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

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

New York, 8 January to 2 February 1962

Rapporteur: Mr. Voitto SAARIO

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## I. ORGANIZATION OF THE SESSION

### Opening and duration of the session

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities held its fourteenth session at the Headquarters of the United Nations, New York, from 8 January to 2 February 1962.
2. Mr. José D. Ingles, Chairman of the Sub-Commission at its thirteenth session, opened the fourteenth session on 8 January 1962 (342nd meeting).

### Representation at the session

3. The following members of the Sub-Commission, or alternates, attended:<sup>1/</sup>

Mr. Charles D. Ammoun	(Lebanon)
Mr. Jean Marcel Bouquin (Alternate)	(France)
Mr. Philip Halpern	(United States of America)
Mr. C. Richard Hiscocks	(United Kingdom of Great Britain and Northern Ireland)
Mr. José D. Ingles	(Philippines)
Mr. Wojciech Ketrzynski	(Poland)
Mr. Franz Matsch	(Austria)
Mrs. Z.V. Mironova (Alternate)	(Union of Soviet Socialist Republics)
Mr. Y.A. Ostrovsky (Alternate)	
Mr. Mohammed Yousef Mudawi (Alternate)	(Sudan)
Mr. Enrique Rodriguez Fabregat	(Uruguay)
Mr. Voitto Saario	(Finland)
Mr. Hernán Santa Cruz	(Chile)

4. Three members of the Sub-Commission, Mr. Mohamed Ahmed Abu Rannat (Sudan), Mr. A.A. Fomin (Union of Soviet Socialist Republics), and Mr. Pierre Juvigny (France), informed the Secretary-General that they were unable to attend the

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<sup>1/</sup> Mr. A.H. Abdel-Ghani, having been appointed as a member of the United Nations Secretariat on 21 August 1961, resigned as a member of the Sub-Commission.

session and that, in accordance with rule 70 of the rules of procedure of Functional Commissions of the Economic and Social Council, and with the consent of their Governments, they appointed as alternates for the whole of the session Mr. Mohammed Yousef Mudawi, Mrs. Z.V. Mironova and Mr. Jean Marcel Bouquin respectively. Mrs. Z.V. Mironova was unable to attend certain meetings of the Sub-Commission and, with the consent of her Government, designated as an alternate for those meetings, Mr. Y.A. Ostrovsky. The Secretary-General was in full agreement with these nominations and the alternates therefore enjoyed during the session the same status as members of the Sub-Commission, including the right to vote. Mr. Arcot Krishnaswami (India) was unable to attend the session.

Mr. Hernán Santa Cruz (Chile) was able to attend only the 342nd to 359th meetings.

5. Observers from the Governments of Canada, India, Israel and the Netherlands attended the session.

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

International Labour Organisation

Mr. E. Zimrou

Mr. H. Reymond

United Nations Educational, Scientific and Cultural Organization

Mr. A. Gagliotti

Mrs. B. Thomas

7. The following authorized representatives from non-governmental organizations in consultative status were present as observers:

Category A

International Confederation of Free Trade Unions (Mr. Marvin Schlaff);

International Federation of Christian Trade Unions (Mr. Gerard Thormann);

World Federation of Trade Unions (Mr. Philip M. Connelly); World Federation of United Nations Associations (Mr. Hilary Barratt-Brown); World Veterans Federation (Mr. Gisbert Flanz, Miss Emily Nichols).

Category B

Agudas Israel World Organization (Mr. Isaac Lewin); Catholic International Union for Social Service (Mrs. Allys Vergara); Commission of the Churches on International Affairs (Mr. A. Dominique Micheli); Consultative Council of Jewish Organizations (Mr. Moses Moskowitz); Coordinating Board of Jewish Organizations (Mr. Saul E. Jofes, Mr. William Korey); Friends World Committee for Consultation (Mrs. Thelma W. Babbitt, Mr. Cecil R. Evans); International Alliance of Women (Mrs. Frances A. Doyle); International Catholic Child Bureau (Miss Margaret M. Bedard); International Catholic Migration Commission (Irene Dalgiewicz); International Conference of Catholic Charities (Mr. Louis Longarzo); International Council of Women (Mrs. Eunice Carter, Mrs. Craig Schuller); International Federation of Business and Professional Women (Mrs. Vera Campbell); International Federation of University Women (Miss Elmina R. Lucke); International Federation of Women Lawyers (Miss Dorothy Barko, Mrs. Rose Korn Hirschman, Miss Anna R. Kumin, Mrs. Rosalie U. Rosenberger); International League for the Rights of Man (Mr. Roger Baldwin, Miss Frances R. Grant, Mrs. Dora D. Roitburd); International Union of Local Authorities (Mr. Charles S. Ascher); International Union of Socialist Youth (Miss Susan Gyarmati); Pan Pacific and Southeast Asia Women's Association (Mrs. E. Forrest Bedman); Women's International League for Peace and Freedom (Mrs. Adelaide N. Baker); World Alliance of Young Men's Christian Associations (Mr. Dalton F. McClelland); World Assembly of Youth (Mr. Robert Cambria); World Federation of Catholic Young Women and Girls (Mrs. Peter J. Cass); World Federation of Mental Health (Mrs. Myer Cohen); World Jewish Congress (Mr. Henry Grossman, Mr. Maurice C. Perlzweig, Mr. Ralph Zacklin); World Young Women's Christian Association (Mrs. Roland Beattie, Miss Elsie D. Harper); World Union of Catholic Organizations (Miss Catherine Schaefer); World Union for Progressive Judaism (Mrs. V. Polstein).

Register

International Association for Liberal Christianity and Religious Freedom  
(Mrs. Elvira K. Fradkin); International Humanist and Ethical Union  
(Mrs. Walter M. Weis); St. Joan's International Alliance  
(Miss Frances Mc Gillicuddy).

Secretariat

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

Election of officers

9. The Sub-Commission, at its 342nd meeting, unanimously re-elected Mr. José D. Ingles (Philippines) Chairman, and Mr. Voitto Saario (Finland) Rapporteur. At its 351st meeting, it elected Mr. Wojciech Ketrzynski (Poland) Vice-Chairman.

Meetings, resolutions and documentation

10. The Sub-Commission held 36 plenary meetings. The views expressed by members of the Sub-Commission during those meetings are summarized in documents E/CN.4/Sub.2/SR.342-377.

11. 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.345, 348, 351, 365, 367, 368, 370, 371, 372 and 374) to the representatives of the following non-governmental organizations:

Category A

International Federation of Christian Trade Unions (Mr. Gerard Thormann); World Federation of Trade Unions (Mr. Philip M. Connelly); World Veterans Federation (Mr. Gisbert Flanz).



Category B

Agudas Israel World Organization (Mr. Isaac Lewin); Coordinating Board of Jewish Organizations (Mr. William Korey); Friends World Committee for Consultation (Mr. Cecil R. Evans); International Federation of University Women (Miss Elmina R. Lucke); International Federation of Women Lawyers (Mrs. Rose Korn Hirschman); International League for the Rights of Man (Mr. Roger Baldwin); Women's International League for Peace and Freedom (Mrs. Adelaide N. Baker); World Jewish Congress (Mr. Maurice Perlzweig, Mr. Ralph Zacklin); World Young Women's Christian Association (Miss Elsie D. Harper).

12. Resolutions adopted by the Sub-Commission appear under the subject matter to which they relate. Financial implications of decisions of the Sub-Commission, prepared by the Secretariat, appear in annex I.

13. Documents before the Sub-Commission at its fourteenth session are listed in annex II.

## II. AGENDA

### Item 2 of the agenda

14. At the 342nd meeting, the Sub-Commission considered the provisional agenda (E/CN.4/Sub.2/212), prepared by the Secretary-General in consultation with Mr. José D. Ingles, Chairman of the Sub-Commission at its thirteenth session, and unanimously adopted the following agenda for the fourteenth session:

1. Election of officers.
2. Adoption of the agenda.
3. Invitation to the Commission on the Status of Women.
4. Communications relating to the prevention of discrimination and the protection of minorities.
5. Study of discrimination in the matter of political rights.
6. Study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, as provided in article 13, paragraph 2, of the Universal Declaration of Human Rights.
7. Measures to be taken for the cessation of any advocacy of national, racial or religious hostility that constitutes an incitement to hatred and violence, jointly or separately.
8. Protection of minorities.
9. Future work of the Sub-Commission, including the question of undertaking any new studies, the question of the priority to be given any such studies, and the question of control and limitation of documentation.
10. 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

15. At the 342nd 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 Mrs. Marie-Hélène Lefauchaux (France) who participated in the work of the Sub-Commission (E/CN.4/Sub.2/SR.347, 348, 351, 353, 357, 361, 363 and 369).

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

Item 4 of the agenda

16. On 31 January 1962, the Sub-Commission held a private meeting to consider item 4 of its agenda, "Communications relating to the prevention of discrimination and the protection of minorities".
17. The Sub-Commission had before it a non-confidential list of communications (E/CN.4/Sub.2/CR.6), and a confidential list of communications (Sub.2/Communications List No. 11).
18. The Sub-Commission decided to make public the summary record of the private meeting (E/CN.4/Sub.2/SR.375/Add.1).

V. STUDY OF DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS

Item 5 of the agenda

Introduction

19. At the 343rd to 365th meetings, the Sub-Commission considered item 5 of its agenda, "Study of discrimination in the matter of political rights."

20. The Sub-Commission had before it a report on discrimination in the matter of political rights (E/CN.4/Sub.2/213) drawn up by its Special Rapporteur, Mr. Hernán Santa Cruz. The report had been prepared in accordance with resolution 1 (XIII) of the Sub-Commission (E/CN.4/815, para. 95), and the general directives governing studies of discrimination approved by the Sub-Commission and the Commission on Human Rights.<sup>2/</sup>

21. The report was divided into seven chapters, preceded by a statement of the procedure followed in its preparation. In chapter I, the Special Rapporteur set out his understanding of the meaning of discrimination in the matter of political rights, indicating that he would deal primarily with the rights proclaimed in article 21 of the Universal Declaration of Human Rights. In chapter II he stressed the importance of certain other rights - including the right to a nationality, the right to freedom of opinion and expression, the right to freedom of peaceful assembly and association, the right to work, the right to form and join trade unions, the right to education, and the right freely to participate in the cultural life of the community - to the full enjoyment of the rights proclaimed in article 21. In chapter III he described the nature and scope of discrimination in the matter of political rights. In the fourth and fifth chapters he summarized the measures which had been taken, on the national and the international levels respectively, with a view to combating such discrimination. In chapter VI he summarized the trends he had observed and the conclusions he had reached as a result of his study of the problem, and suggested ten general principles relating to freedom and non-discrimination in the matter of political rights for consideration by Governments and by the international community. In the final chapter he submitted a series of tentative proposals for further action, to be considered and adopted by the Sub-Commission.

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<sup>2/</sup> See Official Records of the Economic and Social Council, eighteenth session, Supplement No. 7, para. 377.

22. In introducing his report, the Special Rapporteur pointed out that its text was based mainly upon that of the draft report (E/CN.4/Sub.2/L.217) which he had submitted to the Sub-Commission at its thirteenth session. After examining that report the Sub-Commission had requested him to prepare a final version, taking into account whatever additional data were available and the comments which had been made. He had accordingly rewritten certain portions of the draft report in order to incorporate new material which had been made available to him, and in doing so had borne in mind the comments of his colleagues.

23. The draft had been based upon material appearing in fifty-four "country monographs", each of which summarized the relevant information concerning a particular State. The final report was based upon material appearing in eighty-eight such monographs (Conference Room Papers 1-88).

24. The final report also differed from the draft report in that it set out tentative proposals to serve as a basis for discussion in the Sub-Commission (paras. 371-393). In these proposals the Special Rapporteur raised such questions as the possibility of dissemination of the information contained in the report, the desirability of formulating a series of draft principles on freedom and non-discrimination in the matter of political rights which could be sent by the Sub-Commission to superior bodies of the United Nations for consideration and adoption, and the usefulness of international or regional instruments for the purpose of eradicating discrimination in the matter of political rights. In addition, he suggested the collection of information from Governments and other sources on the progress made in this field, and the examination of such information at regular intervals; the organization of regional seminars on the enjoyment of political rights by all; and the provision of expert assistance to Governments, at their request, to ensure the freedom of elections or other public consultations.

