special Rapporteur

43. In his Progress Report the Special Rapporteur included a section (E/CN.4/Sub.2/163, paragraphs 109-117) on his collaboration with UNESCO in connexion with the study of discrimination in education. Supplementary information on this subject was presented to the Sub-Commission in a memorandum received from UNESCO, circulated by the Secretary-General in an information paper (E/CN.4/Sub.2/159, paragraphs 17-18).

44. In the Progress Report, and also in the information paper, reference was made to the decision adopted by the Executive Board of UNESCO at its 37th session

(10 March to 9 April 1954), authorizing the Director-General to supply the assistance requested by the Special Rapporteur, namely:

"(a) any material dealing with the question now available to the Secretariat;

"(b) any additional material that the Secretariat may be able to collect with reference to the items listed under (a) in Part II of the Sub-Commission's resolution; and

"(c) a small staff (e.g., one assistant at grade P-1 and one secretary at grade D), until 31 December 1954, with the possibility of extension for a further year."

45. The Special Rapporteur stressed the very practical nature of this collaboration, thanked the authorities of UNESCO for the assistance given him without which it would have been impossible to carry on his work, and indicated that "without that staff, which is to be increased in future to meet the requirements of the study, his work would be completely at a standstill." At the same time he recalled that "No study has been published or prepared by UNESCO, however, on the particular subject of discrimination in education, and none of the documents placed at the Rapporteur's disposal was found to have a direct bearing on the subject;" and that "The Executive Board... took the precaution to state in its decision (37 EX/Decisions, agenda item 10.1/2) that UNESCO would be careful to refrain from all comment, and also to state during the discussions that the Special Rapporteur would bear sole responsibility for his work" (37 EX/SR.11/17 and 26).

46. Some members of the Sub-Commission, notably Messrs. Halpern, Ingles, and Roy, expressed disappointment that UNESCO had not accepted the study of discrimination as one of its projects and that it had not assigned education experts from its own staff to do the necessary research work for the Special Rapporteur. They expressed the view that UNESCO's co-operation might have been more effective had it done so. Other members, notably Mr. Awad, Mr. Hiscocks and Mr. Krishnaswami, considered that UNESCO had made a substantial financial and material contribution to the study, for which the Sub-Commission should be grateful.

47. At the 147th meeting the representative of UNESCO pointed out that the financial implications of the assistance which it had extended to the Special Rapporteur had been estimated at \$10,000, and that this, UNESCO believed, was an appreciable form of collaboration. He questioned the basis on which the Special Rapporteur had stated that his staff "is to be increased in future to meet the requirements of the study," pointing out that while UNESCO was prepared to continue the same staff in 1955 as in 1954, any change in this kind of assistance which would go beyond the limits fixed by the Executive Board would have to be examined very carefully. He emphasized that the research work of UNESCO in the general field of discrimination is based more on the study of the positive aspects of the question of race relations and that its surveys and studies had been oriented toward a better understanding of the factors which contribute to peaceful and harmonious living between different groups. This approach, he explained, had made it possible to get co-operation of the Governments and had led to important conclusions which may be useful in fostering an improvement of race relations.

5. Answers of the Special Rapporteur to questions directed to him

48. At the 147th and 149th meetings, the Special Rapporteur answered questions of a particular nature which had been addressed to him by various members of the Sub-Commission.

49. The Special Rapporteur stressed the fact that he had at all stages of his work strictly observed the terms of resolution B, adopted by the Sub-Commission at its sixth session, in which his terms of reference were set forth; and that he intended to continue his work in accordance with the procedures established by that resolution. At the same time, he made it clear that to study, on a global basis, all aspects of discrimination in education, constituted an immense task for which the available resources were inadequate.

50. In reply to a question by Mr. Emelyanov, as to what he meant when he referred to "China" in his Progress Report, Mr. Ammoun explained that by China he had meant the country which was a State Member of the United Nations. Mr. Emelyanov expressed the opinion that a communication should be addressed to the People's Republic of China, requesting information on the changes that had been introduced into its educational system.

51. In reply to Mr. Diaz-Casanueva's question concerning the possibility of securing the co-operation of national and international teachers' associations, he stated that he would attempt to do so through the intermediary of UNESCO. In reply to a question put by Mr. Hiscocks, the Special Rapporteur stated that in compliance with his terms of reference he did not intend to publish any of the documentation received by him before it had been submitted to the Government concerned for comment and the supply of additional information.

52. Finally, in reply to questions from various members of the Sub-Commission concerning the extent of co-operation he had received from UNESCO, Mr. Ammoun indicated that he would not have agreed to undertake the task with which he had been entrusted had he felt at the outset that he could not have expected more assistance from UNESCO than that which he had actually received so far. He had assumed that all documentation would be provided to him by UNESCO. In view of the UNESCO representative's explanation that funds had not been provided for that purpose, he was glad to inform the Sub-Commission that he had made sparing use of the funds allocated to him in 1954 and that he would add these savings to the \$10,000 to be made available to him in 1955. He wished to make it clear, however, that he was grateful for the assistance he had received from UNESCO, without which his work would have remained at a standstill.

6. The question of discrimination on grounds of sex

53. When considering the Progress Report the Sub-Commission also had before it, for information purposes, a memorandum submitted by the Secretary-General on recent activities of the Commission on the Status of Women in dealing with discrimination in education on grounds of sex (E/CN.4/Sub.2/169). The representative of the Commission on the Status of Women, referring to this memorandum at the 144th meeting, drew attention to resolution 547 K (XVIII), on educational opportunities for women, adopted by the Economic and Social Council upon the recommendation of the Commission on 12 July 1954. She stated that the Commission would welcome any resolution adopted by the Sub-Commission which would help in the elimination of discriminatory measures based on sex in the field of education.

B. Work of the Special Rapporteur

54. At the 149th meeting the Sub-Commission considered a draft resolution submitted by Mr. Ingles on the work of the Special Rapporteur (E/CN.4/Sub.2/L.79). In the draft resolution Mr. Ingles proposed that the Sub-Commission note with appreciation the Progress Report submitted by the Special Rapporteur, as well as his supplementary remarks in explanation thereof, and that it express also its appreciation to the Government of Lebanon for its co-operation in making it possible for the Special Rapporteur to do the work entrusted to him by the Sub-Commission. The draft resolution further proposed that the Sub-Commission request the Special Rapporteur to take due account of the observations made in the debates by members of the Sub-Commission during its seventh session, bearing in mind his terms of reference, and that it express the hope that he would be able to submit his report to the eighth session of the Sub-Commission.

55. Mr. Ingles accepted verbal amendments to his draft resolution proposed by Mr. Chatenet. The draft resolution was then adopted as amended by 9 votes in favour, none against, and 2 abstentions, as follows (E/CN.4/Sub.2/L.79/Rev.1):

Resolution A

Work of the Special Rapporteur

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

1. Notes with appreciation the progress report (E/CN.4/Sub.2/163) submitted by Mr. Charles D. Ammoun, Special Rapporteur of the Sub-Commission on the study of discrimination in education, as well as his supplementary remarks in explanation thereof;
2. Expresses also its appreciation to the Government of Lebanon for its co-operation in making it possible for Mr. Ammoun to do the work entrusted to him by the Sub-Commission;
3. Hopes that the Special Rapporteur, bearing in mind the observations made by members of the Sub-Commission at its seventh session, will pursue his work in such a way as to be able to submit his report to the eighth session of the Sub-Commission.

C. Collaboration of UNESCO in the study of discrimination in education

56. At the 149th and 150th meetings the Sub-Commission considered a draft resolution submitted by Mr. Ingles on collaboration of UNESCO in the study of discrimination in education (E/CN.4/Sub.2/L.80).

57. The draft resolution proposed that the Sub-Commission note with appreciation the financial and material assistance extended by UNESCO to the Special Rapporteur in accordance with the resolution adopted at the 37th session of the Executive Board, and the assurance that this assistance will be continued for another year; and expresses the hope that the Director-General of UNESCO, in consultation with the Special Rapporteur, would find it possible to augment its assistance further by other means within UNESCO's existing facilities and resources. Further, the draft resolution contained a penultimate paragraph which read as follows:

"Notes also the Special Rapporteur's statement that the amount remaining from the [UNESCO] appropriation of 1954 will permit him to increase his staff and his activities, without requesting new appropriations for this purpose."

58. Several members of the Sub-Commission objected to the above-quoted paragraph on the ground that the possibility of carrying over this appropriation from one year to another might be considered as relating to the internal administration of UNESCO. The representative of UNESCO concurred in this view, though he did not question the statement of the Special Rapporteur.

Mr. Diaz-Casanueva and Mr. Halpern expressed the opinion that UNESCO's financial and material assistance, while welcome were not all that had been expected; and that the Sub-Commission had a right to hope for technical and substantive help in its study of discrimination in education from a specialized agency which had many expert educationists on its staff.

59. Mr. Ammoun pointed out that he had in fact made the statement referred to in the paragraph under discussion, and that the statement was true. If it were not true, he added, and if he was not to be permitted by UNESCO to use the funds in question to increase his staff and his activities in 1955, he would not be able to continue his work.

60. On the understanding that the proposed penultimate paragraph of the draft resolution and Mr. Ammoun's statement relating to it would be set forth in the Sub-Commission's report, Mr. Ingles agreed to delete the paragraph from his draft resolution, which was then adopted as amended by 11 votes in favour, none against and 1 abstention (Mr. Ammoun) as follows:

Resolution B

Collaboration of UNESCO in the Study of
Discrimination in Education

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

Recalling resolution 502 H (XVI), adopted by the Economic and Social Council on 3 August 1953, which invited the appropriate specialized agencies, particularly UNESCO, to co-operate with the Special Rapporteur of the Sub-Commission on the study of discrimination in education;

Recalling further resolution 545 E (XVIII), adopted by the Economic and Social Council on 29 July 1954, which specifically invited UNESCO to give attention to the Sub-Commission's programme of work when selecting fields and subjects for research with a view to facilitating and supplementing the studies to be undertaken by the Sub-Commission, and authorized the Secretary-General to provide direct means of contact between the Sub-Commission and any specialized agency which may have been invited by the Council to co-operate with respect to an approved study;

1. Notes with appreciation the financial and material assistance extended by UNESCO to the Special Rapporteur in accordance with the resolution adopted at the 37th session of its Executive Board, and the assurance that this assistance will be continued for another year;

2. Expresses the hope that the Director-General of UNESCO, in consultation with the Special Rapporteur, will find it possible to augment its assistance further by other means within UNESCO's existing facilities and resources.

VI. STUDY OF DISCRIMINATION IN THE FIELD OF EMPLOYMENT
AND OCCUPATION

Item 6 of the agenda

Introduction

61. The Sub-Commission, at its 149th to 151st meetings, examined item 6 of its agenda, "Study of discrimination in the field of employment and occupation".

62. The Sub-Commission had before it a memorandum submitted by the Secretary-General (E/CN.4/Sub.2/166) which included a communication received by the Secretary-General from the Assistant Director-General of the International Labour Office. In the letter the Assistant Director-General stated, inter alia, that:

"The Governing Body of the Office was informed at its 124th session (Geneva, February/March 1954) of the resolution adopted on this subject by the Sub-Commission at its seventh session. The Governing Body decided that the Office should undertake a study on discrimination in the field of employment and occupation and should present a preparatory report to its autumn (127th) session.

At its 125th session (Geneva, May 1954) the Governing Body took note of resolution VII adopted at the tenth session of the Commission on Human Rights and approved the outline of the preparatory report submitted to it by the Office.

At its 127th session (Rome, November 1954) the Governing Body took note of ECOSOC Resolution 545 C (XVIII). It considered the preparatory report presented to it by the Office, confirmed the method of approach followed and concurred in general with the tentative conclusions arrived at. It decided, however, that a deeper study of the subject would be necessary before it would be possible to provide guidance as to the methods best capable of eradicating discrimination in employment and occupation. It therefore requested the Director-General to continue the study and to submit a further report for consideration at the May 1955 session of the Governing Body when the agenda for the 40th session of the International Labour Conference would be under consideration."

63. The Assistant Director-General's letter further indicated that in undertaking the study the Office had followed the definition of "discrimination" adopted by the Sub-Commission, that it had paid particular attention to the grounds of distinction listed in article 2 of the Universal Declaration of Human Rights, and that with regard to the scope of the phrase "employment and occupation" it had taken into account article 23 of the Declaration. It stated further that:

"Other distinctions in addition to those listed in Article 2 of the Universal Declaration of Human Rights have been found in practice to give rise to unequal treatment in employment matters. Among these are age, disablement, trade union affiliation and, in the case of women, marital status. Examination of distinctions made on grounds of 'national origin' has also revealed certain complexities resulting from the interdependence of employment rights in some countries with citizenship.

"On the subject of constructive measures taken to eradicate discriminatory practices, the Office has not only examined constitutional provisions but is investigating in detail how specific legislation directed against employment discrimination functions in those countries having such legislation. Positive administrative methods of increasing the participation in all forms of employment on a basis of equality of underprivileged groups also come under review in this connection. It is from this line of study in particular that the Office hopes to point the most useful conclusions.

"A complete review has also been undertaken of existing International Labour Conventions and Recommendations to reveal the extent to which the principle of non-discrimination has been accepted internationally in the many different aspects of employment covered by such instruments."

64. Members of the Sub-Commission expressed their views on the communication received from the International Labour Office, and heard statements by the representative of the ILO. The discussion in the Sub-Commission related principally to (a) the question of co-ordination between the Sub-Commission and the International Labour Organisation with respect to the study of discrimination in the field of employment and occupation; (b) the question of the grounds of discrimination which might appropriately be dealt with in the study; and (c) the question of the communication by non-governmental organizations of data for the study. In addition, the representative of the Status of Women reviewed the interest of that organ in the problem of combatting discrimination in the field of employment and occupation.

A. The question of co-ordination between the Sub-Commission and the International Labour Organisation with respect to the study of discrimination in the field of employment and occupation

65. While all members of the Sub-Commission were in general agreement that the ILO should be commended for having undertaken the study of discrimination in the field of employment and occupation, and for having made progress in the work, several members expressed disappointment with respect to the communication

received from the International Labour Office, which, in their view, indicated some lack of co-ordination between that Office and the Sub-Commission. Mr. Halpern hoped that a means would be devised of allowing the Sub-Commission to make its comments on the interim study before the ILO drafted its final recommendation, as he felt that the Sub-Commission's views should be considered by the ILO before the International Labour Conference took final action. Mr. Diaz-Casanueva, on the other hand, pointed out that the International Labour Office could not, for constitutional reasons, submit a study it had made to any outside body, including the Sub-Commission, without the approval of its Governing Body.

66. In this connexion, the representative of the ILO indicated that the Governing Body would consider in May 1955 the revised report which the International Labour Office had been instructed to prepare, and it was to be hoped that the new text would be approved. In that event, the report could be provided to the Sub-Commission at its eighth session. The Sub-Commission's comments could pass through the Economic and Social Council at its Summer 1956 session, and receive consideration by the Governing Body in November of that year. The International Labour Conference, if the question was put on its agenda, could then have the benefit of the views of the Sub-Commission.

B. The question of the grounds of discrimination which might appropriately be dealt with in the study

67. Several members of the Sub-Commission questioned the assertion made in the communication from the International Labour Office (see para. 63 above) that "other distinctions in addition to those listed in article 2 of the Universal Declaration of Human Rights have been found in practice to give rise to unequal treatment in employment matters". They expressed the view that the distinctions enumerated, i.e. age, disablement, trade union affiliation, and marital status with respect to women, were in fact, or at least by implication, included in the grounds enumerated in article 2. Mr. Halpern pointed out that, in the United Nations, article 2 had always been given a broad interpretation which was warranted inasmuch as it recognized that everyone was entitled to the rights set forth in the Declaration "without distinction of any kind". The list which followed in article 2 was merely illustrative. He also emphasized that the

study should be universal and should cover all grounds of discrimination. The representative of the ILO explained that in fact his Organisation intended to follow the broad interpretation of article 2 advocated by members of the Sub-Commission. What was meant was that the ILO would not limit its study to distinctions expressly mentioned in article 2.

68. Mr. Halpern pointed out that the orientation of the ILO in the making of the study might well be different from that of the Sub-Commission. The ILO seemed to be principally concerned with the recommendation of legislation, and a comparatively summary study might be sufficient to show the need and usefulness of the proposed legislation. The Sub-Commission, on the other hand, was concerned with enlisting the support of world public opinion, and to succeed in this endeavour a more detailed factual study might be required.

69. Mr. Krishnaswami felt that the International Labour Office, in its study, had placed too much emphasis on the right to enforce limitations or restrictions; he thought the emphasis ought to be placed on freedom from discrimination; the limitations ought not to be allowed to eat up the rights set forth in the Declaration.

C. The communication by non-governmental organizations of data for the study

70. At the 150th meeting, the representative of the World Federation of Trade Unions pointed out that, so far as the WFTU was aware, the ILO had not yet outlined any procedures for collecting information from non-governmental organizations for the study of discrimination in employment and occupation. In this connexion, Mr. Diaz-Casanueva explained that for constitutional reasons the ILO could not approach non-governmental organizations except through the intermediary of governments. He added that he felt sure that if the WFTU or any other non-governmental organization sent a communication volunteering observations useful for the study, the International Labour Office would take them into account.

71. Other members of the Sub-Commission, notably Mr. Ammoun and Mr. Roy, recalled that the Economic and Social Council had already invited non-governmental organizations to place at the disposal of the ILO material available to them

relating to discrimination in employment and occupation. The consensus of opinion was that it was incumbent upon non-governmental organizations to take the initiative in transmitting relevant material to the ILO, and that there was no reason to think that it would not welcome such material. This view was confirmed by the representative of the ILO.

D. Interest of the Commission on the Status of Women in the study of discrimination in employment and occupation

72. At the 151st meeting, the representative of the Commission on the Status of Women reviewed the work which that organ had devoted to the elimination of discrimination in employment and occupation, and particularly to discrimination against female employees. The Commission had welcomed the co-operation of the ILO in the form of studies contributing to the solution of these problems. It had been particularly gratified that, under the auspices of the ILO, Convention No.100 had been concluded, which to a certain extent recognized the principle of equal remuneration for men and women workers for work of equal value. The Commission was convinced that its co-operation with the Sub-Commission would help to eliminate eventually the problem of discrimination on the ground of sex in the field of employment and occupation.

E. Examination of draft resolution

73. At the 151st meeting, Mr. Krishnaswami submitted a draft resolution on the study of discrimination in the field of employment and occupation (E/CN.4/Sub.2/L.81). The draft resolution was examined in detail at the 151st and 152nd meetings. Discussion related principally to the question whether the ILO should be requested to present a "report", or an "interim report", to the eighth session of the Sub-Commission.

74. Mr. Krishnaswami, in explaining why he had used the words "interim report" in his draft resolution, pointed out that the ILO could only be expected to prepare an interim report in view of the short time at its disposal and the complexity of the subject. Mr. Halpern favoured retention of the reference to an interim report because he felt that even if the report was final in the eyes of

the ILO it might well not be regarded as such by the Sub-Commission. Mr. Hiscocks, on the other hand, saw no reason for retaining the word "interim", as it might be interpreted in such a way as to delay production of a final report. Mr. Fomin and Mr. Kulaga expressed the hope that the ILO would be able to present the Sub-Commission with a report, dealing with both procedure and substance, in 1955.

75. In view of the objections which had been raised to the use of the term "interim", Mr. Krishnaswami deleted that word from his proposal.

76. Several members of the Sub-Commission, notably Messrs. Awad, Halpern, Hiscocks and Roy, stated their opinion that the resolution to be adopted by the Sub-Commission should include an expression of appreciation to the ILO for having undertaken the study of discrimination in employment and occupation. Mr. Fomin stated that, with due respect to the ILO, he objected to the inclusion of such an expression as being premature, since the ILO had not yet presented its study to the Sub-Commission. A proposal by Mr. Halpern to add the words, "and expresses its appreciation to the ILO for having undertaken this task," to the draft resolution proposed by Mr. Krishnaswami was adopted by 4 votes in favour, 2 against, with 6 abstentions.

77. The draft resolution as amended was thereupon adopted unanimously, as follows (E/CN.4/Sub.2/L.81/Rev.1):

Resolution C

Study of Discrimination in the Field of Employment and Occupation

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

Recalling that the Economic and Social Council, in resolution 545 C (XVIII), invited the International Labour Organisation inter alia to provide the Sub-Commission on Prevention of Discrimination and Protection of Minorities, through the Secretary-General, with an interim report in time for its seventh session;

1. Takes note of the communication from the International Labour Office contained in document E/CN.4/Sub.2/166 and of the progress achieved to date, and expresses its appreciation to the ILO for having undertaken this task;

2. Expresses the hope that the International Labour Organisation will be in a position to present a report on discrimination in the field of employment and occupation to the eighth session of the Sub-Commission;
3. Decides to place the question of discrimination in the field of employment and occupation on the provisional agenda of the eighth session of the Sub-Commission.

VII. METHODS TO BE ADOPTED BY THE SUB-COMMISSION IN CARRYING OUT FUTURE STUDIES

Item 7 of the agenda

Introduction

78. At its 152nd to 154th, 167th and 170th meetings, the Sub-Commission discussed item 7 of its agenda, "Methods to be adopted by the Sub-Commission in carrying out future studies". The item had been included in the agenda at the Sub-Commission's 143rd meeting (see para. 18 above).
79. The general debate on the question of methods to be adopted by the Sub-Commission in carrying out future studies related mainly to the various procedures which had been suggested by the members of the Sub-Commission who had submitted preliminary studies for consideration under item 8 of the agenda. Mr. Santa Cruz, in his preliminary report on the proposed study of discrimination in the matter of political rights, had suggested (E/CN.4/Sub.2/165, para. 11) that that study should be undertaken by a member of the Sub-Commission, appointed for the task, assisted by the Secretariat of the United Nations. Mr. Halpern, in his preliminary report on the proposed study of discrimination in the matter of religious rights and practices, had suggested (E/CN.4/Sub.2/162, para. 42) that that study should be entrusted to a highly-skilled specialist, and that the Sub-Commission should appoint a committee of three of its members to review the work of the expert and to draft tentative conclusions and recommendations for the Sub-Commission's consideration. Mr. Ingles, in his preliminary study on discrimination in the matter of emigration, immigration and travel, had suggested (E/CN.4/Sub.2/167, para. 58) that the report on that subject should be drawn up by a Special Rapporteur, with the collaboration of the Secretary-General.

Mr. Ingles had also suggested that the Sub-Commission might wish to explore the possibilities of following the example of the International Law Commission, whose Chairman had appeared before the Fifth Committee of the General Assembly to explain the nature of the work performed by that Commission's Special Rapporteurs, particularly since the General Assembly had decided, in the light of this explanation, that special circumstances exist justifying the payment of honoraria for specific reports prepared by the Chairman or special rapporteurs of the Commission between its sessions.

80. Several members of the Sub-Commission, notably Messrs. Ammoun, Chatnet, and Roy were of the view that the entire debate had been undertaken prematurely. They felt that each of the studies under consideration would call for its own special methods, and that it seemed illogical to discuss methods without first knowing what study was to be undertaken. Their suggestion, that the Sub-Commission should proceed immediately to a consideration of item 8 of its agenda, was however not accepted.