25. Because the Sub-Commission had already examined, at its thirteenth session, the substance of much of the material in the report, members held only a brief general debate and chapter-by-chapter discussion. This was followed by a detailed examination of the general principles and the proposals. The Sub-Commission adopted a resolution on the report, including a series of general principles on freedom and non-discrimination in the matter of political rights (see para. 159 of this report), which it submitted to the Commission on Human Rights for further

action. In addition it adopted a resolution requesting that arrangements be made for attendance of the Special Rapporteur at the eighteenth session of the Commission on Human Rights (see para. 161 of this report).

General debate and comments on the report as a whole

26. In the general debate, statements were made by members of the Sub-Commission, by the representative of the Commission on the Status of Women (E/CN.4/Sub.2/SR.347, 348, 351, 353, 357, 361 and 363), and by representatives of various non-governmental organizations in consultative status (E/CN.4/Sub.2/SR.345, 348, 351 and 365).

27. All members of the Sub-Commission joined in expressing their appreciation of the report which Mr. Santa Cruz had submitted. It was praised by various members because of its objectivity, balance, breadth of view and well-ordered treatment of an extremely complex subject. The opinion was expressed that it maintained the very high standard which had been set by earlier studies of discrimination, and that it reflected credit upon the Sub-Commission as well as upon the Special Rapporteur. Several members strongly urged that it should be printed in as many languages as possible and given the widest possible distribution.

28. Mr. Santa Cruz, for his part, thanked all who had assisted him in the collection of material and in the preparation of the study. He drew particular attention to the statement (para. 17 of the report) that his analysis of the available material had been prepared not with a view to criticizing, implicitly or explicitly, the operation of any particular Government, but rather in the hope of finding certain general principles, elaborating the provisions of the Universal Declaration of Human Rights, which might be applied universally in order to promote the recognition and enjoyment of political rights and the eradication of discrimination in respect of those rights.

29. Members of the Sub-Commission noted that the Special Rapporteur had, for the most part, refrained from mentioning particular countries by name in his study except when referring to resolutions adopted by United Nations organs concerning such countries. While this procedure was generally approved, some members indicated that they would have preferred the opposite course, or at least the

insertion in the report of references to the country monographs on which various statements were based.

30. In commenting on the substance of the report, some members praised certain features which they considered to be of particular importance. The fact that the report indicated clearly that discrimination impedes participation of many people in the political life of their country, and that it enabled every reader to obtain a precise notion of the world situation in so far as political rights were concerned, was mentioned as a positive achievement. The skilful emphasis upon the interdependence of political and other rights was praised. At the same time, the Special Rapporteur was criticized for not having attempted to determine, or at least to estimate, the number of people prevented by discrimination from taking part in the government of their country and for not having formulated a precise definition of the term "discrimination in the matter of political rights".

31. With regard to the question of definition, several members agreed with the contention of the Special Rapporteur that none was necessary at this stage. In their view the meaning of "discrimination" in the context of the study was sufficiently clear despite the fact that the word was sometimes used, outside the United Nations, in a sense that was not always pejorative.

32. While it was generally recognized that the Special Rapporteur had intended to express no view as to the most desirable type of political system, some felt that the report seemed to defend the western parliamentary system of government and did not sufficiently recognize the validity of other paths toward democracy.

In reply, the Special Rapporteur emphasized that he had scrupulously avoided making any value judgements on the various political systems existing in the world, and explained that his work had been firmly based upon the concept of a democratic society as set out in the Universal Declaration of Human Rights. Other members supported the Special Rapporteur in this regard, pointing out that the Universal Declaration of Human Rights was based upon the principle of representative democracy.

33. Some members expressed regret that the Special Rapporteur had not described in greater detail the discrimination suffered by the peoples of colonial territories who were unable to exercise their political rights, while other members



supported the Special Rapporteur, asserting that he had placed the proper emphasis on this subject. The Special Rapporteur, while explaining that he had given the topic the importance in his report which he considered necessary, indicated that if the report were later to be printed he would insert in it the idea that the elimination of the colonial system was still a factor of the first importance in the eradication of discrimination in the matter of political rights, in addition to pointing out that the achievement of independence by so many new States since the last war had resulted in the granting of political rights and freedom to hundreds of millions of persons.

34. Some members placed special emphasis upon the importance of an independent and impartial judiciary as a means of ensuring the enjoyment of political rights without discrimination. It was suggested that the references to this subject which appeared in the report might be brought together into a single section, in which the desirability of establishing an independent judiciary, chosen for definite terms and not subject to removal at the pleasure of the executive or legislative departments or to discipline or reprisal for decisions adverse to the Government, might be clearly set forth. The importance of a written constitution which was difficult to alter could also be mentioned. The Special Rapporteur indicated that these ideas, which in his own view had been dealt with adequately in the section of the study devoted to judicial action to combat discrimination in the matter of political rights, would be stated more explicitly if a printed version were to be authorized.

35. The representative of the Commission on the Status of Women suggested that reference should be made, in the portions of the report dealing with the right of equal access to the public service, to the right of every individual to continue in such office despite a change in marital status. Her Commission was firmly of the opinion that social measures for the protection of women, such as those in favour of nursing mothers, should not be used to justify discrimination against women. The Special Rapporteur pointed out that he had given a prominent place in his report to the subject of discrimination on the ground of sex (chapter I, paras. 66-72 and chapter III, paras. 133-137). Furthermore, he felt that discrimination on the ground of marital status was prohibited by article 2

of the Universal Declaration of Human Rights although not specifically mentioned there.

Comments on particular sections of the report

36. Introduction. In the introduction to his report the Special Rapporteur explained how the study had been prepared. While expressing his deep appreciation to all who had contributed data for use in the study, and particularly to the Governments and non-governmental organizations concerned, he regretted that, despite his own requests and a special call for co-operation addressed to them by the Second United Nations Conference of Non-Governmental Organizations Interested in the Eradication of Prejudice and Discrimination, non-governmental organizations had contributed in smaller measure to this study than they had to earlier ones. Some members of the Sub-Commission joined him in expressing regret that with a few exceptions non-governmental organizations had not supplied factual data or information about the practices followed in various countries, thus making it impossible to know what was the true situation, as distinguished from the legal position, in those countries.

37. Chapter I. The meaning of discrimination in the matter of political rights. Several members commented on the Special Rapporteur's statement concerning direct and indirect votes (para. 50), that "While advantages are claimed for each of these systems, it may be pointed out that certain dangers present in any election may be somewhat more acute in the case of an 'indirect' one. For example, the opinions of the candidates selected indirectly may not coincide with those of the majority of the voters." Their view was that the advantages of direct suffrage should have been stated more clearly. The Special Rapporteur, explaining that he had examined this question only from the standpoint of the possibility of discrimination, indicated that he maintained without alteration the view which he had expressed.

38. The Special Rapporteur announced that, in the light of the discussion of the importance of an independent judiciary and of constitutional principles affirming the political rights of the individual during the general debate, he was prepared to add to the report, at the end of paragraph 31, the following text: "Undoubtedly, a fundamental guarantee for the effective exercise of political

rights is the recognition of those rights in constitutions and other legislation, and the existence of independent and impartial tribunals - as referred to in article 10 of the Universal Declaration of Human Rights - which would be seized of violations of those rights and would correct them."

39. Chapter II. The importance of other rights to the full enjoyment of political rights. Several members of the Sub-Commission, as well as the representative of the Commission on the Status of Women and the representatives of several non-governmental organizations, endorsed the views expressed by the Special Rapporteur concerning the close relationship and interdependence between political rights on the one hand and economic, social and cultural rights on the other hand. In compliance with suggestions made to him, the Special Rapporteur agreed to delete the final sentence of paragraph 74 of his report, and to quote article 21 of the draft Covenant on Civil and Political Rights, on freedom of association, as well as article 20, on the right of peaceful assembly, in paragraph 93.

40. Chapter III. Nature and scope of discrimination in the matter of political rights. Some members of the Sub-Commission expressed the view that the Special Rapporteur had not examined in sufficient depth the nature of discrimination in the matter of political rights, which was sometimes easily discerned but more often cleverly concealed. They pointed out that an outward appearance of conformity with the principle of equal treatment in the political field was no guarantee that political rights could be exercised freely in a given country, and that frequently simple non-recognition of a particular political right was aggravated by the existence of a discriminatory motive.

41. Some members felt that the Special Rapporteur's explanation of the meaning of "everyone", as used in article 21 of the Universal Declaration of Human Rights, might lead to confusion between the concept of citizenship and that of nationality. The Special Rapporteur explained that he had avoided using the term "citizen", which was defined differently in every country, and had used instead the word "national" - which he interpreted as applying to any individual linked to a particular State by a tie of allegiance - because it had a meaning which was widely understood.

42. The opinion expressed by the Special Rapporteur (para. 115 of the report), that "once an individual has acquired nationality by naturalization, he should enjoy the same political rights as any other national," was not shared by every member of the Sub-Commission. It was pointed out that historical or geographical factors made this standard impossible of achievement in a number of countries, and that insistence upon an over-generous policy of granting full political rights immediately to all naturalized persons might discourage nations from giving nationality to many applicants.

43. While endorsing the section of the report (paras. 133-137) dealing with distinctions on the ground of sex, the representative of the Commission on the Status of Women drew attention to certain private rights which were frequently denied to women with the result that their political rights could not be exercised effectively. In some cases women were allowed to hold public office, but the exercise of this right was made subject to authorization by the husband; in others women were permitted no voice in the choice of their family's domicile, thus indirectly depriving them of the possibility of holding certain public offices; in still others women could not receive the remuneration or certain allowances attaching to the public office they held, which were paid instead to the husband as head of the family.

44. With reference to the section of the report (paras. 148-153) dealing with distinctions on the ground of religion, it was pointed out that no mention had been made of a small minority of countries in which the exercise of political rights is restricted to members of a single faith. It was further pointed out that the system prevailing in some countries, whereby certain elective and appointive posts in the public service are distributed to members of recognized religious communities according to a formula established by tradition or agreement, could only work satisfactorily if applied in complete good faith.

45. In connexion with the section of the report (paras. 170-175) dealing with distinctions on the ground of property, one member pointed out that in some countries small groups sometimes maintained control of the political system through a monopoly of economic power. Another member recalled that this tendency was being combated by the Governments of some countries, which had imposed limitations on the economic pressure exercised by large property owners or by groups whose power is based on wealth.

46. In connexion with the section of the report (paras. 182-188) on distinctions on the ground of "status", a question was raised by one member as to whether laws designed to prevent the holding of public office by a certain type of religious leader - in particular one who had no social or economic programme but was elected by followers who venerated him blindly and attributed supernatural powers to him - should be considered discriminatory.

47. Chapter IV. National measures aimed at combating discrimination in the matter of political rights. The Special Rapporteur pointed out that this chapter, and chapter V as well, constituted an objective narrative, summarizing action which had been taken on the national and the international level respectively, and did not reflect his personal ideas.

48. Chapter V. International measures aimed at combating discrimination in the matter of political rights. Some members of the Sub-Commission regretted that only passing reference had been made to the recent General Assembly resolutions on colonialism and that nothing at all had been said about possible measures for eradicating discrimination in the matter of political rights in respect of colonial peoples and territories. They estimated that as many as eighty-five territories, with a population of seventy million, were still under colonial rule, and said that the people of those territories were unable to exercise the most elementary political rights. Other members, however, challenged this estimate as being far too large, and expressed the view that the Special Rapporteur had dealt with the problem of colonialism either adequately, or too fully, in his report, particularly since this problem was the concern of various political organs of the United Nations. The Special Rapporteur explained that the section on dependent territories was somewhat lengthy because he had acceded to the request, made in the previous year by members of the Sub-Commission, that he include references to important General Assembly resolutions on the subject.

49. Some members opposed the Special Rapporteur's reference to Hungary in the report (paras. 298-299), as in their view the reports of the Special Committee on Hungary had not presented the true facts about that country and the submission of such reports had constituted a violation of the Charter. Other members however considered that the references to the Special Committee on Hungary were too brief and should have included quotations from the Committee's report. The Special Rapporteur explained that he had not acceded to the request which had been made

to him in the previous year by some members of the Sub-Commission, to eliminate the text relating to Hungary because the General Assembly had taken certain action relating to political rights in that country and it was not for him either to disregard or to interpret that action.

50. Chapter VI. Trends, conclusions and general principles. As the trends and conclusions set out in this chapter represented personal evaluations made by the Special Rapporteur and put forward under his own responsibility, they did not give rise to much debate although several members commended their author upon his success in identifying the basic factors relating to freedom and non-discrimination in the matter of political rights at work in the world today. For the most part, attention was concentrated upon the series of general principles put forward by the Special Rapporteur (para. 370 of the report), and his proposal (para. 379 of the report) that the Sub-Commission consider whether it could usefully recommend the preparation of any international or regional instruments for the purpose of eradicating discrimination in the matter of political rights. Special praise was given by some members to the Special Rapporteur for his statement (para. 369 of the report) that "even the most complete conformity with the principles set out below does not automatically guarantee that the will of the people of a country is the basis of its government. For example, in countries where elections are held at reasonable intervals by universal and equal suffrage and by secret vote, the true authority of the government may nevertheless be found to rest not with the masses of the people or with their chosen representatives, but with a strong executive, a political party or organization, or a minority group." Some members stated that in countries where capitalistic monopolies are dominant, democracy has a fictitious character.

51. Some members of the Sub-Commission felt that the Special Rapporteur had not adequately reflected, in his summary of current trends, the fact that so many new States had achieved independence since the Second World War and that this had resulted in the granting of political rights to hundreds of millions of persons. Other members regretted that he had not referred to the fact that the survival of colonial regimes continues to deprive many millions of the complete enjoyment of their political rights. In this connexion it was pointed out that the problem was not only to accelerate the granting of independence to colonial peoples but also to restore independence to many millions of people who had lost their former independence in recent times, or who were now in the process of losing their independence.

52. It was pointed out that the Special Rapporteur had not referred, in this summary of conclusions, to the very important idea which he had expressed earlier in the report (para. 73), namely that "the formal recognition of political rights is not enough to ensure their full enjoyment. To achieve this goal ... a number of related rights must also be recognized and exercised ...", and to his insistence throughout the report upon the fact that political rights could not in fact be separated from economic and social rights, and that even ideal constitutional, legislative and electoral provisions would be meaningless unless the population was economically and socially in a position to apply them effectively.

53. Varying views were expressed with reference to the Special Rapporteur's assertion (para. 355 of the report) that the existence of strong executives in a country might be acceptable, even though the effect was temporarily to deprive practically all nationals of their political rights, if they actually served to bring into existence, as rapidly as possible, the forms and practices of government based upon the will of the people. Some members feared that this statement might be taken to condone the formation of dictatorial regimes which held the people's political rights in disregard; others emphasized that the existence of strong executives did not always conflict with democratic government, and pointed out that constant vigilance was required, in industrialized as well as under-developed countries, to preserve democratic processes during periods of emergency.

54. The Special Rapporteur indicated that he would take these views into account if called upon, at a later stage, to revise his report.

55. With regard to the proposed general principles, it was pointed out that they fell into two categories, those which aimed at the reduction of discrimination in the matter of political rights and those designed to ensure the free and full exercise of those rights. Although the study was directed mainly towards the lessening of discrimination in the matter of political rights, there was ample justification for the inclusion of principles falling into the latter category, first because in certain cases political rights might be granted only partially or in a restricted manner, which might not be covered by provisions aimed solely against discrimination; and, secondly because a guarantee of the free and full exercise of political rights greatly lessened the possibility of discrimination.

56. The function of the general principles, it was observed, was primarily to elaborate the basic principles set out in article 21 of the Universal Declaration of Human Rights and to resolve any latent ambiguities which might be found in the text of that article. The general principles would spell out the meaning of democracy both de facto and de jure and give substance and meaning to the generalizations in article 21, thus making it more difficult for countries to assert that they were observing the requirements of the Declaration when, in fact, they were not.

57. It was agreed that the Sub-Commission should set its sights high and prepare a statement of goals representing the maximum, rather than the minimum, that might be achieved. It was recognized that the Declaration was an authoritative text, within the framework of which the Sub-Commission had to work, and that the Sub-Commission could not deviate from the basic principles set forth therein.

58. Several members of the Sub-Commission suggested that the general principles proposed by the Special Rapporteur should be expanded to cover certain additional concepts, or that new principles should be added. In particular, the view was expressed that reference should be made to such matters as the right of every individual to resort to independent courts for protection against the violation of any of his political rights, and the importance of protecting society against those who sought to incite others to hatred, violence or war by their political programmes. It was also suggested that reference might be made, in some appropriate place in the principles, to the need for granting complete freedom and independence to all Non-Self-Governing Territories so that they might construct their national States in accordance with the freely-expressed will of their peoples, as well as to the importance of doing away with colonial administrations of all kinds and granting universal and equal electoral rights to all persons in all countries immediately.

59. The principles relating to universality and equality of suffrage, it was stated, could be elaborated in detail with specific suggestions: for example, that all persons over eighteen should be allowed to vote, and that the electoral system should be based on proportional rather than majority representation. The principle relating to the genuine character of elections, it was said, could be expanded to include among the tasks of election commissions the equitable



delimitation of constituencies. Further, it was suggested that a text might be inserted at an appropriate point urging the embodiment of the principles as a whole in the constitution of each country or in other basic laws not subject to alteration by ordinary legislation.

Examination of the tentative principles formulated by the Special Rapporteur

60. The Sub-Commission accepted the proposal of the Special Rapporteur that it should formulate a series of draft principles on freedom and non-discrimination in the matter of political rights which could be sent forward to superior bodies of the United Nations for consideration and adoption. It took as the basis of its work the tentative principles which had been formulated by the Special Rapporteur, who moved their adoption.

61. The Sub-Commission first considered the Special Rapporteur's principles, one by one, together with the amendments thereto. It then considered proposals for additional principles. Finally, it examined the preamble prepared by the Special Rapporteur, and related amendments.

62. The Sub-Commission took no decision recommending a particular form of international instrument in which the principles should eventually be incorporated. The Special Rapporteur and some other members expressed the hope that the competent organs of the United Nations would be guided by the principles in drafting a convention, having the same scope and spirit as the Universal Declaration of Human Rights, which would be applicable not only for the present and near future but also for many years. Other members however were of the opinion that much wider support could be secured for a declaration of ideals and goals rather than for a convention containing enforcement clauses.

63. Principle I. As formulated by the Special Rapporteur, the principle read as follows:

"I. Political rights of nationals

"(a) Every national of a country is entitled within that country to the same political rights without distinction of any kind, such as race, colour, sex, language, literacy, religion, political or other opinion, national or social origin, property, birth or other status.

"(b) No one shall be denied nationality, or deprived of nationality, as a means of depriving him of political rights.

/...

"(c) The age and other conditions prescribed by law for the exercise of any particular political right shall be the same for all nationals of a country."

64. Amendments to the principle were submitted by Mr. Hiscocks (E/CN.4/Sub.2/L.235), Mrs. Mironova (E/CN.4/Sub.2/L.236), Mr. Halpern (E/CN.4/Sub.2/L.238), and Mr. Bouquin (E/CN.4/Sub.2/L.239). In paragraph (a) of the principle, Mrs. Mironova proposed the insertion, after the word "literacy," of the words "or educational qualifications." Mr. Halpern proposed revision of the paragraph to read: "Every national of a country is entitled within that country to full and equal political rights without discrimination of any kind based upon race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." With regard to paragraph (b), Mr. Hiscocks proposed its deletion and the substitution of the following: "No person or group of persons shall be deprived of their nationality on racial, ethnic, religious or political grounds." Mr. Halpern proposed another formulation: "No one shall be denied nationality, or deprived of nationality, for the purpose of discriminating against him with respect to his political rights." Mr. Bouquin proposed the addition of a new paragraph (d) at the end of the paragraph, to read as follows: "Legislation establishing a period which must elapse before naturalized persons may exercise political rights shall not be deemed to be discriminatory if it is in harmony with a liberal naturalization policy."

65. The Special Rapporteur accepted Mr. Halpern's proposal that the words "full and equal" should be substituted for the words "the same", in paragraph (a), and Mrs. Mironova's proposal to insert the words "or educational qualifications" in that paragraph. He accepted the substance of Mr. Bouquin's proposal after its author had agreed to insert the word "reasonable" before the word "period", and agreed with the suggestion that it be placed elsewhere in the principles. In addition, in order to take into account questions which had been raised concerning the application of the principle to federal States, he added at the end of paragraph (c) the words, "or for those of them who reside in a political or administrative unit, as the case may be".

66. In reply to questions raised by the representative of the Commission on the Status of Women, the Special Rapporteur stated that in his view the words "other status" at the end of paragraph (a) included family status, and there could

accordingly be no question of preventing married women or mothers of children from holding any political office. Moreover, in his opinion, the words "No one" in paragraph (b) covered the case of a woman who married an alien.

67. Mr. Halpern withdrew part of his amendment to paragraph (a), and did not press for a vote on his amendment to paragraph (b), in view of the revisions made by the Special Rapporteur. With regard to the question of the word "literacy", he suggested that it might be appropriate to delete the words "literacy or other educational qualifications" from paragraph (a) and to add a new sentence, which he suggested might later be shifted to the end of principle II, reading as follows: "The right to vote shall not be dependent upon literacy or any other educational qualification."

68. Consideration of the amendment submitted by Mr. Bouquin was postponed until the Sub-Commission examined the ninth principle. The proposal to add to paragraph (a) the sentence "The right to vote shall not be dependent upon literacy or any other educational qualifications" was adopted by 8 votes to 1, with 1 abstention. The inclusion of the words "literacy or other educational qualifications" in what had thus become the first sentence of paragraph (a) was rejected by 6 votes to 2, with 3 abstentions. Paragraph (a), as amended, was adopted unanimously. Paragraphs (b) and (c) were adopted unanimously. The principle as a whole, as amended, was adopted unanimously as follows (E/CN.4/Sub.2/L.244):

"I. Political rights of nationals

"(a) Every national of a country is entitled within that country to full and equal political rights without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The right to vote shall not be dependent upon literacy or any other educational qualifications.

"(b) No one shall be denied nationality, or deprived of nationality, as a means of denying him or depriving him of political rights.

"(c) The age, length of residence and other conditions prescribed by law for the exercise of any particular political rights shall be the same for all nationals of a country or inhabitants of a political unit, as the case may be."

69. Principle II. As formulated by the Special Rapporteur, the principle read as follows:

"II. Universality of suffrage

"Every national is entitled to vote in any national election or other public consultation held in his country, and in any other election or public consultation held in the political or administrative unit thereof in which he resides."

70. Amendments to the principle were submitted by Mr. Hiscocks (E/CN.4/Sub.2/L.235) and Mr. Halpern (E/CN.4/Sub.2/L.238). Mr. Hiscocks proposed rewording of the principle as follows: "Every national fulfilling the age requirements and other conditions referred to in principle I (c) is entitled to vote in any national election, referendum or plebiscite held in his country, and in any such public consultation held in the political or administrative unit thereof in which he resides." Mr. Halpern proposed the addition of three paragraphs to the principle, as follows:

"(b) Since the right to vote is a fundamental political right, it should not be made dependent upon literacy or other educational qualification. However, since an informed and enlightened electorate is essential to the successful operation of democracy, every country should exert every possible effort to make available to all its people free and compulsory education, at least in the elementary stage, in accordance with article 26 of the Universal Declaration of Human Rights, and to extend adult education so as to eliminate illiteracy completely.

"(c) The requirements with respect to age and length of residence within the political unit which may be prescribed by law as a qualification for the right to vote shall be uniform for all persons within the political unit.