81. In the general debate, the view was expressed by several members, notably Messrs. Ammoun, Diaz-Casanueva, and Krishnaswami, that the Commission on Human Rights and the Economic and Social Council had tended consistently to underestimate the importance of the Sub-Commission's work and to withhold necessary facilities from it. They felt that the Sub-Commission having been created to appease the conscience of these higher bodies, had then been denied the essentials which it needed to carry out its task. The fact that the Sub-Commission's work affected millions of people throughout the world had apparently not been taken fully into consideration.

82. The consensus of opinion however was that the Sub-Commission should nevertheless continue to work with the means available to it, and that its position would be considerably strengthened if it was able to complete a study on discrimination in a particular field and present it to the higher bodies.

A. Preliminary views on the appointment of a special rapporteur or expert consultant

83. Several members of the Sub-Commission, including Messrs. Diaz-Casanueva, Ingles, and Roy, favoured the appointment of a Special Rapporteur to conduct whatever study the Sub-Commission decided should be undertaken in 1955. They

felt that this was not only the most satisfactory method of carrying out an exhaustive investigation, but that its value had been confirmed by the excellent work which had already been done by the Special Rapporteur on discrimination in education.

84. Other members, notably Mr. Fomin and Mr. Kulaga, were categorically opposed to the appointment of a special rapporteur or expert consultant from outside the membership of the Sub-Commission, and felt that the Secretariat could undertake the studies objectively without calling upon outside assistance. They were not satisfied with the work done by Rapporteurs appointed by other organs of the United Nations. Mr. Kulaga recalled the report of the Advisory Committee on Administrative and Budgetary Questions to the effect that the Secretariat could and should undertake such studies.

85. Mr. Roy stated that the suggestion that the studies should be carried out by an expert consultant was open to the objection that an expert appointed by the Secretary-General would be in much the same position as a member of the Secretariat, which was properly reluctant to deal with issues having political implications. It was pointed out, however, that although such an expert would be responsible to the Secretary-General, he would work under the direction of the Sub-Commission which would determine his functions.

B. Preliminary views on the appointment of a committee of three

86. The suggestion that a three-man committee be appointed to supervise the work of an expert was found unacceptable by several members. Mr. Ammoun pointed out that it was sufficiently difficult for even a single rapporteur to reach fully objective conclusions, and that the difficulty would be multiplied if there were three rapporteurs instead of only one. Mr. Hiscocks agreed that the work was of such a nature that it was essential to entrust it to one person, and added that the expenses involved would be tripled if a committee of three were to be appointed rather than a single rapporteur. Mr. Roy felt that it would be preferable, if a Special Rapporteur was not designated, that all members of the Sub-Commission, rather than only three, should study the documentation between sessions and prepare themselves to take positive action at regular sessions.

C. Preliminary views on assistance to be afforded by the Secretariat

87. There were two main trends of thought with regard to assistance which could be afforded by the Secretariat in regard to the preparation of the Sub-Commission's studies. Mr. Fomin and Mr. Kulaga expressed the view that the Sub-Commission might well follow the example of the Commission on the Status of Women and entrust the preparation of its future reports to the Secretariat. Mr. Awad agreed that in the circumstances in which it found itself, the Sub-Commission had no choice but to appeal to the Secretariat and to non-governmental organizations. Other members, however, were of the opinion that the Secretary-General should not be requested to undertake functions having political implications, as he might find himself somewhat limited by virtue of his official status.

D. Preliminary views on assistance to be afforded by non-governmental organizations

88. Mr. Fomin recalled that non-governmental organizations in consultative status with the Economic and Social Council had been requested to furnish information in connexion with the study of discrimination in education. He pointed out that the status of these organizations was governed by resolution 288 B (X) of the Council. Without questioning the decision of the Commission on Human Rights to authorize the Sub-Commission to use information supplied by non-governmental organizations, as long as such consultations were confined to organizations to which the Council had granted consultative status, he wished to stress the need to use only sources of guaranteed impartiality and objectivity. Mr. Kulaga, in sharing his view, stated that in his opinion, only organizations having consultative status should be consulted. Mr. Halpern, in strongly urging the Sub-Commission to count upon non-governmental organizations as one of its main sources of material for future studies, pointed out that if the Sub-Commission were to be restricted to merely collecting and indexing materials supplied by governments, it might as well disband, as its studies would not be realistic. Other members of the Sub-Commission, notably Messrs. Awad, Ingles, and Krishnaswami, were of the opinion that the Sub-Commission had adopted an excellent procedure for collecting material for its report on discrimination in education, and that there was no reason why the same procedure should not be applied to its future studies.

E. Consideration of draft resolution

89. At the 154th meeting Mr. Krishnaswami introduced a draft resolution on methods to be adopted by the Sub-Commission in carrying out future studies (E/CN.4/Sub.2/L.82). In this draft resolution the sequence of events which had led to the rejection of the Sub-Commission's proposals that drafts of its studies be prepared either by paid rapporteurs or by paid independent experts was traced. The draft resolution proposed that the Sub-Commission express its appreciation for the Secretary-General's attempt, in his report of 6 August 1954 on the system of allowances to members of commissions, committees, and other subsidiary bodies of the General Assembly or other organs of the United Nations (A/2687), to help the Sub-Commission and other bodies faced with similar difficulties to overcome their difficulties. It further proposed that the Sub-Commission conclude that it would not be possible to have for its future studies the assistance of paid rapporteurs or paid independent experts, and therefore request the Secretary-General to continue to provide expert assistance "in increasing measure" to the Sub-Commission, and to such special rapporteurs as it may appoint, in the prosecution of the Sub-Commission's approved studies.

90. At the suggestion of Messrs. Halpern and Hiscocks, Mr. Krishnaswami agreed at the 154th meeting to defer the taking of a vote on his draft resolution until the Sub-Commission had completed its examination of item 8 of its agenda, on the procedure to be followed in carrying out three particular studies of discrimination.

91. The Sub-Commission resumed consideration of Mr. Krishnaswami's draft resolution at its 167th meeting, after it had completed its work on item 8 of its agenda. Several members, notably Messrs. Awad, Fomin and Roy, considered that the text had become somewhat dated as a result of the discussion which had taken place in connexion with item 8, and suggested that its author might wish to withdraw it from consideration. Mr. Krishnaswami thought it was important for the Sub-Commission to state that it had been fettered in its work by ambiguous directives on the one hand, and a shortage of technical help on the other. He pointed out that a rapporteur would have an important function to fulfil in connexion with each of the two studies contemplated for 1956, and that it was important for administrative and budgetary purposes that a decision on this point be taken at the seventh session.

92. Mr. Halpern proposed that the final operative paragraph of the draft resolution should be amended to read:

"Decides that future studies on discrimination shall be carried out by a Special Rapporteur, assisted by the Secretary-General and when appropriate by specialized agencies, as in the case of the study of discrimination in education."

In the light of the discussion, Mr. Krishnaswami undertook to submit a revised version of his draft resolution, incorporating the substance of Mr. Halpern's amendment, to a later meeting of the Sub-Commission.

93. At the 170th meeting, Mr. Krishnaswami's revised draft resolution (E/CN.4/Sub.2/L.91) was examined. Messrs. Fomin, Kulaga, and Roy joined in urging that a decision on the use of rapporteurs for future studies be deferred to the Sub-Commission's eighth session. Mr. Krishnaswami however preferred not to withdraw the draft resolution. A motion to defer further consideration of the draft resolution was thereupon adopted by four votes in favour, three against, and four abstentions.

VIII. PROCEDURE TO BE FOLLOWED IN CARRYING OUT STUDIES OF
DISCRIMINATION IN THE MATTER OF (a) POLITICAL RIGHTS
MENTIONED IN THE UNIVERSAL DECLARATION OF HUMAN
RIGHTS, (b) RELIGIOUS RIGHTS AND PRACTICES, AND
(c) EMIGRATION, IMMIGRATION AND TRAVEL

Item 8 of the agenda

Introduction

94. At its 155th to 167th meetings, the Sub-Commission considered item 8 of its agenda, entitled "Procedure to be followed in carrying out studies of discrimination in the matter of (a) political rights mentioned in the Universal Declaration of Human Rights, (b) religious rights and practices, and (c) emigration, immigration, and travel".

95. The Sub-Commission had before it preliminary reports submitted by three of its members in accordance with Resolution D, which it had adopted at its sixth

session (E/CN.4/703, para. 143). It examined first the procedural report on the proposed study of discrimination in the matter of political rights submitted by Mr. Hernan Santa Cruz (E/CN.4/Sub.2/165), then turned its attention to the preliminary report on the proposed study of discrimination in the matter of religious rights and practices submitted by Mr. Philip Halpern (E/CN.4/Sub.2/162), and finally considered the preliminary study of discrimination in the matter of emigration, immigration, and travel submitted by Mr. José D. Ingles (E/CN.4/Sub.2/167). Subsequently the Sub-Commission considered the question as to which further study should be undertaken in 1955.

96. The Sub-Commission was advised later by the representative of the Secretary-General that administrative and budgetary difficulties made it impossible to initiate a new study until the study of discrimination in education, already under way (see Chapter V of this Report), had been completed. It therefore unanimously adopted, at its 167th meeting, the resolution which appears in paragraph 157 below as Resolution E, by which it decided to undertake two further studies of discrimination in 1956 and expressed the hope that adequate financial and administrative arrangements to enable the Sub-Commission to pursue its work without delay would be made in the meantime.

A. Preliminary report on the proposed study on discrimination in the matter of political rights

97. As Mr. Santa Cruz was unable to attend the Sub-Commission's session, his preliminary report on the proposed study on discrimination in the matter of political rights (E/CN.4/Sub.2/165) was introduced by Mr. Diaz-Casanueva, his alternate.

98. Mr. Santa Cruz's report dealt with a number of aspects of the proposed study, including (a) the scope of the study, (b) the method of production, (c) the priority to be given to the study, (d) the inclusion in the study of information dealing with the rights of minorities, (e) sources of material and possible collaboration, and (f) the aims of the study. In addition, Mr. Santa Cruz made certain proposals in accordance with his terms of reference as set forth in Resolution D adopted by the Sub-Commission at its sixth session. In its general debate the Sub-Commission considered these questions with certain exceptions; the

question of priority was deferred until the three preliminary studies had been examined, while the questions of method or production and sources of material were deferred until a decision had been made as to which study should be given priority.

1. Scope of the study

99. In his preliminary report Mr. Santa Cruz stated that:

"...it may be taken for granted that the proposed study should deal with discrimination in respect of the political rights as provided in Article 21 of the Universal Declaration. Whether or not it should deal with other political rights mentioned in the Declaration is a matter for consideration by the Sub-Commission, taking into account the debate which took place in the Commission on Human Rights." 1/

100. Although most members of the Sub-Commission agreed that the proposed study should deal with discrimination in respect of political rights as provided in Article 21 of the Universal Declaration, Mr. Hiscocks raised the question whether such a study would serve a useful purpose at a time when international relations were somewhat tense. He pointed out that Article 21 contained several phrases which were subject to widely differing interpretations, among them: "freely chosen representatives," "right of equal access to public service," "periodic and genuine elections," and "secret vote or ... equivalent free voting procedures".

101. Opinion in the Sub-Commission was divided on the question whether the scope of the proposed study should encompass, in addition to the principles set forth in Article 21, those mentioned in Article 15, on the right to a nationality; Article 19, on the right to freedom of opinion and expression; and Article 20, on the right to freedom of peaceful assembly and association. Mr. Awad favoured limiting the study to Article 21 of the Universal Declaration because he felt that if that article were to be fully applied in a country every group would be able to enjoy participation in the Government and thus would be able to secure or protect any other right to which it was really entitled. Messrs. Fomin and Kulaga wanted the study to cover all relevant articles of the Universal Declaration dealing with political rights, as well as the relevant articles of the draft Covenant on Civil

1/ Summaries of the debate will be found in documents E/CN.4/SR.471-472. The Sub-Commission's attention was drawn to the debate by the Commission at its tenth session (Resolution VIII, E/2573, para. 495).

and Political Rights. Messrs. Halpern, Ingles, Krishnaswami and Sorensen expressed the view that while there should not be any unjustified extension of the scope of the proposed study, it should certainly not omit to examine any discriminatory measures or practices with respect to the rights defined in Articles 15, 19 and 20 of the Universal Declaration in so far as they have direct influence on the exercise of political rights defined in Article 21.