"(d) Notwithstanding the foregoing, provisions may be adopted by law denying the right to vote to persons of unsound mind or those previously convicted of a felony or an infamous crime."

The substance of the first sentence of paragraph (b) having been adopted as part of principle I, the remainder of the paragraph was withdrawn by Mr. Halpern on the understanding that he would re-introduce it as a separate new principle. Paragraph (c) in the proposed amendment had been introduced as a substitution for paragraph (c) of principle I, and in view of the change in the language of that paragraph, made at the instance of the Special Rapporteur, Mr. Halpern withdrew his proposed paragraph (c). The Sub-Commission decided to postpone consideration of the proposed paragraph (d) until it reached the ninth principle.

71. The Special Rapporteur accepted Mr. Hiscock's proposal to refer to referenda and plebiscites. In view of objections raised by various members of the Sub-Commission, Mr. Hiscocks withdrew the phrase: "fulfilling the conditions referred to in principle I (c)."

72. The principle as a whole, as revised, was adopted unanimously as follows (E/CN.4/Sub.2/L.244):

"II. Universality of suffrage

"Every national is entitled to vote in any national election, referendum or plebiscite held in his country, and in any such public consultation held in the political or administrative unit thereof in which he resides."

73. Principle III. As formulated by the Special Rapporteur, the principle read as follows:

"III. Equality of suffrage

"(a) Every national is entitled to vote in any election, or other public consultation for which he is eligible, on equal terms, and each vote shall have the same weight.

"(b) When voting is conducted on the basis of electoral districts, the number of seats in the elected body allotted to each district shall bear to the total number of seats in that body a proportion as nearly as possible equal to the proportion which the population of that district bears to the total population of the country. Where a bicameral system is in operation, this principle applies at least to one of the houses.

"(c) For any election or public consultation held by direct vote there shall be one general electoral roll, and every eligible national shall be included in that roll."

74. Amendments to the principle were submitted by Mr. Hiscocks (E/CN.4/Sub.2/L.235), Mrs. Mironova (E/CN.4/Sub.2/L.236), and Mr. Bouquin (E/CN.4/Sub.2/L.245).

Mr. Hiscocks proposed that in paragraph (a) the words "so far as is practicable" should be inserted after "have" and the word "potential" should be inserted after "same;" and that paragraph (b) should be deleted. Mr. Bouquin proposed the addition, at the end of paragraph (c), of the following sentence: "It shall be possible for the decisions of the authorities responsible for the preparation

or revision of the electoral roll to be challenged before a judicial or other independent and impartial body." Mrs. Mironova proposed the addition to the principle of a new paragraph (d), to read as follows:

"(d) When voting is conducted on the basis of electoral districts, the said districts shall be formed on an equitable basis such as most accurately and correctly reflects the will of all the voters. Furthermore the system of proportional representation shall be used, and not that of majority representation, which results in distortion of the will of the voters."

In addition, an amendment to paragraph (c) of the sixth principle, put forward by Mr. Mudawi (E/CN.4/Sub.2/L.242), was considered in connexion with principle III; the amendment proposed the insertion of the following text: "The delimitation of constituencies, in the case of voting on the basis of electoral districts, shall be assigned to impartial and independent authorities whose decisions ~~a~~ shall be subject to judicial review."

75. In the light of the amendments submitted by Mrs. Mironova and Mr. Mudawi, the Special Rapporteur suggested a revised version of paragraph (b), reading as follows:

"When voting is conducted on the basis of electoral districts, the said districts shall be established by the constitution or by an independent and impartial body on an equitable basis such as would make the results most accurately and completely reflect the will of all the voters."

In this connexion he explained that he himself had withdrawn the last sentence of the original draft of paragraph (b). Mr. Hiscocks consequently withdrew his amendment for deletion of the whole paragraph and for insertion of the words "so far as is practicable" in paragraph (a). Moreover, on the understanding that the original Spanish term "peso", used at the end of paragraph (a) had a qualitative meaning, he withdrew his proposal that the word "weight" in the English text should be qualified by the adjective "potential" and left it to the translators to consider whether any such qualification was appropriate. Mr. Mudawi withdrew his amendment and endorsed the text offered by the Special Rapporteur, and Mrs. Mironova stated that because several members of the Sub-Commission had indicated that they would not like to suggest any preference for a particular system of representation in the principles, she would not press her proposal on this question to a vote.

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76. In view of objections raised by some members, the Special Rapporteur deleted the expression "by the constitution" from the revised version of paragraph (b). He subsequently deleted the expression, "or by an independent or impartial body." In view of this change, Mr. Halpern withdrew his suggestion that a reference should also be made to the establishment of electoral districts by legislative bodies. He also withdrew a suggestion to insert the words, "and seats in the elected body are allotted on that basis," after "electoral districts", after the Special Rapporteur had stated that that idea was included within the meaning of the words, "conducted on the basis of electoral districts."

77. In the light of various comments made on his proposal to add a new sentence at the end of paragraph (c), Mr. Bouquin revised his text by inserting the word "periodic" before "revision," and by replacing "challenged" by "appealed against".

78. The Sub-Commission adopted paragraph (a) of the principle unanimously. It adopted paragraph (b), as revised by the Special Rapporteur, unanimously. It adopted paragraph (c) unanimously after Mr. Bouquin announced that he would withdraw his amendment to that paragraph and resubmit it in connexion with the examination of the sixth principle.

79. The principle as a whole, as amended, was adopted unanimously as follows (E/CN.4/Sub.2/L.252):

### "III. Equality of suffrage

"(a) Every national is entitled to vote in any election, or other public consultation for which he is eligible, on equal terms, and each vote shall have the same weight.

"(b) When voting is conducted on the basis of electoral districts, the said districts shall be established on an equitable basis such as would make the results most accurately and completely reflect the will of all the voters.

"(c) For any election or public consultation held by direct vote there shall be one general election roll, and every eligible national shall be included in that roll."

80. Principle IV. As formulated by the Special Rapporteur, the principle read as follows:

### "IV. Secrecy of the vote

"(a) Every voter shall be able to vote in such a manner as to prevent disclosure of how he has voted or intends to vote.

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"(b) No voter shall be required to state, in any legal proceeding or otherwise, how he voted, or intends to vote, and no one shall attempt to obtain from any voter, directly or otherwise, information as to how he has voted or intends to vote."

81. Mr. Hiscocks proposed (E/CN.4/Sub.2/L.235) that the words "not to involve" should be substituted for the words "to prevent" in paragraph (a), and that the words "against his will" should be inserted after the word "otherwise" in paragraph (b). In the light of discussion in the Sub-Commission, however, he announced that he would alter the second amendment by replacing "required" by "compelled" and deleting the expression "against his will".

82. The Special Rapporteur accepted the first amendment proposed by Mr. Hiscocks. He had no objection to the second proposal, which now amounted only to substituting the word "compelled" for the word "required" in the English version, so long as the Spanish and French texts remained unchanged.

83. The principle as a whole, as revised, was adopted unanimously as follows (E/CN.4/Sub.2/L.252):

#### "IV. Secrecy of the vote

"(a) Every voter shall be able to vote in such a manner as not to involve disclosure of how he has voted or intends to vote.

"(b) No voter shall be compelled to state, in any legal proceeding or otherwise, how he voted, or intends to vote, and no one shall attempt to obtain from any voter, directly or otherwise, information as to how he has voted or intends to vote."

84. Principle V. As formulated by the Special Rapporteur, the principle read as follows:

#### "V. Periodicity of elections

"Elections to all elective public offices shall be held at reasonable intervals, in order to ensure effective control by the people of their representatives."

85. Mr. Hiscocks proposed (E/CN.4/Sub.2/L.235) the substitution of the words "maintain the representative character of the legislature" for the words "ensure effective control by the people of their representatives."

86. The Special Rapporteur announced that he was prepared to delete the entire phrase beginning "in order to ensure;" however, other members of the Sub-Commission felt that the principle should deal not only with the periodicity



of elections but also with control by the people of their representatives. In view of the fact that some members objected to the word "control" in this context, several efforts were made to find a more suitable formula. It was variously suggested that the phrase might read: "in order to ensure the reflection of the will of the people and to maintain the representative character of the government;" "in order to ensure the adequate reflection of the will of the people;" and "in order to reflect adequately the will of the people and maintain the representative character of the government". Agreement was reached on a wording suggested by the Special Rapporteur, based on the wording of article 21 of the Universal Declaration of Human Rights with a slight addition, as follows: "in order to ensure that the will of the people shall at all times be the basis of the authority of government".

87. The principle, as revised by the Special Rapporteur, was adopted unanimously, as follows (E/CN.4/Sub.2/L.252):

"V. Periodicity of elections

"Elections to all elective public offices shall be held at reasonable intervals, in order to ensure that the will of the people shall at all times be the basis of the authority of government."

88. Principle VI. As formulated by the Special Rapporteur, the principle read as follows:

"VI. Genuine character of elections and other  
public consultations

"(a) Every voter shall be free to vote for the candidate or list of candidates he prefers in any election to public office, and shall not be compelled to vote for any specified candidate or list of candidates.

"(b) Every voter shall be free to vote for or against any proposal submitted to a plebiscite, referendum, or other public consultation.

"(c) All elections and other public consultations shall be supervised by authorities whose independence and impartiality is ensured and whose decisions are open to challenge before the judiciary or other independent and impartial bodies.

"(d) Freedom of opinion and expression and freedom of peaceful assembly and association are essential to the enjoyment of political rights, and shall be ensured to all candidates and their supporters in the case of elections to public office and to the supporters and opponents of any proposal submitted to a plebiscite, referendum, or other public consultation.

"(e) Full freedom shall be ensured for the peaceful expression of political opposition."

89. In a foot-note, the Special Rapporteur explained that paragraph (e) had been based upon the text adopted by the General Assembly in resolution 290 (IV), entitled "Essentials of peace".

90. Amendments to the principle were submitted by Mr. Hiscocks (E/CN.4/Sub.2/L.235) and Mr. Halpern (E/CN.4/Sub.2/L.243). Mr. Halpern proposed that the title of the principle should be amended, in order to differentiate between the three aspects of the problem under consideration, to read:

"(A) Popular participation in the selection or nomination of candidates,

"(B) Genuine character of elections and other public consultations,  
and

"(C) Genuine character of political representation."

He proposed the insertion of the following paragraphs before the text submitted by the Special Rapporteur:

"(a) Provision should be made by law for the organization and maintenance of opposition parties, including provision for the use of facilities for the printing and dissemination of their views and for access to media of public information, on equal terms with the majority party.

"(b) Provision should also be made for the independent nomination of candidates, by voters or groups of voters of such reasonable minimum number as may be prescribed by law.

"(c) Where there is only one political party or where one political party is strongly dominant, all nationals who pledge their support exclusively to the principles of that party should be permitted to participate in the selection or nomination of the candidates of the party.

"(d) Voters should be assured, so far as possible, a choice among two or more candidates for each seat or position to be filled at an election."

91. In paragraph (c) of the Special Rapporteur's text, he proposed deletion of the words "or other independent or impartial bodies". However, he later withdrew this amendment.

92. With regard to paragraph (d), Mr. Hiscocks proposed deletion of the entire paragraph and substitution of a separately-numbered principle relating to freedom of opinion and expression and freedom of peaceful assembly and association. Mr. Halpern proposed that the paragraph should be amended to read as follows:

"Freedom of opinion and expression and freedom of peaceful assembly and association, and the facilities and means for the exercise of these freedoms are essential to the enjoyment of political rights. These freedoms should therefore be assured to all persons at all times, and in particular, at the times of, and in connexion with, national and local elections and plebiscites, referenda and other public consultations."

93. With regard to paragraph (e), Mr. Hiscocks proposed the addition, after the word "opposition", of the following words: "and the organization of political parties with the right to contest elections". Mr. Halpern proposed the addition, at the same point, of the words: "including the public criticism of governmental policy, action or inaction". Mr. Halpern also proposed the addition of a new paragraph at the end of the principle, reading as follows:

"The power of government should be vested de facto as well as de jure in the representatives and officers elected by the people and the government should not be controlled or dominated by any individual, group or party not selected by the people or accountable to them."

94. The Special Rapporteur accepted the proposals of Mr. Hiscocks to give greater prominence to paragraph (d) by making it a separate principle following principle I, and to add the words "and the organization of political parties with the right to contest elections" at the end of paragraph (e), provided that the meaning of the term "to contest elections" was made clear. Mr. Hiscocks accordingly revised his amendment to read "and the organization of political parties with the right to present candidates for election".

95. The Special Rapporteur also accepted Mr. Halpern's amendment to paragraph (d) of the principle, up to the words "at all times", but considered the remainder of the amendment to be unnecessary. With regard to the four new paragraphs which Mr. Halpern proposed to add at the beginning of the principle, the Special Rapporteur and several other members, expressing their view that these texts went into too great detail and disrupted the symmetry of the principles as a whole, appealed to Mr. Halpern to withdraw them.

96. Mr. Ketrzynski submitted a series of sub-amendments to the amendments proposed by Mr. Halpern (E/CN.4/Sub.2/L.253).

97. The first sub-amendment called for paragraph 2 (a) of the amendment submitted by Mr. Halpern (E/CN.4/Sub.2/L.243) to be replaced by the following text.

"The same rights and facilities for action and propaganda should be accorded to opposition parties as to the parties in power if the need for such forms of political opposition is manifested through the will of the people."

98. The second sub-amendment called for paragraph 2 (b) of the Halpern amendment to be replaced by the following text:

"Provision should also be made to enable voters or groups of voters to nominate independent candidates in accordance with procedures prescribed by law."

99. The third sub-amendment proposed that in paragraph 2 (c) of the Halpern amendment, the words "all nationals who pledge their support exclusively to the principles of that party" should be replaced by the words, "all full members of that party".

100. The fourth sub-amendment proposed that the following should be added after the text proposed by Mr. Halpern:

"In countries where political propaganda media are not made available free of charge to lawfully constituted political parties, the funds needed to finance such activities shall be supplied by the public authorities and shall be fixed in proportion to the support enjoyed by such parties among the voters.

"The use of private funds to support the activity of parties and politicians shall be prohibited, since this form of arbitrary financial support discriminates against political groups which lack an equal measure of economic support."

101. The fifth sub-amendment proposed that in paragraph 6 of the amendment submitted by Mr. Halpern, the words "by any individual, group, or party" be replaced by the words "or any individual, group, party, or representatives of financial or economic interests".

102. In an effort to meet objections which had been raised by some members of the Sub-Commission to certain provisions of his proposed amendment, Mr. Halpern orally revised the text of his amendment by incorporating the substance of paragraphs (a) and (d) in a single sentence. The revised text read as follows:

"All nationals shall have the right to form political parties in opposition to the persons or party in power or to present independent candidates for election and shall be afforded access to media of public information, on equal terms with the persons or party in power."

103. The Special Rapporteur observed that the first point made in Mr. Halpern's new proposal, concerning the formation of political parties and the presentation of candidates, was covered by Mr. Hiscocks's amendment to paragraph (e), which he had accepted; while the second, concerning access to information media, raised a problem in the area of freedom of information which had been debated in the United Nations for many years without yielding a final result.

104. Mr. Halpern did not press his revised proposal to a vote. He suggested that in paragraph (e) reference should be made to the right to present "independent" candidates for election, but withdrew this suggestion on the assurance of the Chairman and the Special Rapporteur that omission of the word "independent" would not preclude the possibility of presenting candidates not associated with any political party. He also withdrew his amendment to paragraph (e) of the original text of the principle on the understanding that the words "political opposition," which had been accepted by the Special Rapporteur, included freedom of public criticism of government.

105. In the light of the discussion which had taken place, the Special Rapporteur submitted a revised text for paragraph (e) (E/CN.4/Sub.2/L.254) which he amended orally to read as follows:

"Full freedom shall be ensured for the peaceful expression of political opposition, and also for the organization and free functioning of political parties and the right to present candidates for election."

This wording was accepted by Mr. Halpern and Mr. Hiscocks. Mr. Halpern urged that the idea which he had developed earlier, that provision should be made for the use of facilities for the printing and dissemination of the views of opposition parties and for their access to media of public information on equal terms with the majority party, should somehow be incorporated in the principles. In order to meet this point, the Special Rapporteur revised paragraph (d) to read as follows:

"Freedom of opinion and expression and freedom of peaceful assembly and association are essential to the enjoyment of political rights. These freedoms, and the facilities and means for their exercise, shall be assured to all persons at all times."

The phrasing of the last part of the paragraph, relating to "facilities and means for their exercise" was questioned. Mr. Halpern proposed the insertion of the words "the access to" before this phrase. This was accepted by the Special Rapporteur.

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106. The Sub-Commission considered simultaneously an amendment to paragraph (c) of principle VI which had been submitted by Mr. Bouquin (E/CN.4/Sub.2/L.251), the proposal by Mr. Halpern to add a new text relating to the genuine character of political representation (E/CN.4/Sub.2/L.243, para. 6) at the end of principle VI, and the sub-amendment to Mr. Halpern's proposal submitted by Mr. Ketrzynski (E/CN.4/Sub.2/L.253, para. 5). Mr. Bouquin proposed the following text:

"Elections and other public consultations, including preliminary operations such as the preparation and periodical revision of the electoral roll, shall be supervised by authorities whose independence and impartiality are ensured and whose decisions are subject to appeal before the judicial authorities or other independent and impartial bodies."

107. After an exchange of views, Mr. Halpern withdrew his amendment and Mr. Ketrzynski withdrew his sub-amendments relating to the principle. Mr. Bouquin revised his text by adding in the English version the words, "The conduct of" before "elections", and by deleting the words, "preliminary operations such as". As revised, the text was adopted unanimously.

108. Principle VI as a whole, as amended, was adopted unanimously with the understanding that the place of paragraph (d) would be reviewed at a later stage. The text adopted read as follows (E/CN.4/Sub.2/L.255):

"VI. Genuine character of elections and other public consultations

"(a) Every voter shall be free to vote for the candidate or list of candidates he prefers in any election to public office, and shall not be compelled to vote for any specified candidate or list of candidates.

"(b) Every voter shall be free to vote for or against any proposal submitted to a plebiscite, referendum, or other public consultation.

"(c) The conduct of elections and other public consultations, including the preparation and periodic revision of the electoral roll, shall be supervised by authorities whose independence and impartiality are ensured and whose decisions are subject to appeal to the judicial authorities or other independent and impartial bodies.

"(d) Freedom of opinion and expression and freedom of peaceful assembly and association are essential to the enjoyment of political rights. These freedoms, and the access to the facilities and means for their exercise, shall be ensured to all persons at all times.

"(e) Full freedom shall be ensured for the peaceful expression of political opposition, and also for the organization and free functioning of political parties and the right to present candidates for election."

109. Principle VII. As formulated by the Special Rapporteur, the principle read as follows:

"VII. Access to elective public office

"(a) Every national shall be eligible on equal terms for election to any elective public office in his country or in any political or administrative unit thereof in which he resides, provided he meets the inherent requirements of the office.

"(b) The extent to which this principle shall be applied to those, including members of the armed forces, whose election might result in a conflict between their duties or personal interests and the interests of the community as a whole, shall be determined by law."

110. Amendments to the principle were submitted by Mr. Hiscocks (E/CN.4/Sub.2/L.235) and Mr. Halpern (E/CN.4/Sub.2/L.243). Mr. Hiscocks proposed the deletion, in paragraph (a), of the text following the words "provided he", and the substitution for that text of the words "has the necessary specialist qualifications". He further proposed the deletion of the words, "including members of the armed forces", in paragraph (b). Mr. Halpern proposed that paragraph (a) should be amended by substituting the words "reasonable requirements prescribed by law for the office" for the term "inherent requirements of the office".

111. The Special Rapporteur deleted from his text the end of paragraph (a), reading "provided he meets the inherent requirement of the office", explaining that his purpose, which was to proclaim the principle of equality of access to elective public office, was accomplished by the first part. Mr. Hiscocks withdrew his amendment to paragraph (a). Mr. Halpern proposed that the phrase which had been deleted should be replaced by the words, "provided he meets the reasonable requirements provided by law for the office". This amendment, when put to a vote, was rejected by 4 votes to 3, with 4 abstentions.

112. The Special Rapporteur accepted the proposal of Mr. Hiscocks to delete the words, "including members of the armed forces" from paragraph (b).

113. Principle VII, as revised, was adopted by 10 votes in favour to 1 against, as follows (E/CN.4/Sub.2/L.255):

"VII. Access to elective public office

"(a) Every national shall be eligible on equal terms for election to any elective public office in his country or in any political or administrative unit thereof in which he resides.

"(b) The extent to which this principle shall be applied to those whose election might result in a conflict between their duties or personal interests and the interests of the community as a whole, shall be determined by law."

114. Principle VIII. As formulated by the Special Rapporteur, the principle read as follows:

"VIII. Access to non-elective public office

"(a) Every national shall be eligible on equal terms to hold any non-elective public office in his country, or any political or administrative unit thereof in which he resides, provided he meets the inherent requirements of the office.

"(b) The extent to which this principle shall be applied to those whose appointment or assignment to a non-elective public office might result in a conflict between their duties or personal interests and the interests of the community as a whole, shall be determined by law.

"(c) All appointments to the career civil service of a country shall be made on an objective and impartial basis."

115. Amendments to the principle were submitted by Mr. Hiscocks (E/CN.4/Sub.2/L.235) and Mr. Halpern (E/CN.4/Sub.2/L.247). Mr. Hiscocks proposed that the text following the words "provided he" should be deleted and that the phrase, "has the necessary specialist qualifications" be substituted. Mr. Halpern proposed that the term "reasonable requirements prescribed by law for the office" should be substituted for the words "inherent requirements of the office". In view of the decision which the Sub-Commission had taken with regard to the seventh principle, both amendments were withdrawn.



116. At the request of Mr. Hiscocks, a separate vote was taken on the words "provided he meets the inherent requirements of the office" in paragraph (a). These words were rejected by 4 votes to 1, with 3 abstentions. Paragraph (a), as amended, was adopted unanimously, as follows (E/CN.4/Sub.2/L.259):

"VIII. Access to non-elective public office

"(a) Every national shall be eligible on equal terms to hold any non-elective public office in his country, or any political or administrative unit thereof in which he resides.

"(b) The extent to which this principle shall be applied to those whose appointment or assignment to a non-elective public office might result in a conflict between their duties or personal interests and the interests of the community as a whole, shall be determined by law.

"(c) All appointments to the career civil service of a country shall be made on an objective and impartial basis."

117. Principle IX. As formulated by the Special Rapporteur, the principle read as follows:

"IX. Measures to ensure the adequate representation  
of certain elements of the population

"Special measures taken to ensure the adequate representation of an element of the population of a country whose members are in fact prevented by political, economic, social or cultural conditions from enjoying equality with the rest of the population in the matter of political rights shall not be deemed to be discrimination, provided that such measures are continued only so long as there is need for them, and only to the extent that they are necessary."

118. Amendments to the principle were submitted by Mr. Ammoun (E/CN.4/Sub.2/L.240) and Mr. Halpern (E/CN.4/Sub.2/L.247). Mr. Bouquin re-introduced, as an amendment to the principle, the amendment which he had submitted earlier in connexion with the first principle (E/CN.4/Sub.2/L.239).

119. Mr. Ammoun proposed that the words "Special measures" at the beginning of the principle should be replaced by "Special compensatory measures taken to ensure the balanced representation of the different elements of the population of a country, as also those ...". Mr. Halpern's proposal, as orally revised at the 358th meeting, was that the title of the principle should be revised to read

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"Measures and provisions which are not to be considered discriminatory or violative of political freedom", and that new paragraphs (b) and (c) should be added, reading as follows:

"(b) Reasonable requirements may be prescribed by law for the qualification of voters with respect to age, length of residence and similar matters. Reasonable requirements may be prescribed by law or regulations with respect to qualifications for elective and non-elective office but, with respect to the latter, the requirements must be such as grow out of the nature of the duties of the office.