102. The dangers of undue extension of the scope of the proposed study were pointed out by a number of members. Mr. Ammoun expressed the view that the study should not, for example, be concerned with temporary measures dictated by the needs of the moment, such as a coup d'Etat which might temporarily deprive citizens of a given country of the right to exercise their political rights. Mr. Chatenet and Mr. Fomin felt that care should be taken that the study should not lead the Sub-Commission into attempting to pass judgments on the constitution of any country. Mr. Roy considered that the Sub-Commission should be careful to confine its work to the prevention of discrimination, using that word in its strict sense, and not to attempt to study all violations of human rights. Mr. Sorensen felt that it would be unwarranted, in the study, to examine the very different electoral systems of the various countries, even though some of them seemed to verge on discrimination, and pointed out that almost any system adopted by a majority might be open to the criticism, by other elements of the population, that it apparently discriminated against them.

103. There was some debate on the effect which Article 2 (7) of the Charter might be considered to have on the scope of the proposed study. Mr. Fomin, on the one hand, pointed out that the United Nations was not entitled to intervene in matters which were essentially within the domestic jurisdiction of any State and warned that that principle should not be violated by the Sub-Commission in the course of its work on discrimination in respect of political rights. Mr. Halpern, on the other hand, expressed the view that while it was true that the relationship between a Government and its citizens was essentially a domestic matter, the United Nations Charter had made the systematic violation by a Government of the human rights of a people subject to its jurisdiction a proper matter for international concern, though not for international law. He held that this was a proper matter for international discussion, studies, suggestions and recommendations.

104. There was also an exchange of views on the question whether the Sub-Commission's study should deal with discrimination in respect of political rights in Trust and Non-Self-Governing Territories. Mr. Diaz-Casanueva recalled that in his preliminary report Mr. Santa Cruz had suggested, as one of the possible sources of information open to the Rapporteur, the data collected by organs of the United Nations such as the Trusteeship Council and the Committee on Information from Non-Self-Governing Territories, which had already considered certain aspects of the problem. Mr. Fomin felt that additional information might be needed to supplement the data already available from these sources. Messrs. Awad and Ingles invited attention to the fact that Article 73 (e) of the Charter did not require Members administering Non-Self-Governing Territories, other than Trust Territories, to submit information on the political conditions obtaining in those territories. Mr. Halpern favoured a resolution which would instruct the Rapporteur to undertake a global study while relying on his judgment to avoid overlapping with other organs. The general consensus of opinion in the Sub-Commission was that the study should cover all countries and territories without distinction.

2. Inclusion in the study of information dealing with the rights of minorities

105. In his procedural report (E/CN.4/Sub.2/165, para. 13) Mr. Santa Cruz renewed a suggestion which he had made at the sixth session of the Sub-Commission, that the proposed study of discrimination in political rights might be broadened to include consideration of the rights of minorities to special measures of protection in the political field.

106. Several members of the Sub-Commission, including Messrs. Halpern and Hiscocks and Sorensen, criticized this suggestion on various grounds. Mr. Halpern felt that it would serve no useful purpose to include in the study casual references to the claims of certain minorities; he felt that the problem of a minority that was not satisfied with treatment equal to that of the rest of the population called for a judgment on the merits of each particular case and that it was inadvisable to attempt to set up universal criteria to determine the validity of claims to such special protection. Mr. Hiscocks, pointing out that the Sub-Commission had not even been able to agree upon a satisfactory definition of a minority, felt that it would be embarking on a hazardous course were it to venture into the uncharted

area of the political protection of minorities. Mr. Sorensen pointed out that it was not always possible to draw a clear distinction between the prevention of discrimination and the special protection of minorities. It might well be that an electoral system, which excluded small political groups from representation, was justified in general, although it might be found to involve unwarranted discrimination if it was directed against one particular minority group.

107. Other members, however, notably Messrs. Fomin and Kulaga, saw no objection to broadening the study to include consideration of the rights of minorities.

3. Aims of the study

108. In his preliminary report (E/CN.4/Sub.2/165, para. 18), Mr. Santa Cruz expressed the opinion that:

"...the studies of discrimination in various fields undertaken by the Sub-Commission should serve not only the purpose of bringing to the fore discriminatory practices that may still exist, but also and above all the purpose of formulating the general principles of international law recognized by civilized nations with respect to non-discrimination in each particular field. If the Sub-Commission shares my view, it may decide that, as a result of each study, the general principles of international law recognized by civilized nations as concerns non-discrimination in the particular field should be formulated, and that the recommendations to be adopted should be based on these principles."

109. In elaborating upon Mr. Santa Cruz's suggestion at the 155th meeting, Mr. Diaz-Casanueva reminded other members of the Sub-Commission of the distinction to be drawn between the methods of preventing discrimination, which varied from country to country, and the general principles on which these methods were based, which were universally recognized and which were derived, in particular, from the Universal Declaration of Human Rights.

110. Objections to the proposal were raised by several members of the Sub-Commission. Messrs. Fomin, Halpern, Hiscocks, Kulaga, and Sorensen agreed that the Sub-Commission had not been called upon to make any contribution to the codification of international law. Mr. Ingles pointed out that the general principles of law recognized by civilized nations were not always consistent with the ideal of the United Nations in its struggle to eliminate discriminatory measures or practices. Mr. Ammoun, on the other hand, saw no reason why the

Sub-Commission should refrain from defining certain general principles of law recognized by civilized nations which fell within the field of its competence; at any rate the Sub-Commission should not overlook the existence or significance of such principles.

4. Relevant activities of the Commission on the Status of Women

111. At the 157th meeting the representative of the Commission on the Status of Women reviewed the activities of that organ in combatting discrimination against women in the matter of political rights. She drew attention to the Convention on the Political Rights of Women, which had been opened for signature and ratification by the General Assembly in resolution 640 (VII), and pointed out that the Commission considered the Convention as marking an important first step towards the final elimination of discrimination on the ground of sex.

5. Interest of non-governmental organizations in the proposed study

112. Representatives of four non-governmental organizations in consultative status with the Economic and Social Council expressed their interest in the proposed study of discrimination in the matter of political rights at the 156th and 157th meetings. The representative of the International Confederation of Free Trade Unions stressed the importance of the study of discrimination in political rights, and affirmed her Organization's readiness to give, to the best of its ability, any help that the Sub-Commission might ask of it. The representative of the Consultative Council of Jewish Organizations suggested that the proposed studies might be oriented so as to accomplish the following objectives: (1) to establish the concept of and the scope given to the right or rights in question in the various countries studied; (2) to establish the existence, nature and extent of any discriminatory practices with respect to the exercise of these rights; (3) to establish a common denominator which would be representative of the conception of and the scope given to the right or rights in question; and (4) to establish the common features of discriminatory practices. The representative of the Nouvelles Equipes Internationales suggested that a wide range of sources should be used in the study, including eye-witnesses who had themselves been victims of political discrimination. The representative of the World Jewish Congress stated that his

Organization felt that the study of discrimination in political rights would greatly contribute to the rights contained in the two draft covenants on human rights, as non-discrimination in the matter of political rights was clearly an essential factor in the eradication of discrimination generally; and added that his Organization was prepared to contribute to the work of the Sub-Commission in the study.

B. Preliminary report on the proposed study of discrimination in the matter of religious rights and practices

113. The preliminary report on the proposed study of discrimination in the matter of religious rights and practices submitted by Mr. Halpern (E/CN.4/Sub.2/162) dealt with (a) the urgency of the study; (b) the nature of the right to freedom of religion and freedom of conscience; (c) the scope of the study; (d) the procedure for the study; and (e) available sources of material. The report also contained a recommendation, "that the Sub-Commission adopt as the subject of its third study the subject of discrimination in the matter of religious rights and practices, and that the study be carried out along the lines indicated in this preliminary report." In its general debate the Sub-Commission considered these questions with certain exceptions; discussion of the recommendation that it be given priority by the Sub-Commission was deferred until the three preliminary studies had been examined, while the question of the procedure for the study was deferred until a decision had been made as to which study should be given priority.

1. The urgency and appropriateness of the study

114. In his preliminary report Mr. Halpern stated that:

"5. In recent years, there has been a great resurgence of interest in all religions. There is a widespread conviction that unless we can succeed in matching the advances of science and technical knowledge with an equal development of moral and spiritual values, mankind is doomed. Men everywhere are looking to the ideals of human dignity and universal brotherhood, which are shared by all the great religions and ethical systems of the world, as offering the only basis of lasting peace, but there is a great diversity among the peoples of the world as to the precise content and form of religious beliefs and practices. In this situation, problems created by discrimination in matters of religion are likely to become more and more acute in the years immediately ahead.

"6. The problem is therefore an urgent one to which the Sub-Commission should devote its efforts as soon as it possibly can.

...

"8. A study upon this subject by an international body is particularly appropriate because religious affiliations run across national lines and violations of religious freedom in one country arouse resentment and antagonism on the part of the co-religionists of the oppressed persons in other countries."

115. Several members of the Sub-Commission, notably Mr. Ammoun, Mr. Hiscocks, and Mr. Ingles, supported the statements contained in paragraph 5, quoted above. Several representatives of non-governmental organizations stressed the urgency of the study and offered their full co-operation.

116. There was however some disagreement on Mr. Halpern's statements in paragraph 8 concerning the special appropriateness of such a study being made by an international body. Mr. Ammoun and Mr. Chatenet in particular felt that the Sub-Commission should be careful not to give the impression that in international law there was any special supranational link between peoples of the same religion residing in different countries. Mr. Halpern, after hearing these views, accepted the suggestion that paragraph 8 of his preliminary report should be enlarged to indicate that violations of religious freedom aroused not only the resentment of co-religionists of the oppressed persons, but the indignation of all freedom-loving peoples everywhere.

2. The nature of the right to freedom of religion and freedom of conscience

117. In his preliminary report Mr. Halpern suggested that article 18 of the Universal Declaration of Human Rights be accepted as the standard against which the conduct of Governments would be measured in the proposed study of discrimination in the matter of religious rights and practices. He expressed the view that the following constituent elements appear in that article:

"(a) the right of religious freedom includes not only the right of worship and of the observance of religious practices but also the right to engage in public manifestations of one's religious belief and the right to engage in teaching one's belief to others.

"(b) the right is not only an individual human right but a group right, that is to say, a right of all like-minded persons to associate together in the practice and propagation of their religious belief.

"(c) the right includes the freedom to change one's religion or belief. This, read together with the other provisions, authorizes the maintenance of religious missions and the attempt by means of persuasion to convert others to one's religious belief.

"(d) the right is not only a right to freedom of religious belief but also to freedom of thought and conscience. This includes the right to entertain a belief which may be regarded as a system of philosophy rather than a formal religion. It also includes the right of the individual to adopt atheism as his belief."

118. While there was no disagreement on the use of article 18 of the Declaration as a standard for the study, Mr. Fomin suggested that article 18 of the draft covenant on civil and political rights should also be borne in mind, as the experience gained in drafting that provision might prove of value.

119. There was no disagreement on the four constituent elements of article 18 enumerated by Mr. Halpern.

120. Several members of the Sub-Commission underlined the extreme difficulty of preparing an objective study of discrimination in respect of religious rights and practices in view of the diverse conceptions of the nature of the right to freedom of religion and freedom of conscience which existed in different parts of the world.