"(c) Provision may be made by law for reasonable disqualifications with respect to political rights, such as the denial or suspension of the rights of insane persons and persons previously convicted of a serious crime."

It was explained that the second sentence of the proposed paragraph (b) was meant to provide for reasonable requirements for access to public office which had been omitted from principles VII and VIII, and that the proposed paragraph (c) was in substance the same as the proposed amendment (d) (E/CN.4/Sub.2/L.238), consideration of which the Sub-Commission had postponed until it reached principle IX.

120. The amendment re-introduced by Mr. Bouquin proposed that a paragraph should be added to the text of the principle reading:

"Legislation establishing a period which must elapse before naturalized persons may exercise political rights shall not be deemed to be discriminatory if it is in harmony with a liberal naturalization policy."

121. In the light of comments made on the various texts, the Special Rapporteur revised the principle, incorporating in it the substance of Mr. Halpern's amendments and the substance of Mr. Bouquin's amendment. He also accepted, as a second section of the principle, a formula suggested by Mr. Hiscocks and accepted by Mr. Ammoun. Subsequently, a question was raised as to the need for paragraph (c), as adopted by the Special Rapporteur from paragraph (c) of Mr. Halpern's amendment. Mr. Halpern agreed that in view of the broad terms in which the Special Rapporteur had stated the new paragraph (a), with respect to

reasonable requirements for the exercise of the right to vote, there was no need for the special provision as to insane persons and persons convicted of crimes. The Special Rapporteur accordingly deleted this paragraph. The principle, as revised, read as follows (E/CN.4/Sub.2/L.259):

"IX. Measures which shall not be considered discriminatory

A

"The following measures prescribed by law or regulation shall not be considered discriminatory:

"(a) reasonable requirements for the exercise of the right to vote or the right of access to elective public office;

"(b) reasonable qualifications for appointment to public office which stem from the nature of the duties of the office;

"(c) measures establishing a reasonable period which must elapse before naturalized persons may exercise their political rights, provided that they are combined with a liberal naturalization policy.

B

"Special measures taken to ensure:

"(a) the adequate representation of an element of the population of a country whose members are in fact prevented by political, economic, religious, social, historical, or cultural conditions from enjoying equality with the rest of the population in the matter of political rights;

"(b) the balanced representation of the different elements of the population of a country;

shall not be considered discriminatory, provided that such measures are continued only so long as there is need for them, and only to the extent that they are necessary."

Subsequently, section B was placed as paragraph (d) of the principle, and the words "shall not be considered discriminatory" were deleted.

122. Principle IX, as amended, was adopted unanimously, as follows:

"IX. Measures which shall not be considered discriminatory

"The following measures prescribed by law or regulation shall not be considered discriminatory:

"(a) reasonable requirements for the exercise of the right to vote or the right of access to elective public office;

"(b) reasonable qualifications for appointment to public office which stem from the nature of the duties of the office;

"(c) measures establishing a reasonable period which must elapse before naturalized persons may exercise their political rights, provided they are combined with a liberal naturalization policy;

"(d) special measures taken to ensure:

"(i) the adequate representation of an element of the population of a country whose members are in fact prevented by political, economic, religious, social, historical, or cultural conditions, from enjoying equality with the rest of the population in the matter of political rights;

"(ii) the balanced representation of the different elements of the population of a country;

provided that such measures are continued only so long as there is need for them, and only to the extent that they are necessary."

123. Principle X. As formulated by the Special Rapporteur, the principle read as follows:

"X. Limitations

"The rights and freedoms proclaimed above shall in no case be exercised contrary to the purposes and principles of the United Nations. They shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of national security, public order, morality and the general welfare in a democratic society."

124. Amendments to the principle were proposed by Mr. Hiscocks (E/CN.4/Sub.2/L.235), Mr. Ketrzynski (E/CN.4/Sub.2/L.237) and Mr. Halpern (E/CN.4/Sub.2/L.247). Mr. Hiscocks proposed deletion of the words "national security". Mr. Ketrzynski proposed that after the words "freedoms of others" a comma should be inserted, the word "and" should be deleted, the last full stop should be replaced by a comma, and the following text should be added at the end of the paragraph:

"and of protecting that society against any activity undertaken for propaganda purposes on behalf of any national, racial or religious hostility and constituting incitement to hatred and to violence."

Mr. Halpern's proposal was in three parts, as follows:

"A. Insert after the first sentence the following:

"The right to freedom of expression and assembly and to political opposition proclaimed in principle VI shall not be subject to any other limitation except that these freedoms may not be used for the purpose of seeking the overthrow of the government by force, violence, fraud or other illegal means, or the subjecting of the government to the domination of a foreign power.

"B. Substitute for the word 'they' in the second sentence of the present text: 'The other rights and freedoms proclaimed above'.

"C. Add at the end of the present text two paragraphs as follows:

"Any limitation which may be imposed shall be consistent with the purposes and principles of the United Nations.

"The interpretation and validity of any limitation shall be subject to review by an independent judiciary."

Mr. Halpern however withdrew sections A and B of his amendment. He suggested that the second paragraph set out in section C might be considered in connexion with Mr. Mudawi's proposal for a new principle on judicial review.

125. Some members of the Sub-Commission favoured retention in the principle of the term "national security" while others supported the proposal for its deletion. The Special Rapporteur explained that in article 29 (2) of the Universal Declaration of Human Rights the words "public order" were used in their widest sense, which included the idea of "national security". When the problem had arisen in connexion with the preparation of the Covenants on Human Rights, the

Third Committee had solved it by placing the French term "ordre public" in parentheses after "public order" in the English text. In the light of the discussion Mr. Hiscocks altered his amendment and proposed that the words "public order" in the English text of the principle should be followed by "(ordre public)" in French. Mr. Ketrzynski withdrew his amendment, indicating that the broad interpretation of the expression "ordre public" included in his view the idea which he had presented. The amendment of Mr. Hiscocks was adopted by 7 votes in favour to 1 against, with 3 abstentions.

126. The Special Rapporteur accepted the proposal of Mr. Halpern to add to the principle the following sentence: "Any limitation which may be imposed shall be consistent with the purposes and principles of the United Nations." The principle, as amended, was adopted unanimously, as follows (E/CN.4/Sub.2/L.259):

"X. Limitations

"The rights and freedoms proclaimed above shall in no case be exercised contrary to the purposes and principles of the United Nations. They shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of public order (ordre public), morality and the general welfare in a democratic society. Any limitation which may be imposed shall be consistent with the purposes and principles of the United Nations."

127. Preamble and new principles on the independence and self-determination of all countries and peoples. As formulated by the Special Rapporteur, the preamble read as follows:

"Preamble

"Whereas the peoples of the world in the Charter of the United Nations have proclaimed their determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to promote social progress and better standards of life in larger freedom,

"Whereas the Charter sets forth, as one of the purposes of the United Nations, the promotion and encouragement of respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

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"Whereas the Universal Declaration of Human Rights, further elaborating the principle of non-discrimination, proclaims that everyone is entitled to all the rights and freedoms set forth therein without distinction of any kind, including political opinion, and provides that no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs,

"Whereas, since the interests of the many are often disregarded when political power is in the hands of the few, the right of everyone to take part in the government of his country is the condition indispensable for the effective enjoyment by all of other human rights, including economic, social and cultural rights,

"Whereas the exercise of political rights is directly linked to the existence of freedom of opinion and expression and freedom of peaceful assembly and association,

"Now therefore the following general principles are proclaimed to ensure recognition of the right of everyone to take part in the government of his country and of other related political rights, and to prevent discrimination in the enjoyment of these rights."

128. Mrs. Mironova proposed that a new paragraph should be inserted in the preamble, reading as follows (E/CN.4/Sub.2/L.236):

"Whereas the declaration on the granting of independence to colonial countries and peoples, which demands that an end be put to colonialism and the practices of segregation and discrimination associated therewith, proclaims that the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation,".

129. As a sub-amendment to this amendment, Mr. Hiscocks proposed (E/CN.4/Sub.2/L.241, para. 1) that the words "in all their forms" should be inserted after the word "exploitation".

130. In connexion with the proposal for a reference to be made in the preamble to the granting of independence to colonial countries and peoples, the Sub-Commission considered a related proposal by Mrs. Mironova, to insert a new section I in the operative part of the principles, reading as follows (E/CN.4/Sub.2/L.236):

"I. Independence of colonial countries

"(a) All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development;

"(b) Steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories immediately, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom."



131. Mr. Halpern suggested (E/CN.4/Sub.2/L.248) that the title of such a new principle should read: "Independence and self-determination for all peoples". He proposed that the following text should be added at the end of paragraph (a):

"They also have the right to determine freely the social, economic and political system under which they wish to live, and the right to determine whether they wish their government to be associated with or subject to the control of any foreign government. These rights shall be exercised and these determinations made at free elections, referenda or plebiscites; and at periodic intervals the people shall be given an opportunity to express their wishes anew with respect to these matters."

In addition, he proposed the amendment of paragraph (b) to read as follows:

"(b) Steps shall be taken, in all territories which have not yet gained independence and in all areas in which the people had previously enjoyed independence but lost it, to transfer all powers of government to the people of those territories and areas as speedily as is consistent with the welfare of the people, without any conditions or reservations, in order to enable them to enjoy complete independence and freedom."

132. Mr. Hiscocks also suggested (E/CN.4/Sub.2/L.241) a new title for the proposed principles: "Independence of colonial and other subjugated countries". In addition, he proposed that sub-paragraph (b) of Mrs. Mironova's text should be amended by the addition of the words, "or have had independence and have lost it" after "independence", with a consequential change of the word "or" to "and". However, he withdrew this sub-amendment in favour of the one submitted by Mr. Halpern.

133. Taking into account the views expressed by various members of the Sub-Commission, who were in general agreement that the principles should be applied in all countries and territories without exception, Mr. Mudawi submitted further sub-amendments to the amendment of Mrs. Mironova (E/CN.4/Sub.2/L.257). He proposed, first, that the following addition to the final paragraph of the preamble drafted by the Special Rapporteur should be substituted for paragraph 1 of the amendment to the preamble:

"on the understanding that these rights can only be effectively guaranteed in a world in which the principles of the Charter, especially the principle of self-determination of peoples, shall have full application and from which the subjugation of one people by another shall have disappeared in accordance with repeated declarations of the General Assembly."

He proposed further that the title of the amendment should be changed to read "Self-determination". In addition, he proposed the deletion of paragraph (b) of Mrs. Mironova's amendment and the insertion in the principles of a new article reading as follows:

"Application of principles

"These principles shall apply to all independent countries and to countries which are under alien domination."

134. In the light of comments made upon this proposal, Mr. Mudawi amended it as follows: first, a penultimate preambular paragraph should be inserted which would read: "Whereas these rights can only be effectively guaranteed in a world in which the principles of the Charter, especially the principle of self-determination of peoples, and the principles enshrined in the declaration on the granting of independence to colonial countries and peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960 shall have full application"; secondly, paragraph (a) of Mrs. Mironova's amendment, under the title "Self-determination of all peoples" would become a new principle; and thirdly that his new text entitled "Application of principles," would be added.

135. The principle entitled "Self-determination of all peoples" was adopted unanimously; later the title was altered by agreement to read: "The right of all peoples to self-determination". The text entitled "Application of principles" was adopted by 7 votes in favour to none against, with 2 abstentions. The new preambular paragraph, when put to a separate vote, was adopted by 7 votes to none, with 2 abstentions. The amendment as a whole, including the two principles and the preambular paragraph, was adopted by 9 votes to none, with 1 abstention. The principles, as adopted, read as follows (E/CN.4/Sub.2/L.262):

"The right of all peoples to self-determination

"All peoples have the right to self-determination; by virtue of that right they fully determine their political status and freely pursue their economic, social and cultural development.

"Application of principles

"These principles shall apply to all independent countries and to countries which are under alien domination."

136. Proposed new principle on direct elections. Mrs. Mironova proposed the adoption of a new principle reading as follows (E/CN.4/Sub.2/L.236):

"Direct elections

"The election of representatives shall be direct, i.e., every voter shall have the right to vote directly for the candidate for deputy."

However, taking into account the difficulties which certain countries would encounter in adopting a system of direct suffrage, and the doubts which various members of the Sub-Commission expressed about the advisability of taking such a decision at that stage, she did not press her proposal to a vote.

137. Proposed provisions concerning implementation of the principles.

Mrs. Mironova also proposed the insertion in the principles of a new section reading as follows (E/CN.4/Sub.2/L.236):

"In addition to proclaiming the principles set forth in this document, States shall take specific measures to ensure that these principles are carried into effect.

"Any action aimed at preventing any person from enjoying the rights and freedoms provided for in these principles shall be prohibited by law."

She did not, however, press this proposal to a vote in view of the general feeling, expressed by various members of the Sub-Commission, that there was no place among the principles themselves for provisions concerning their implementation, and that the best place for such a statement was in the draft resolution by which the Sub-Commission would transmit the draft principles to the Commission on Human Rights for further consideration.

138. Proposed new principle on the education of the electorate. Mr. Halpern proposed the adoption of a new principle, reading as follows (E/CN.4/Sub.2/L.249):

"Education of the electorate

"An informed and enlightened electorate is essential to the successful operation of democracy. Therefore every country should exert every possible effort to provide for all the people free and compulsory education, at least in the elementary stage, in accordance with article 26 of the Universal Declaration of Human Rights, and to increase opportunities for higher and adult education with a view to the complete elimination of illiteracy and the raising of the level of public education."

It was explained that this proposal was substantially the same as the second sentence of the amendment which Mr. Halpern had proposed to principle II, and which had been withdrawn for presentation as a separate principle.

139. Several members of the Sub-Commission approved the proposal in general, but suggested that the word "essential" in the first sentence should be replaced by "very important" in order to avoid the possibility that the original wording might be interpreted in a limitative sense. Mr. Halpern accepted this suggestion.

140. The sponsor of the proposal explained that without this principle, there would not be a complete statement of the Sub-Commission's attitude towards literacy. It had adopted a principle that the right to vote should not be dependent upon literacy, but the obverse side of the coin was the recognition that literacy was a highly desirable quality for the electorate and that every country should do all within its power to eliminate illiteracy. Other members, while agreeing with the substance of the proposal, questioned the advisability of including it in the draft principles, which were intended to proclaim the political rights of individuals and not the obligations of States. It was further pointed out that the matter had been dealt with in the Convention and Recommendation Against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in December 1960, and that the importance of education to the successful operation of democracy might be stressed further in the resolution by which the Sub-Commission would transmit the principles to the Commission on Human Rights.

141. The principle proposed by Mr. Halpern was not adopted, 3 votes being cast in favour and 3 against, with 3 abstentions.

142. Proposed new principles on constitutional guarantee and recourse to independent tribunals. Mr. Mudawi proposed the adoption of two new principles, reading as follows (E/CN.4/Sub.2/L.242):

"The rights and freedoms proclaimed above shall be embodied in constitutional documents of countries and shall not be subject to repeal or alteration by ordinary legislative procedure.

"The interpretation of these rights and freedoms and of any limitations made thereon shall be made by an independent and impartial judiciary."

143. Mr. Halpern proposed (E/CN.4/Sub.2/L.246) that the new principles should be amended, first by the insertion of a title, "Rule of law", and secondly by rewording of the principles as follows:

"The rights and freedoms proclaimed above shall be embodied in legislation, which shall not be subject to suspension or alteration by the executive or administrative departments of the government. Wherever consistent with the legal and political institutions of the country, these rights and freedoms should be embodied in a written Constitution or Bill of Rights which shall not be subject to repeal or alteration by ordinary legislative procedure.

"An independent and impartial judiciary is essential for the full protection of political rights. Therefore provision should be made for the submission of all questions of interpretation of political rights and all claims of violation to an independent and impartial judiciary vested with authority to make determinations with respect thereto which shall be binding upon the executive and legislative departments of government. In order to assure an independent and impartial judiciary, the members thereof shall be appointed or elected for definite terms and shall not be subject to discipline or reprisal because of any decision adverse to the government."

144. At the suggestion of Mr. Hiscocks, Mr. Mudawi altered the first of the two new principles by replacing the words "shall be embodied" by the words "can best be guaranteed by embodying them", and by replacing the words "and shall not" by "so that they shall not". He also accepted Mr. Halpern's suggestion to add the words "and the application" after the word "interpretation".

145. Mr. Rodriguez Fabregat proposed, as a better wording that would be compatible with different legal systems, the following oral amendment: "The observance of these rights and freedoms, as well as the recourses available in the case of non-compliance or violation, shall be of the competency of the States through the competent legal organs." Mr. Saario also put forward an oral amendment based upon Mr. Rodriguez Fabregat's suggestion, as follows: "1. The rights and freedoms proclaimed above shall be guaranteed by legislation of a constitutional nature. 2. In the case of denial or violation of these rights and freedoms, every person shall have a recourse to an independent and impartial judicial or administrative tribunal."

146. At the request of the Chairman, Mr. Mudawi and Mr. Saario submitted a revised proposal for the new principles (E/CN.4/Sub.2/L.261), which as orally amended by the co-sponsors read as follows:

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"Constitutional guarantee"

"The rights and freedoms proclaimed above can best be guaranteed by embodiment in constitutions or other laws none of which shall be subject to repeal or alteration by ordinary legislative procedure.

"Recourse to independent tribunals"

"Any denial or violation of these rights and freedoms shall be remedied by recourse to independent and impartial tribunals."

147. The co-sponsors accepted the suggestion of Mr. Halpern that the word "fundamental" should be inserted in the first principle before the word "laws", as well as the suggestion of Mr. Ingles that the second principle might read: "Any denial or violation of these rights and freedoms shall entitle the aggrieved person or persons to recourse to independent and impartial tribunals."

148. Mr. Hiscocks proposed, as an oral amendment to the principle entitled "Constitutional guarantee", the following: "The rights and freedoms proclaimed above can best be guaranteed by embodiment in constitutions or in other fundamental laws which are not normally subject to repeal or alteration by ordinary legislative procedure."

149. The amendment of Mr. Hiscocks to the draft principle entitled "Constitutional guarantee" was rejected by 4 votes to 2, with 4 abstentions. The clause in that principle reading: "none of which shall be subject to repeal or alteration by ordinary legislative procedure", was put to a separate vote at the request of Mr. Bouquin, who felt that it was unnecessary and might give a false impression. The clause was adopted by 4 votes to none, with 6 abstentions. The draft principle entitled "Constitutional guarantee" was adopted unanimously. The texts as adopted read as follows (E/CN.4/Sub.2/L.262):

"Constitutional guarantee"

"The rights and freedoms proclaimed above can best be guaranteed by embodiment in constitutions or other fundamental laws none of which shall be subject to repeal or alteration by ordinary legislative procedure.

"Recourse to independent tribunals"

"Any denial or violation of these rights and freedoms shall entitle the aggrieved person or persons to recourse to independent and impartial tribunals."

150. Order of the principles. At the 365th meeting the Sub-Commission considered a working paper setting out the preamble and principles as adopted, in the order suggested at the time of adoption. Mr. Halpern proposed that the last sentence in principle II, paragraph (a), should be transferred to principle IV, where it would constitute a second sentence. The proposal was adopted by 7 votes to 1, with 2 abstentions.

151. Adoption of the preamble and principles. The preamble and principles as a whole, as amended, were adopted unanimously. They appear in the annex to resolution 1 (XIV), below.

Consideration of draft resolution on the study of discrimination in the matter of political rights

152. A draft resolution on the study of discrimination in the matter of political rights was submitted by Mr. Ammoun, Mr. Bouquin, Mr. Hiscocks and Mr. Mudawi (E/CN.4/Sub.2/L.250). In part A of the draft resolution it was proposed that the Sub-Commission should express its deep appreciation to the Special Rapporteur for his valuable and devoted work on the study and congratulate him warmly on his final report; that it should express its gratitude to the States Members of the United Nations, to the specialized agencies, to the Commission on the Status of Women and to those non-governmental organizations concerned for their collaboration; that it should transmit the Special Rapporteur's report to the Commission on Human Rights, together with the summary records of the discussion in the fourteenth session of the Sub-Commission, for its early consideration; that it should also transmit to the Commission the draft principles drawn up by the Sub-Commission, in the belief that the formulation of international and regional instruments based upon these principles and their adoption by States Members of the United Nations would be a fitting culmination to the study; and that it should decide to retain the subject of discrimination in the matter of political rights as an item on its agenda, in order that it might keep in touch with the efforts made to eradicate such discrimination.

153. In part B, it was proposed that the Sub-Commission should request the Commission to ask the Economic and Social Council, firstly, to request the Secretary-General to print and give wide circulation to the study, and to arrange for the preparation by a suitably qualified writer of a popular summary of the study, so that the summary might be published and used widely throughout the world, particularly in universities, schools and other educational institutions, to combat such discrimination; and secondly, to urge Members of the United Nations and of the specialized agencies to take into consideration the information and conclusions contained in the study and to be guided by the principles drawn up by the Sub-Commission, after their final approval, both in their internal policies and in their collaboration with other States on a regional basis; and to continue, and if necessary accentuate, their educational efforts designed to eliminate all discrimination in the matter of political rights.



154. Mrs. Mironova requested the co-sponsors to include an additional phrase at the end of paragraph 2 (a) of part B of the draft resolution, reading "and also to adopt the necessary measures for their implementation". The sponsors agreed to add at the end of that paragraph the words: "and to take as soon as possible all necessary measures to ensure the carrying out of these principles".

155. Several members of the Sub-Commission had misgivings about the proposal that a "popular summary" of the study should be prepared "by a suitably qualified writer". In their view it was unlikely that any writer could produce a summary which would be generally satisfactory, since the work of summarization would necessarily involve interpretation of the body of information set out in the study and the revision of carefully-worded texts which had won approval only after thorough and lengthy deliberation. Other members suggested that the summary should be prepared by a group of two or three writers rather than by a single individual, and that a collective body of the United Nations should have the responsibility for approving it before publication. It was also pointed out that it would be premature to have a summary made of principles and ideas which would perhaps be modified by the Commission on Human Rights and later by the Economic and Social Council. Other members however felt that only with the help of a popular summary could the Sub-Commission fulfil its task of educating world opinion and the substance of the report be made sufficiently widely known.

156. Some members urged the sponsors to substitute the word "version" for "summary", since in their view what was needed was not a digest of the study but a text which would be attractive, easy to read, and easily accessible. Others, however, objected to the term "version" because in their view it implied an interpretation of the text and supposed even less objectivity on the part of the writer than "summary". Mr. Rodriguez Fabregat urged amendment of the draft resolution in such a way as to request the Secretary-General to arrange for the preparation, by persons appointed by the Special Rapporteur, of a monograph relating both to the Special Rapporteur's study and to the general principles adopted by the Sub-Commission.

157. In the light of the discussion of part B, paragraph 1 (b) of the draft resolution, the sponsors revised it to read as follows: "To arrange for the preparation by the Special Rapporteur, or under his supervision, of a popular

version of the study, so that this version may be published and used widely throughout the world, particularly in universities, schools and other educational institutions, to combat such discrimination."

158. Part B, paragraph 1 (b) of the draft resolution, as amended, was adopted by 8 votes in favour to none against, with 2 abstentions.

159. The Sub-Commission adopted the resolution as a whole, including the annex thereto, unanimously, as follows:

RESOLUTION 1 (XIV)<sup>3/</sup>

STUDY OF DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS

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

Believing that the recognition and enjoyment of political rights are closely linked with the recognition and enjoyment of all human rights and constitute an essential basis for international understanding and the maintenance of peace,

Recalling resolution 1 (XIII), adopted by the Sub-Commission at its thirteenth session, concerning the draft report on discrimination in the matter of political rights drawn up by the Special Rapporteur, Mr. Hernan Santa Cruz,

Having considered the final report (E/CN.4/Sub.2/213) presented by Mr. Santa Cruz in accordance with the above-mentioned resolution,

A

1. Expresses its deep appreciation to the Special Rapporteur for his valuable and devoted work on the study and congratulates him warmly on his final report;

2. Expresses its gratitude to the States Members of the United Nations, to the specialized agencies, to the Commission on the Status of Women and to those non-governmental organizations concerned, for their collaboration;

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<sup>3/</sup> The financial implications of this resolution are set out in annex I.