121. Mr. Ammoun pointed out that sometimes these conceptions existed harmoniously side by side in the same country, as in Lebanon, for example, where there was no civil law on the personal status, but where each individual was governed by the personal status determined by his membership in one of the country's many religious denominations.

122. Mr. Awad expressed the view that the characteristics of hostility based on religion were constantly changing and that the prevailing tendency was no longer to assert the superiority of one religion over another. The modern form of hostility aroused by religion, in his view, was hostility towards all religions and a tendency of the modern State to challenge any authority other than its own.

123. Mr. Diaz-Casanueva drew attention to the fact that the most common source of conflict between Church and State arose in connexion with secular education. He felt that a solution had to be found which reconciled the interests of the State and those of religion; and drew attention to paragraph 3 of article 26 of the Universal Declaration, which stated that "parents have a prior right to choose the kind of education that shall be given to their children."

124. Mr. Chatenet pointed out that it would be difficult to conceive of any procedure of public law aimed at compelling religious belief or disbelief. Manifestations of religious belief raised many problems, and in some cases religious practices conflicted with public law. He felt therefore that discriminatory measures against religious manifestations deserved particular attention, and agreed with Mr. Halpern that the system of separation of the Church from the State was the most appropriate means of ensuring equality in the matter.

125. Mr. Krishnaswami raised the question of the extent to which State intervention in the field of religious practices was justified. Freedom of religion, in his view, included not only the right to profess and practice a religion but also the right to propagate it. While it was generally agreed that fundamental considerations of public order, national security, morality and health might necessitate certain limitations on the right to convert, it was equally clear that unrestrained militant propagation could lead to disturbances whereupon the State had to intervene actively in order to safeguard the very foundations of religious freedom. He considered that in preparing an analytical summary on the subject of discrimination in the matter of religious rights and freedoms, it would be necessary to give due consideration to a State's assertion that certain measures were dictated by security needs, but at the same time to make certain that these measures were not of such a nature that they radically violated or even swept away the fundamental right.

3. Scope of the proposed study

126. In his preliminary report (E/CN.4/Sub.2/162, paras. 31-32), Mr. Halpern pointed out that there were two possible approaches to the problem of how discrimination should be studied:

"31. ... In the studies on discrimination in the fields of education and employment, the Sub-Commission has adopted the approach of studying the impact of discrimination in a particular field or area of human activity, embracing in the study discrimination on the ground of race, colour, religion, national origin and all other grounds condemned by the Universal Declaration of Human Rights. The other approach is to take a particular ground of discrimination and to follow it through in a study of all the fields of activity in which discrimination on that ground evidences itself. The former approach has the advantage of universality of study in a limited field; the latter approach has the advantage of giving a complete picture of the impact of discrimination in all its forms upon the members of a particular racial, religious or linguistic minority group.

"32. With respect to a study of discrimination in matters of religion, the two approaches merge because discrimination against a religious group obviously must be upon the ground of religion. To attempt to keep the two approaches separate here would require us to limit the study to cases of direct interference with religious freedom by formal or official prohibitory measures and to exclude from our study the major aspect of the problem, namely, the systematic violation of other fundamental human rights for the purpose of bringing about the ultimate elimination of a religious group or interference with the carrying on of a particular religious belief. Discrimination in any field on the ground of religion must necessarily have the effect of discriminating against the religious group as such and of interfering with its ability to hold its adherents and to win new members and to flourish as a religion."

127. In commenting on this statement, members of the Sub-Commission stressed the fact that in their view it was more important that the report be complete than that every possible duplication with other studies be avoided. Mr. Ammoun was of the opinion that the study of discrimination in the matter of religious rights and practices should cover every field where there was discrimination on grounds of religion, even though occasional duplication of materials appearing in other studies might occur. Mr. Awad, Mr. Ingles, and Mr. Sorensen

agreed that the study would have to deal with many types of discrimination in addition to discrimination solely on the ground of religion, and that it would have to take into account special measures of protection provided for religious groups in various countries. Mr. Roy, on the other hand, felt that it might be better for the Sub-Commission to adopt a new plan of work with regard to the study under consideration, and confine it to discrimination on grounds of religion.

128. After hearing the opinions expressed by various members of the Sub-Commission, Mr. Halpern offered as a formula for reconciling the various views the proposal that the study should take into account indirect as well as direct methods of discrimination in the matter of religious rights and practices. The indirect methods could not be omitted because they were a special feature of discrimination in religious matters, and often had very serious consequences. Moreover, he pointed out that membership in a religious group was a voluntary matter, unlike membership in an ethnic group, and any action directed against a religion might turn individuals away from that religion and thus prevent the group from flourishing.

4. Sources of material for the proposed study

129. In his preliminary report (E/CN.4/Sub.2/162, paras. 46-48), Mr. Halpern stated his view that:

"46. In accordance with the form of the resolution adopted for the education study, as amended by the Commission on Human Rights, the sources of material should be the following:

- (a) Governments;
- (b) Secretary-General;
- (c) Specialized agencies;
- (d) Non-governmental organizations;
- (e) The writings of experts in the field.

But the collection of material should not be limited to these sources.

"47. A considerable amount of study has already been performed in this field by non-governmental organizations and by individuals.

"48. It may be necessary in some cases to obtain information from escapees who are no longer subject to the domination or control of the government concerning whose conduct information is sought. Special provision should be made, authorizing the expert consultant or the special committee of the Sub-Commission to arrange for the reduction of the views of such persons to writing so that the whole Sub-Commission may have the material available to it in considering the final report. Consideration should also be given to the obtaining of authority for the expert consultant or the special committee to examine the individual communications on file with the Secretary-General relating to charges of discrimination in matters of religion so that this matter may be utilized in the preparation of the report, it being understood, however, that no attempt would be made to pass upon the merits of any specific complaint."

130. Several members remarked that point (e) in Mr. Halpern's enumeration of the sources of material for the study differed from point (e) in the list approved by the Commission on Human Rights in connexion with the study of discrimination in education, which read: "writings of recognized scholars and scientists". Mr. Halpern agreed that he could accept the Commission's list as satisfactory, although he personally had preferred the somewhat broader term, "writings of experts in the field".

131. Reference to "escapees" as a possible source of information, in paragraph 48, also led to a discussion in the Sub-Commission. Several members, notably Messrs. Ammoun, Chatenet, Fomin and Kulaga, thought that the procedure suggested in paragraph 48 was a dangerous one, and that it would be both improper and unlawful to conduct an investigation by questioning individuals who had left their own countries. Mr. Fomin felt that information furnished by refugees who had deserted their country would not be objective or reliable.

132. Mr. Halpern suggested as a compromise that the individual or group which would prepare the study should be given the same information with respect to the individual communications on file with the Secretary-General relating to charges of discrimination in matters of religion as is given to the Commission on Human Rights. Mr. Fomin and Mr. Kulaga considered the suggestion that the Rapporteur have access to communications to be objectionable in view of the decision of the Commission on Human Rights that it was not authorized to take

action on individual complaints of violations of human rights. Mr. Halpern replied that he had not meant to propose that any attempt be made to pass upon the merits of any specific complaint. However, Messrs. Fomin and Kulaga maintained their opposition to the use of individual communications.

5. Statements relating to the interest of non-governmental organizations in the proposed study

133. Representatives of five non-governmental organizations in consultative status with the Economic and Social Council expressed their interest in the proposed study of discrimination in the matter of political rights at the 158th to 160th meetings. The representative of the Agudas Israel World Organization emphasized the importance and urgency of the study, pointing out that a number of countries had recently enacted laws against such religious practices as the Jewish method of slaughtering animals for food. The representative of the Commission of the Churches on International Affairs expressed the view that the whole substance of religious freedom should be studied, rather than only discrimination in respect of religious rights and practices. Mr. Halpern pointed out in reply that a study of discrimination in the observance of article 18 of the Universal Declaration of Human Rights would be broad enough to cover discrimination in favour of atheism against all religions. The representative of the Consultative Council of Jewish Organizations pointed out that because each religion has its own beliefs and practices, measures which on the surface might appear to be non-discriminatory could in fact be used to discriminate against one religion and in favour of another; for this reason he considered it particularly important that the proposed study should examine not only the de jure but also the de facto situation. The representative of the Nouvelles Equipes Internationales welcomed the proposal that the problem should be studied exhaustively, as he considered any practices designed to annihilate organized religion to be of most vital interest to those concerned with the protection of human rights. The representative of the World Jewish Congress felt that the proposed study should, inter alia, take into account restrictions on freedom to worship, as in some parts of the world governments were adopting discriminatory measures against dominant religions as well as against minority religious groups.

C. Preliminary study on discrimination in the matter of emigration, immigration and travel

134. The preliminary study on discrimination in the matter of emigration, immigration and travel submitted by Mr. Ingles (E/CN.4/Sub.2/167) dealt with (a) the scope of the study; (b) the procedure of study, and (c) the nature of the study. In addition he submitted certain proposals concerning existing sources of information and concerning United Nations organs and specialized agencies, as well as non-governmental organizations, which might collaborate in such study, in accordance with his terms of reference laid down in Resolution D adopted by the Sub-Commission at its sixth session. In its general debate the Sub-Commission found itself unable to agree upon the action to be taken on the request addressed to it by the Economic and Social Council in resolution 545 D (XVIII), that it take as the objective of its study "the right of everyone to leave any country, including his own, and to return to his country". It therefore decided to adopt a resolution concerning this problem, and postponed further consideration of the proposed study until the meaning of the resolution had been clarified.

1. Scope of the proposed study

135. In his preliminary study Mr. Ingles pointed out that:

"... There are two courses open to the Sub-Commission, namely: (1) to conduct a study of discrimination in the field of 'emigration, immigration and travel' with special emphasis on the discrimination practised with respect to the right of everyone to leave any country, including his own, and to return to his country; or (2) alternatively, to confine its study to the right of everyone to leave any country, including his own, and to return to his country.

(1) First course

In favour of the first course, the argument may be adduced that nowhere in the resolution of the Economic and Social Council is there any prohibition, express or implied, against the Sub-Commission's conducting a study of discrimination in the field of 'emigration, immigration and travel'. On the contrary, the resolution specifically notes that among the topics the Sub-Commission proposes to study is discrimination in relation to 'emigration, immigration and travel', and that the Commission on Human Rights had decided to take no action to revise the plan of the Sub-Commission for studies in the field of prevention of discrimination.

On the premise that the words 'its study in this field', used in the operative paragraph of the resolution of the Council, refer to the study of discrimination in relation to 'emigration, immigration, and travel', noted in the second preambular paragraph of the resolution, the operative paragraph may be said to confirm rather than disauthorize such study. Thus the operative paragraph merely draws the attention of the Sub-Commission to the special importance of paragraph 2 of article 13 of the Universal Declaration of Human Rights.

(2) Second course

In support of the second course, the argument may be adduced that in the view of the sponsors of the draft resolution in the Economic and Social Council their proposal amounted to a deletion of the word 'immigration' from the resolution D of the Sub-Commission. (See statement of the representative of the United States before the Social Committee: E/AC.7/SR.289, p.8.)

On the premise that the words 'its study in this field' in the operative paragraph of the resolution of the Council refers to the preceding paragraph, which recalls the provisions of article 13 of the Universal Declaration of Human Rights, this shows a manifest intention to restrict the study by the Sub-Commission of this article to the second paragraph thereof. This is confirmed by the statement of the representative of the United States in opposing the Yugoslav proposal to amend the operative paragraph of the resolution by referring to the principles set forth in article 13 of the Universal Declaration of Human Rights and not merely to paragraph 2 thereof. He said that the amendment would unduly broaden the scope of the proposed study and that it was desirable to focus attention upon the international aspects of the right to travel (E/AC.7/SR.289, pp.13-14)."

136. In the general debate, several members of the Sub-Commission, notably Messrs. Ammoun, Fomin, Kulaga, Krishnaswami and Roy, expressed themselves as favouring the first of the two courses referred to by Mr. Ingles. Mr. Ammoun felt that the right to leave one's country was in fact only an illusion if the person concerned was unable to enter any other country. Mr. Fomin and Mr. Kulaga agreed that the first course would enable the Sub-Commission to study the question of discrimination in the matter of emigration, immigration and travel as a whole more effectively. Mr. Krishnaswami considered that exclusion of immigration from the subject-matter of the proposed study would be an unnecessary curtailment of the Sub-Commission's work and would detract from the usefulness of the study. Mr. Roy reviewed the history of the proposed study,

recalling that the Sub-Commission had first intended to study only discrimination in respect of immigration and travel. At its sixth session it had added emigration to its list. Since that time a movement had developed in the Commission on Human Rights and the Economic and Social Council aimed at reducing the scope of the study by restricting it to the principle set forth in article 13, paragraph 2, of the Universal Declaration of Human Rights. He was not able to support such a restrictive effort.

137. Other members of the Sub-Commission, notably Messrs. Halpern, Hiscocks, and Sorensen, expressed themselves as favouring the second course. Mr. Halpern pointed out that there seemed to be no ambiguity in the wording of resolution 545 D (XVIII) of the Economic and Social Council; he felt that it plainly indicated that the Sub-Commission was to limit its study to discrimination in respect of the rights proclaimed in article 13 (2). He referred to statements made by the representative of the United States at the 289th meeting of the Social Committee of the Economic and Social Council in support of his view that the purport of the Council's resolution was to eliminate immigration from the list of subjects to be studied by the Sub-Commission. Mr. Hiscocks and Mr. Sorensen also thought that the Sub-Commission should accept what to them appeared to be a clear directive from the Council to delete the word "immigration" from among the questions to be studied.

138. Mr. Ingles stated that the question before the Sub-Commission was not whether it should obey the Council but what is the proper interpretation to be given to the resolution of the Council. It was one thing to ask the Sub-Commission to take article 13 (2) of the Universal Declaration as the objective of its study, and another to ask the Sub-Commission to limit its study to that specific article. He pointed out that, unlike in the Commission on Human Rights, where a formal amendment to that effect was not found acceptable, there was no formal motion presented to the Council to delete the word "immigration" from Resolution D of the Sub-Commission.

139. Mr. Awad, accepting the view that the Council had in fact restricted the scope of the Sub-Commission's proposed study, suggested that the best course might be for the Sub-Commission to await a favourable opportunity to persuade the Council to reconsider its position.

2. Orientation of the proposed study

140. In his preliminary study, Mr. Ingles submitted the following comments concerning the orientation of the proposed study (E/CN.4/Sub.2/167, paras.36-37):

"36. The discussion of Resolution D during the eighteenth session of the Economic and Social Council revealed that the distinction which should prevail between the study of discrimination in emigration, immigration and travel, and the study of the subject of emigration, immigration and travel, had been somewhat blurred. Thus, the representative of Norway considered it doubtful whether it would be wise for the Sub-Commission to concern itself with the subject of immigration (E/AC.7/SR.289). It seems that he ignored the question as to whether it would be wise for the Sub-Commission, which is concerned with the prevention of discrimination, to study discrimination in immigration. The representative of the Soviet Union pointed out that the absence of any reference to discrimination from the objective laid down for the Sub-Commission's study in the operative paragraph of the draft resolution submitted by the delegations of Cuba, Ecuador, and the United States, implied a distinct shift of emphasis, for the subject of discrimination was an essential element of the Sub-Commission's programme (*Ibid.*). An unimplemented offer of the representative of the United States, to insert the words "of discrimination" after the words "as the objective of its study" in the operative paragraph (*Ibid.*), did not help to clarify matters.

"37. It is important, therefore, to stress that the Sub-Commission is interested in the study of discrimination in the field of emigration, immigration and travel, and not in the study of emigration, immigration and travel per se."

141. Several members of the Sub-Commission, in commenting on the orientation of the proposed study, elaborated on what they understood should be covered by a study of discrimination in the matter of emigration, immigration and travel.

142. Mr. Ammoun thought that the problem raised by exiles should not be dealt with in the study, as any discrimination to which they might have been subjected was political in character and had nothing to do with discrimination in the matter of immigration.

143. Mr. Chatenet expressed the view that emigration and immigration constituted but one aspect of the problem under consideration, the other aspect being the compulsory transfer of people from one area to another. He felt that this aspect should not be omitted from the Sub-Commission's study. Mr. Diaz-Casanueva stressed the importance of dealing with what he called "involuntary emigration" in the proposed study. He referred in particular to article 14 of the Universal Declaration which merely laid down the right "to seek and enjoy" asylum in other countries, but did not oblige any State to receive refugees or exiles.

144. Mr. Awad pointed out that discrimination in immigration struck at the very roots of international understanding. The fact that certain powers occupied large parts of the world although their populations were inadequate to work the available resources, while other countries were overcrowded with inhabitants who could not gain admittance to the underpopulated areas and presented an economic problem, was hardly conducive to mutual goodwill. In these circumstances, elementary justice required that there should be no discrimination in immigration, yet the immigration policies of certain governments were certainly discriminatory. He deplored the fact that the Economic and Social Council had implied that the Sub-Commission should not consider that side of the question.

145. Mr. Diaz-Casanueva and Mr. Sorensen agreed that economic, social, cultural and geographical factors had to be taken into account in any examination of the immigration policy of a country, and that certain restrictions on immigration had been found necessary because the social structure of countries was not as flexible now as it had been a century ago.

146. Mr. Krishnaswami pointed out that the Sub-Commission had never had in mind any attempt to question the right of a State to regulate the admission of aliens; its concern was rather with the question whether such regulations violated the criteria pertaining to non-discrimination laid down in the Universal Declaration of Human Rights. In his view it was one thing for a country to deny admission to aliens for economic or even political reasons, and quite another to deny such admission merely on grounds which constituted discrimination under the Declaration.

3. Statements relating to the interest of non-governmental organizations in the proposed study

147. At the 162nd meeting the representative of the Nouvelles Equipes Internationales stated the view of his Organization that the core of the problem with which the Sub-Commission should deal was the right of an individual who had left his country on his own initiative to return freely to that country when he chose to do so. His Organization therefore felt that any study on discrimination in the matter of emigration, immigration, and travel undertaken by the Sub-Commission should examine the causes which prevented a refugee from returning to his country of origin.

4. Consideration of draft resolution

148. At its 165th meeting the Sub-Commission considered a draft resolution relating to the scope of the proposed study on emigration, immigration and travel, submitted by Mr. Roy (E/CN.4/Sub.2/L.86). In the draft resolution Mr. Roy, after tracing the history of the question, proposed that the Sub-Commission state its interpretation of resolution 545 D (XVIII) "as implying no intention to restrict the scope of the Sub-Commission's studies or to remove from its programme all consideration of discrimination in the matter of immigration." The Commission on Human Rights was requested to ask the Economic and Social Council to confirm this interpretation.

149. In the course of the general debate on the draft resolution, Mr. Roy accepted several amendments suggested orally by members of the Sub-Commission. A revised version of the draft resolution (E/CN.4/Sub.2/L.86/Rev.1) was presented to the Sub-Commission at its 166th meeting.

150. This draft resolution was adopted by 8 votes to none, with 4 abstentions, as follows (E/CN.4/Sub.2/L.86/Rev.1):

Resolution D^{1/}

Proposed Study of Discrimination in the Matter of
Emigration, Immigration and Travel

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

Recalling that, in the work programme established at its fifth session and approved by the Commission on Human Rights and the Economic and Social Council, it was provided that among the measures to combat discrimination it would study would be those in the fields of "immigration and travel";

Recalling that at its sixth session it decided that the study should cover not only immigration and travel but also "emigration";

Considering that at its tenth (1954) session the Commission on Human Rights drew the attention of the Sub-Commission to the observations made upon a proposal (subsequently withdrawn) under which, inter alia, the words "immigration and travel" in resolution D of the Sub-Commission would have been replaced by the words "the right to return to one's country as provided in paragraph 2 of article 13 of the Universal Declaration of Human Rights";

Considering that in its resolution 545 D (XVIII) of 29 July 1954 the Economic and Social Council requested the Sub-Commission "to take as the objective of its study in this field paragraph 2 of article 13 of the Universal Declaration of Human Rights";

1. Considers that the study of discrimination in immigration is of fundamental importance and has already been included in the programme of work of the Sub-Commission;
2. Requests the Commission on Human Rights to invite the Economic and Social Council to decide that the Sub-Commission is not precluded from undertaking a study on the question of discrimination in immigration.

^{1/} A draft resolution on this subject, for consideration and adoption by the Commission on Human Rights, appears in Annex I of this report as Draft Resolution A.

D. Consideration as to which further study of discrimination should be undertaken in 1955

151. The Sub-Commission considered at its 163rd to 168th meetings which further study of discrimination should be undertaken in 1955. In the general debate, some members were in favour of proceeding immediately with the study of discrimination in the matter of political rights, while others favoured giving priority to the study of discrimination in respect of religious rights and practices. It was generally agreed that, in view of the decision of the Sub-Commission to seek clarification of resolution 545 D (XVIII) of the Council, the study of discrimination in the matter of emigration, immigration and travel would have to be postponed.

152. Mr. Ammoun submitted a draft resolution to the Sub-Commission (E/CN.4/Sub.2/L.85), by which the Sub-Commission would decide to study in 1955 discrimination in the matter of religious rights and practices. Mr. Diaz-Casanueva submitted a draft resolution (E/CN.4/Sub.2/L.87) by which it would decide to study discrimination in the matter of political rights in 1955. In the light of the discussion at the 164th and 166th meetings, Mr. Ammoun revised his draft resolution (E/CN.4/Sub.2/L.85/Rev.1).

153. At the 166th meeting the Secretary-General submitted to the Sub-Commission a statement on the financial implications of the draft resolution submitted by Mr. Ammoun, which applied equally to that submitted by Mr. Diaz-Casanueva. The statement (E/CN.4/Sub.2/L.85/Add.1) read as follows:

"Having regard to directives from the General Assembly concerning the use of budgetary and personnel resources, the Secretary-General would plan, should the resolution be approved, to provide the necessary assistance requested for the study of discrimination in the matter of religious rights and practices, immediately following the completion of the study on discrimination in the field of education. By taking up this new work upon completion of the earlier study, the existing staff would not need to be increased and consequently the resolution would have no additional financial implications."

154. In explanation of the financial statement, the representative of the Secretary-General explained at the 166th meeting that the Secretary-General's reorganization plan, which had been approved by the General Assembly at its ninth session, had imposed certain limitations on most of the services which worked for

the Economic and Social Council. The financial implications of the reorganization plan had been incorporated in the 1955 budget, and the statement before the Sub-Commission was a direct consequence of the General Assembly's decision. The latter placed the Secretary-General in a difficult position in that it prevented him from meeting the Sub-Commission's wishes: any study which the Sub-Commission might decide to make could not be taken up by the Secretariat until the study on discrimination in education had been completed and he was unable to say when that would be.

155. Some members of the Sub-Commission criticized the failure to make budgetary provisions for the Sub-Commission despite the approval of its programme of work by the Commission on Human Rights and the Economic and Social Council. In explanation, the representative of the Secretary-General pointed out that the budget usually was prepared many months in advance of the financial year for which it was intended, and that, moreover, the study of discrimination in education had not been expected to extend beyond 1954. In addition, the decisions adopted by the Sub-Commission had to be reconciled with decisions of other bodies, including the Commission on Human Rights, the Economic and Social Council, and the Fifth Committee of the General Assembly, which was responsible for budgetary appropriations.

156. The Sub-Commission decided to recess in order to prepare a draft resolution which would reflect its views on the question of future studies, taking into account the situation which had been brought to its notice by the Secretary-General.

157. At the 167th meeting the Sub-Commission considered the resulting draft resolution, submitted jointly by all its members (E/CN.4/Sub.2/L.88). The draft resolution was adopted unanimously, as follows:

Resolution E^{1/}

Studies in the Field of Discrimination to be Undertaken by the
Sub-Commission on Prevention of Discrimination and Protection
of Minorities

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

Having completed the discussion of the preliminary reports on the procedure to be followed in carrying out studies of discrimination in 1955 in the matter of

- (a) political rights mentioned in the Universal Declaration of Human Rights,
- (b) religious rights and practices, and
- (c) emigration, immigration and travel.

Having thereafter received a note from the Secretariat to the effect that no further assistance could be rendered to the work of the Sub-Commission until the study on discrimination in education has been completed, to avoid additional financial implications,

Considering that it must have been evident to all concerned that irrespective of the progress made in the study of discrimination in education, the Sub-Commission would undertake a new study in 1955 in one of the above-mentioned fields, especially after both the Commission on Human Rights and the Economic and Social Council had approved that such a study be undertaken in 1955,

1. Expresses its deep regret that notwithstanding such approval the necessary steps were not taken to make such a study in 1955 possible;
2. Decides, in view of the delay, for which the Sub-Commission cannot be held responsible, that two further studies in the field of discrimination should be undertaken in 1956;
3. Hopes that sufficient understanding will be shown in the future of the importance of the work of the Sub-Commission and its needs, and that adequate financial and administrative arrangements will be made to enable the Sub-Commission to pursue its work without delay;

^{1/} A draft resolution on this subject, for consideration and adoption by the Commission on Human Rights, appears in Annex I of this report as Draft Resolution B.

4. Decides further to postpone a decision as to the priority to be accorded to the studies in question until its eighth session;
 5. Requests the Commission on Human Rights to approve these decisions and to ask the Economic and Social Council to take adequate measures with a view to providing the Sub-Commission with the necessary assistance for the pursuit of its studies.
158. The Chairman ruled that in view of the adoption of the resolution, there was no need to put to a vote the draft resolutions proposed by Messrs. Ammoun and Diaz-Casanueva.

IX. MEASURES TO BE TAKEN FOR THE CESSATION OF ANY ADVOCACY OF
NATIONAL, RACIAL OR RELIGIOUS HOSTILITY THAT CONSTITUTES
AN INCITEMENT TO VIOLENCE

Item 9 of the agenda

159. At the 165th meeting the Sub-Commission considered item 9 of its agenda, entitled "Measures to be taken for the cessation of any advocacy of national, racial or religious hostility that constitutes an incitement to violence". It had before it a preliminary report on this subject (E/CN.4/Sub.2/164) submitted by the Secretary-General. In the preliminary report, the Secretary-General stated that in compliance with Resolution E, adopted by the Sub-Commission at its sixth (1954) session, the Secretariat had collected information on legislative and judicial practices of various countries with regard to measures to be taken for the cessation of any advocacy of national, racial or religious hostility. Preliminary studies had been prepared concerning 64 States, including both Members and non-Members of the United Nations. These preliminary studies had been submitted informally, wherever practicable, to government authorities, to the correspondents designated by governments to furnish material for the Yearbook on Human Rights, or to other experts of acknowledged international standing for comment. Replies concerning only 19 of the preliminary studies had been received up to the opening date of the Sub-Commission's seventh session.
160. The Secretariat, feeling that it did not possess a sufficient volume of confirmed information to be able to submit a final version of the study to the

Sub-Commission, asked the Sub-Commission to agree that the final report should be presented at its eighth session.

161. The Sub-Commission decided to approve the Secretariat's request, and to consider the question at its eighth session.

X. PROTECTION OF MINORITIES: FURTHER STUDY OF THE WHOLE QUESTION,
INCLUDING THE DEFINITION OF THE TERM "MINORITY"

Item 10 of the agenda

162. At its 168th to 170th meetings, the Sub-Commission considered item 10 of its agenda, entitled "Protection of minorities: further study of the whole question, including the definition of the term 'minority'". It had before it a memorandum by the Secretary-General which contained the following statements (E/CN.4/Sub.2/160, paras. 3-5):

"3. The Secretary-General expressed his views on certain aspects of the work of the United Nations in the field of protection of minorities in a report submitted to the eighteenth session of the Economic and Social Council entitled 'Review of the Organization and Work of the Secretariat in the Economic and Social Field,' as follows (E/2598, Section IV, paras. 21-22):

'The extension and consolidation of Human Rights throughout the world is one of the great objectives of the Charter, and toward the furtherance of this objective the resources of the Secretariat as a whole must be employed as effectively as possible. But in this field of United Nations endeavour, the course of international action is inevitably slow and beset by political difficulties. Consequently, there is a constant danger, where agreement cannot be reached at the inter-governmental level, of the Secretariat being asked for complications or studies involving effort and funds quite disproportionate to the probable value of the results.

'Thus, when in 1948, the General Assembly could not agree on the text of an article on the international protection of minorities for insertion in the Universal Declaration of Human Rights, it adopted a resolution on the fate of minorities which referred the question back to the Economic and Social Council with a request that it ask the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities "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". This question has occupied not only the Secretariat but the Commission on Human Rights and the Sub-Commission ever since with no appreciable results. To refer only to the more recent development, when the members of the Sub-Commission could not agree on action on this problem at the 1952 session, the Secretary-General was requested to prepare a comprehensive compilation of which note was finally taken in a two-line resolution. At the 16th session of the Council in 1953, a cleavage between delegations resulted in a request for renewed studies by the Commission and the Sub-Commission on this question. The above record provides a striking illustration of a tendency which is to be found in many phases of United Nations work.'

"4. The Economic and Social Council, by resolution 557 A (XVIII) of 5 August 1954, endorsed the approach adopted by the Secretary-General in the above-mentioned report to the problem of the concentration of the efforts and resources of the United Nations and the specialized agencies, expressed its general approval of the suggestions relating to priorities and programme set forth, inter alia, in Section IV of the Secretary-General's report, and invited the Secretary-General:

'(a) to take such action as is appropriate to put his suggestions into effect;

'(b) to submit to the commissions, for their consideration, his plans regarding publications and studies and, in this connexion, to call their attention to General Assembly resolution 789 (VIII) concerning the control and limitation of documents;

'(c) pending consideration by the commissions and any further action by the Council, to proceed with his plans in accordance with subparagraph (a) above;

'(d) ...'

"5. For the reasons stated above, the Secretary-General has come to the conclusion that in the light of the decisions taken by the Commission on Human Rights and by the Economic and Social Council, he should not, at this stage, assemble, in collaboration with the specialized agencies and non-governmental organizations, relevant material for the selective study as requested by the Sub-Commission at its sixth session. It had been the intention of the Sub-Commission that material collected by the Secretariat should assist the expert in the carrying out of the study and it has now been decided that this expert should not be appointed."

163. The debate in the Sub-Commission was directed to a draft resolution submitted by Mr. Hiscocks (E/CN.4/Sub.2/L.83), and amendments thereto submitted by Messrs. Halpern (E/CN.4/Sub.2/L.89) and Krishnaswami (E/CN.4/Sub.2/L.90).

164. In his draft resolution Mr. Hiscocks proposed that the Sub-Commission, after reviewing the history of its concern with the problem of protection of minorities, should decide "to concentrate its attention on the various aspects of the problem of discrimination and defer work on the problem of the special protection of minorities, pending the issue by the Commission on Human Rights of a specific directive on the subject". It was further proposed that the Sub-Commission decide that it would "consider any facts relevant to the question of minorities that may be brought to its attention by the Special Rapporteur on discrimination in education, in accordance with Resolution G passed by the Sub-Commission at its sixth session, or that may emerge in connexion with the Sub-Commission's other work on discrimination".

165. The amendment proposed by Mr. Krishnaswami called for the insertion of a paragraph in the preamble of the draft resolution which would read (E/CN.4/Sub.2/L.90):

"Recalling that the intention of the Economic and Social Council, when it authorized the Commission on Human Rights to establish the Sub-Commission, was that it would 'deal with the urgent problems in this field' by making recommendations".

166. In explanation, Mr. Krishnaswami referred to resolution 9 (II) of 21 June 1946 of the Economic and Social Council, in which the Council had authorized the Commission on Human Rights to establish a separate Sub-Commission on Protection of Minorities which would, inter alia, "deal with urgent problems in this field by making recommendations to the Commission on Human Rights". He expressed the view that this aspect of the Sub-Commission's work had apparently not been fully implemented, and that the Sub-Commission had instead been led into a futile and unnecessary effort to prepare a comprehensive definition of the term "minority". It was not clear to him why either the Commission on Human Rights or the Council needed a definition of the term "minority", and he felt that it was far more important for the Sub-Commission to be permitted, in accordance with the Council's authorization, to proceed to deal with the urgent problems relating to the protection of minorities. Mr. Krishnaswami revised his proposal to incorporate a reference to resolution 9 (II) of the Council.

167. The amendments proposed by Mr. Halpern called for changes in the wording of several paragraphs of the preamble of Mr. Hiscocks' draft resolution. The views expressed by various members of the Sub-Commission on these amendments are summarized in documents E/CN.4/Sub.2/SR.168-170.

168. Mr. Hiscocks accepted several of the amendments proposed by Mr. Halpern, and revised the text of his draft resolution accordingly (E/CN.4/Sub.2/L.83/Rev.1) Mr. Halpern later withdrew the remainder of his amendments.

169. Mr. Fomin and Mr. Kulaga raised objections to those sections of Mr. Hiscocks' draft resolution which they considered to deal with the substance of the question of protection of minorities, which had not been discussed by the Sub-Commission at its seventh session. Mr. Hiscocks in reply pointed out that these sections merely repeated, without alteration, decisions on the substance of the question which had been decided upon at previous sessions. However, Messrs. Fomin and Kulaga considered that it would serve no useful purpose to repeat the decisions of the Sub-Commission which had not been expressly approved by the Commission on Human Rights.

170. Mr. Ingles expressed the view that the Secretary-General should have collected the information for the selective study of the present position of minorities throughout the world, including historical and geographical material, as requested in paragraph 6 of Resolution F adopted by the Sub-Commission at its sixth session, despite the decision of the Commission on Human Rights not to approve the appointment of an expert to carry out the study. He referred to the view shared by several members of the Commission on Human Rights at its tenth session that the question of the appointment of an expert was entirely independent from the collection of material, and should have been so regarded by the Secretary-General. He felt that the decision of the Secretary-General in this matter had prevented the Sub-Commission from undertaking further study of the problem of minorities at its seventh session and provided an additional reason for deferring the study.

171. At the 170th meeting, Mr. Hiscocks and Mr. Ingles submitted a second revised draft resolution (E/CN.4/Sub.2/L.83/Rev.2), incorporating Mr. Krishnaswami's amendment and several additional alterations which had been suggested by various members of the Sub-Commission. This text was adopted, after a further oral amendment had been accepted by its sponsors, by 9 votes in favour, none against and 2 abstentions, (one member being absent), as follows:

Resolution F

Protection of Minorities: Further Study of the Whole Question,
including the Definition of the term "Minority"

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

Having reviewed its past work on the problem of minorities,

Recalling that the intention of the Economic and Social Council as expressed in its resolution of 21 June 1946 (Resolution 9 (II), paragraph 9), when it authorized the Commission on Human Rights to establish the Sub-Commission, was that it would 'deal with the urgent problems in this field' by making recommendations.

Considering that the Commission on Human Rights has approved neither the definitions of minorities prepared by the Sub-Commission at its third and fourth sessions, nor the proposals for the appointment of an expert to carry out a study of the present position of minorities, throughout the world prepared by the Sub-Commission at its sixth session,

Realizing that the problem of non-dominant ethnic, linguistic or religious groups, commonly referred to as minorities, has two aspects, namely:

- (a) The rightful demand of all such groups that they receive equality of treatment with the rest of the population;
- (b) The claim of some groups to be entitled to special measures of protection, in addition to the rights accorded the rest of the population;

Recognizing that the first aspect is already being dealt with by the Sub-Commission in its work for the prevention of discrimination,

Recognizing further that it is difficult if not impossible to bring under a satisfactory general definition those minority groups which require special protective measures,

Recognizing also that no recommendations for the protection of any such minority groups can be made without a thorough knowledge of the present position of these groups throughout the world,

Considering that the Sub-Commission is not in possession of the necessary knowledge at present, and could only acquire it by means of a thorough world-wide study,

Considering also the decision of the Secretary-General not to assemble the material requested in paragraph 6 of Resolution F of the Sub-Commission adopted at its sixth session and that there is no possibility of such compilation being available in the near future,

1. Decides, therefore, to concentrate its attention on the various aspects of the problem of discrimination and defer work on a further study of the whole problem of the special protection of minorities including the definition of the term "minority" pending the issue by the Commission on Human Rights of a specific directive on the subject.
2. Decides, however, to consider any facts relevant to the problem of the special protection of minorities that may be brought to its attention by the Special Rapporteur on discrimination in education, in accordance with Resolution G passed by the Sub-Commission at its sixth session, or that may emerge in connexion with the Sub-Commission's other work on discrimination.

172. The Sub-Commission decided that in adopting the above resolution on the question of protection of minorities, it had thereby also disposed of item 11 of its agenda, entitled "Consideration of the matters dealt with in the draft resolution adopted by the Sub-Commission at its fourth session entitled 'Interim Measures to be taken for the Protection of Minorities', and in the portion of the draft resolution of its fifth session entitled 'Abolition of Discriminatory Measures' which referred to the taking of effective measures for the protection of minorities".

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

173. The Sub-Commission considered (E/CN.4/Sub.2/SR.171) the draft report of its seventh session (E/CN.4/Sub.2/L.84 and Add.1-4), and adopted it unanimously. In adopting the report, the Sub-Commission also approved Draft resolutions A and B, which appear in Annex I.

ANNEX I

DRAFT RESOLUTIONS SUBMITTED TO THE COMMISSION
ON HUMAN RIGHTS FOR CONSIDERATION AND ADOPTION

A

PROPOSED STUDY OF DISCRIMINATION IN THE MATTER OF
EMIGRATION, IMMIGRATION, AND TRAVEL

The Commission on Human Rights,

Recalling that, in the work programme established by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its fifth session and approved by the Commission and the Economic and Social Council, it was provided that among the measures to combat discrimination it would study would be those in the field of "immigration and travel",

Recalling that at its sixth session the Sub-Commission decided that the study should cover not only immigration and travel but also "emigration",

Recalling that at its tenth (1954) session the Commission drew the attention of the Sub-Commission to the observations made upon a proposal (subsequently withdrawn) under which, inter alia, the words "immigration and travel" in Resolution D of the Sub-Commission would have been replaced by the words "the right to return to one's country as provided in paragraph 2 of article 13 of the Universal Declaration of Human Rights";

Recalling further that in its resolution 545 D (XVIII) of 29 July 1954 the Economic and Social Council requested the Sub-Commission "to take as the objective of its study in this field paragraph 2 of article 13 of the Universal Declaration of Human Rights";

Considers that the study of discrimination in immigration is of fundamental importance and has already been included in the programme of work of the Sub-Commission;

Invites the Economic and Social Council to decide that the Sub-Commission is not precluded from undertaking a study on the question of discrimination in immigration.

B

STUDIES IN THE FIELD OF DISCRIMINATION TO BE UNDERTAKEN
BY THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

The Commission on Human Rights;

Noting that the Sub-Commission on Prevention of Discrimination and Protection of Minorities completed, at its seventh session, the discussion of the preliminary reports on the procedure to be followed in carrying out studies of discrimination in 1955 in the matter of:

- (a) political rights mentioned in the Universal Declaration of Human Rights (E/CN.4/Sub.2/165);
- (b) religious rights and practices (E/CN.4/Sub.2/162); and
- (c) emigration, immigration, and travel (E/CN.4/Sub.2/167).

Noting further that the Sub-Commission thereafter received a note from the Secretariat (E/CN.4/Sub.2/L.85/Rev.1/Add.1), to the effect that no further assistance could be rendered to the work of the Sub-Commission until the study on discrimination in education has been completed, to avoid additional financial implications;

Considering that it must have been evident to all concerned that irrespective of the progress made in the study of discrimination in education, the Sub-Commission would undertake a new study in 1955 in one of the above-mentioned fields, especially after both the Commission and the Economic and Social Council had approved that such a study should be undertaken in 1955;

Expresses its deep regret that notwithstanding such approval the necessary steps were not taken to make such a study in 1955 possible;

Approves the decision of the Sub-Commission to undertake two further studies in the field of discrimination in 1956 in order not to delay its work;

Hopes that sufficient understanding will be shown in the future of the importance of the work of the Sub-Commission and its needs, and that adequate financial and administrative arrangements will be made to enable the Sub-Commission to pursue its work without delay;

Requests the Economic and Social Council to take adequate measures with a view to providing the Sub-Commission with the necessary financial and administrative assistance to enable it to pursue its studies without delay.

ANNEX II

LIST OF DOCUMENTS BEFORE THE SUB-COMMISSION AT ITS SEVENTH SESSION

1. Documents issued in the general series:

- E/CN.4/Sub.2/158 - Provisional agenda of the seventh session of the Sub-Commission
- E/CN.4/Sub.2/158/
Rev.1 - Revised agenda of the seventh session of the Sub-Commission
- E/CN.4/Sub.2/159 - Memorandum on the principal activities of UNESCO since July 1953 in the field of prevention of discrimination and protection of minorities
- E/CN.4/Sub.2/160 - Protection of Minorities: Further study of the whole question, including the definition of the term "minority" (Memorandum by the Secretary-General)
- E/CN.4/Sub.2/161 - Fate of resolutions adopted by the Sub-Commission at its sixth (1954) session (Memorandum by the Secretary-General)
- E/CN.4/Sub.2/162 - Preliminary report of the proposed study on
and Add.1 discrimination in the matter of religious rights and practices (Submitted by Mr. Halpern)
- E/CN.4/Sub.2/163 - Study of discrimination in education: Progress report by the Special Rapporteur (Submitted by Mr. Ammoun)
- E/CN.4/Sub.2/164 - Legislative and judicial practices concerning measures to be taken for the cessation of any advocacy of national, racial or religious hostility that constitutes an incitement to violence (Preliminary report submitted by the Secretary-General)
- E/CN.4/Sub.2/165 - Preliminary report of the proposed study on discrimination in the matter of political rights (Submitted by Mr. Santa Cruz)
- E/CN.4/Sub.2/166 - Study of discrimination in the field of employment and occupation (Memorandum submitted by the Secretary-General)
- E/CN.4/Sub.2/167 - Preliminary study of discrimination in the matter of emigration, immigration and travel (Submitted by Mr. Ingles)

- E/CN.4/Sub.2/168 - Conference of Non-Governmental Organizations Interested in the Eradication of Prejudice and Discrimination (Information paper submitted by the Secretary-General)
- E/CN.4/Sub.2/169 - Study of discrimination in the field of education: Discrimination on grounds of sex (Memorandum submitted by the Secretary-General)

2. Documents issued in the limited series:

- E/CN.4/Sub.2/L.77 - Mr. Hiscocks: Draft resolution on the application of Rule 5 of the Rules of Procedure
- E/CN.4/Sub.2/L.78 - Conference of Non-Governmental Organizations Interested in the Eradication of Prejudice and Discrimination (Information paper submitted by the Secretary-General)
- E/CN.4/Sub.2/L.79 - Study of discrimination in education: Progress Report by the Special Rapporteur (Draft resolution submitted by Mr. Ingles)
- E/CN.4/Sub.2/L.79/- Rev.1 - Resolution adopted by the Sub-Commission on the study of discrimination in education on the
- E/CN.4/Sub.2/L.79/- Add.1 - Study of discrimination in education (Statement of financial implications submitted by the Secretary-General)
- E/CN.4/Sub.2/L.80 - Collaboration of UNESCO in the study of discrimination in education (Draft resolution submitted by Mr. Ingles)
- E/CN.4/Sub.2/L.81 - Study of discrimination in the field of employment and occupation (Draft resolution submitted by Mr. Krishnaswami)
- E/CN.4/Sub.2/L.81/- Rev.1 - Study of discrimination in the field of employment and occupation (Resolution adopted by the Sub-Commission)
- E/CN.4/Sub.2/L.82 - Methods to be adopted by the Sub-Commission in carrying out future studies (Draft resolution submitted by Mr. Krishnaswami)
- E/CN.4/Sub.2/L.83 - Protection of Minorities: Further study of the whole question, including the definition of the term "minority" (Draft resolution submitted by Mr. Hiscocks)

- E/CN.4/Sub.2/L.83/ - Protection of Minorities (Revised draft
Rev.1 resolution submitted by Mr. Hiscocks)
- E/CN.4/Sub.2/L.83/ - Protection of Minorities (Revised draft
Rev.2 resolution submitted by Mr. Hiscocks and
Mr. Ingles)
- E/CN.4/Sub.2/L.84/ - Draft Report of the seventh session of the
Add.1-4 Sub-Commission on Prevention of Discrimination
and Protection of Minorities to the Commission
on Human Rights.
- E/CN.4/Sub.2/L.85 - Procedure to be followed in carrying out studies
of discrimination in the matter of (a) political
rights mentioned in the Universal Declaration of
Human Rights, (b) religious rights and practices,
and (c) emigration, immigration and travel
(Draft resolution submitted by Mr. Ammoun)
- E/CN.4/Sub.2/L.85/ - Procedure to be followed in carrying out studies
Rev.1 of discrimination (Revised draft resolution
submitted by Mr. Ammoun)
- E/CN.4/Sub.2/L.85/ - Procedure to be followed in carrying out studies
Add.1 of discrimination (Statement of financial implications
submitted by the Secretary-General)
- E/CN.4/Sub.2/L.86 - Procedure to be followed in carrying out studies of
discrimination (Draft resolution submitted by Mr. Roy)
- E/CN.4/Sub.2/L.86/ - Procedure to be followed in carrying out studies
Rev.1 of discrimination (Revised draft resolution submitted
by Mr. Roy)
- E/CN.4/Sub.2/L.87 - Procedure to be followed in carrying out studies of
discrimination (Draft resolution submitted by
Mr. Diaz-Casanueva)
- E/CN.4/Sub.2/L.88 - Procedure to be followed in carrying out studies of
discrimination (Draft resolution submitted jointly
by Messrs. Ammoun, Awad, Chatenet, Diaz-Casanueva,
Fomin, Halpern, Hiscocks, Ingles, Krishnaswami, Kulaga,
Roy and Sorensen)
- E/CN.4/Sub.2/L.89 - Amendments proposed by Mr. Halpern to draft
resolution submitted by Mr. Hiscocks (E/CN.4/Sub.2/L.83)
on Protection of Minorities
- E/CN.4/Sub.2/L.90 - Amendment proposed by Mr. Krishnaswami to draft
resolution submitted by Mr. Hiscocks
(E/CN.4/Sub.2/L.83/Rev.1) on Protection of
Minorities
- E/CN.4/Sub.2/L.91 - Draft resolution submitted by Mr. Krishnaswami
on methods to be adopted by the Sub-Commission in
carrying out future studies