3. Transmits the Special Rapporteur's report to the Commission on Human Rights, together with the summary records of the discussion at the present session of the Sub-Commission for its early consideration;

4. Transmits also to the Commission the draft principles annexed to this resolution, in the belief that the formulation of international and regional instruments based upon these principles and their adoption by States Members of the United Nations would be a fitting culmination to the study;

5. Decides to retain the subject of discrimination in the matter of political rights as an item on its agenda, in order that it may keep in touch with the efforts made to eradicate such discrimination;

B

Requests the Commission on Human Rights to ask the Economic and Social Council to adopt the following draft resolution:

The Economic and Social Council,

Believing that the most effective way of combating discrimination in the matter of political rights is through energetic and sustained educational efforts on an international scale,

Considering that the Commission on Human Rights' triennial reporting procedure provides a suitable framework within which Governments can report progress in combating such discrimination,

1. Requests the Secretary-General:

(a) To print and give wide circulation to the study on discrimination in the matter of political rights prepared by Mr. Hernan Santa Cruz, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

(b) To arrange for the preparation by the Special Rapporteur, or under his supervision, of a popular version of the study, so that this version may be published and used widely throughout the world, particularly in universities, schools and other educational institutions, to combat such discrimination;

2. Urges Governments Members of the United Nations and of the specialized agencies:

(a) To take into consideration the information and conclusions contained in the study, to be guided by the principles drawn up by the Sub-Commission in this connexion, after their final approval, both in their internal policies and in their collaboration with other States on a regional basis and to take as soon as possible all necessary measures to ensure the carrying out of these principles;

(b) To continue and if necessary to accentuate their educational efforts designed to eliminate all discrimination in the matter of political rights.

ANNEX

GENERAL PRINCIPLES ON FREEDOM AND NON-DISCRIMINATION  
IN THE MATTER OF POLITICAL RIGHTS

Preamble

Whereas the peoples of the world in the Charter of the United Nations have proclaimed their determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to promote social progress and better standards of life in larger freedom,

Whereas the Charter sets forth, as one of the purposes of the United Nations, the promotion and encouragement of respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Whereas the Universal Declaration of Human Rights, further elaborating the principle of non-discrimination, proclaims that everyone is entitled to all the rights and freedoms set forth therein without distinction of any kind, including political opinion, and provides that no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs,

Whereas, since the interests of the many are often disregarded when political power is in the hands of the few, the right of everyone to take part in the government of his country is the condition indispensable for the effective enjoyment by all of other human rights, including economic, social and cultural rights,

Whereas the exercise of political rights is directly linked to the existence of freedom of opinion and expression and freedom of peaceful assembly and association,

Whereas these rights can only be effectively guaranteed in a world in which the principles of the Charter, especially the principle of self-determination, and the principles enshrined in the declaration on the granting of independence to colonial territories and peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, shall have full application,

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Now therefore the following general principles are proclaimed to ensure recognition of the right of everyone to take part in the government of his country and of other related political rights, and to prevent discrimination in the enjoyment of these rights:

I. The right of all peoples to self-determination

All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

II. Political rights of nationals

(a) Every national of a country is entitled within that country to full and equal political rights without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(b) No one shall be denied nationality, or deprived of nationality, as a means of denying him or depriving him of political rights.

(c) The age, length of residence and other conditions prescribed by law for the exercise of any particular political right shall be the same for all nationals of a country or inhabitants of a political unit, as the case may be.

III. Freedom of opinion and association

Freedom of opinion and expression and freedom of peaceful assembly and association are essential to the enjoyment of political rights. These freedoms, and the access to the facilities and means for their exercise, shall be ensured to all persons at all times.

IV. Universality of suffrage

Every national is entitled to vote in any national election, referendum or plebiscite held in his country, and in any such public consultation held in the political or administrative unit thereof in which he resides. The right to vote shall not be dependent upon literacy or any other educational qualifications.

V. Equality of suffrage

(a) Every national is entitled to vote in any election, or other public consultation for which he is eligible, on equal terms, and each vote shall have the same weight.

(b) When voting is conducted on the basis of electoral districts, the said districts shall be established on an equitable basis such as would make the results most accurately and completely reflect the will of all the voters.

(c) For any election or public consultation held by direct vote there shall be one general election roll, and every eligible national shall be included in that roll.

VI. Secrecy of the vote

(a) Every voter shall be able to vote in such a manner as not to involve disclosure of how he has voted or intends to vote.

(b) No voter shall be compelled to state, in any legal proceeding or otherwise, how he voted, or intends to vote, and no one shall attempt to obtain from any voter, directly or otherwise, information as to how he has voted or intends to vote.

VII. Periodicity of elections

Elections to all elective public offices shall be held at reasonable intervals, in order to ensure that the will of the people shall at all times be the basis of the authority of government.

VIII. Genuine character of elections and other  
public consultations

(a) Every voter shall be free to vote for the candidate or list of candidates he prefers in any election to public office, and shall not be compelled to vote for any specified candidate or list of candidates.

(b) Every voter shall be free to vote for or against any proposal submitted to a plebiscite, referendum, or other public consultation.

(c) The conduct of elections and other public consultations, including the preparation and periodic revision of the electoral roll, shall be supervised by authorities whose independence and impartiality are ensured and whose decisions are subject to appeal to the judicial authorities or other independent and impartial bodies.

(d) Full freedom shall be ensured for the peaceful expression of political opposition, and also for the organization and free functioning of political parties and the right to present candidates for election.

#### IX. Access to elective public office

(a) Every national shall be eligible on equal terms for election to any elective public office in his country or in any political or administrative unit thereof in which he resides.

(b) The extent to which this principle shall be applied to those whose election might result in a conflict between their duties or personal interests and the interests of the community as a whole, shall be determined by law.

#### X. Access to non-elective public office

(a) Every national shall be eligible on equal terms to hold any non-elective public office in his country, or any political or administrative unit thereof in which he resides.

(b) The extent to which this principle shall be applied to those whose appointment or assignment to a non-elective public office might result in a conflict between their duties or personal interests and the interests of the community as a whole, shall be determined by law.

(c) All appointment to the career civil service of a country shall be made on an objective and impartial basis.

#### XI. Measures which shall not be considered discriminatory

The following measures prescribed by law or regulation shall not be considered discriminatory:

(a) Reasonable requirements for the exercise of the right to vote or the right of access to elective public office;



(b) Reasonable qualifications for appointment to public office which stem from the nature of the duties of the office;

(c) Measures establishing a reasonable period which must elapse before naturalized persons may exercise their political rights, provided that they are combined with a liberal naturalization policy.

(d) Special measures taken to ensure:

(i) The adequate representation of an element of the population of a country whose members are in fact prevented by political, economic, religious, social, historical, or cultural conditions from enjoying equality with the rest of the population in the matter of political rights;

(ii) The balanced representation of the different elements of the population of a country;

provided that such measures are continued only so long as there is need for them, and only to the extent that they are necessary.

## XII. Limitations

The rights and freedoms proclaimed above shall in no case be exercised contrary to the purposes and principles of the United Nations. They shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of public order (ordre public), morality and the general welfare in a democratic society. Any limitation which may be imposed shall be consistent with the purposes and principles of the United Nations.

## XIII. Constitutional guarantee

The rights and freedoms proclaimed above can best be guaranteed by embodiment in constitutions or other fundamental laws none of which should be subject to repeal or alteration by ordinary legislative procedure.

## XIV. Recourse to independent tribunals

Any denial or violation of these rights and freedoms shall entitle the aggrieved person or persons to recourse to independent and impartial tribunals.

XV. Application of principles

These principles shall apply to all independent countries and to countries which are under alien domination.

Consideration of draft resolution on attendance of the Special Rapporteur at the eighteenth session of the Commission on Human Rights

160. At the 365th meeting, a draft resolution was submitted jointly by Mr. Halpern, Mr. Hiscocks and Mr. Matsch (E/CN.4/Sub.2/L.258) proposing that the Secretary-General should be requested to make arrangements for the Special Rapporteur to attend the eighteenth session of the Commission on Human Rights, opening in New York on 19 March 1962, in order to be present in the Commission when it considered the report on discrimination in the matter of political rights.

161. The resolution was adopted unanimously, as follows:

RESOLUTION 2 (XIV)<sup>4/</sup>

ATTENDANCE OF THE SPECIAL RAPPORTEUR AT THE EIGHTEENTH SESSION  
OF THE COMMISSION ON HUMAN RIGHTS

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

Believing that it is highly desirable that the Special Rapporteur be present in the Commission on Human Rights when the report on discrimination in the matter of political rights is considered,

Requests the Secretary-General to make arrangements for the Special Rapporteur for the study of discrimination in the matter of political rights to attend the eighteenth session of the Commission on Human Rights, opening in New York on 19 March 1962.

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<sup>4/</sup> The financial implications of this resolution are set out in annex I.

VI. STUDY OF DISCRIMINATION IN RESPECT OF THE RIGHT OF EVERYONE  
TO LEAVE ANY COUNTRY, INCLUDING HIS OWN, AND TO RETURN TO  
HIS COUNTRY

Item 6 of the agenda

Introduction

162. At the 365th to 371st meetings, the Sub-Commission considered item 6 of its agenda, "Study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country".

163. The Sub-Commission had before it the draft report (E/CN.4/Sub.2/L.234) submitted by the Special Rapporteur, Mr. José D. Ingles, in accordance with resolution 2 (XIII) of the Sub-Commission. The draft report was divided into six chapters, preceded by an introduction and followed by two annexes.

164. The Sub-Commission began its consideration of the draft report with a general debate, in which statements were made by members of the Sub-Commission, the representative of the Commission on the Status of Women, and representatives of various non-governmental organizations. The Sub-Commission examined the draft report in detail, and subsequently considered a draft resolution submitted jointly by Messrs. Matsch and Saario (E/CN.4/Sub.2/L.263). On the basis of that draft resolution it adopted on 29 January, at the 371st meeting, a resolution on the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country,

165. As it was understood that the study, when completed, would stand in the name of the Special Rapporteur, the Sub-Commission did not vote upon its text, either chapter by chapter or as a whole. The observations made by various members of the Sub-Commission, as well as by the representative of the Commission on the Status of Women and the representatives of various non-governmental organizations, are summarized in documents E/CN.4/Sub.2/SR.365-371. The Special Rapporteur undertook to give full consideration to these observations when preparing his final report.

General debate

166. In introducing the draft report, Mr. Ingles pointed out that he had not been able to make it similar in scope to the final report which he hoped to submit to the Sub-Commission at its fifteenth session, owing partly to the Secretariat's limitations and the necessity of giving priority to the study of discrimination in the matter of political rights, and partly to the limited response of Governments and non-governmental organizations to his requests for information. The draft report was based upon thirty-one country monographs, whereas the final report would be based upon information relating to all States Members of the United Nations and of the specialized agencies. Information for the study had been supplied to date by fifty-four Governments, including one from which a reply had been received after the draft report had been completed. He added that in the event that Governments should fail to submit information on the situation in their respective countries prior to a date which he would establish in a circular letter which he would send to them after the close of the session, efforts would be made to collect information from the other sources which he was authorized to use.

167. All members of the Sub-Commission joined in congratulating Mr. Ingles on the highly informative draft report which he had prepared. He was commended in particular for the courage, perspicacity and constructive outlook which he had displayed in its preparation. The report was described as throwing a great deal of light upon a problem of unexpected magnitude and complexity, and the hope was expressed that, when completed, it would have even greater depth and balance and would be fully documented.

168. There was wide agreement with the view of the Special Rapporteur that the study itself, like others which had preceded it, should be broad in scope and directed not only towards the eradication of discrimination in respect of the rights set out in article 13 (2) of the Universal Declaration of Human Rights but also towards ensuring the full and free exercise of those rights. It was suggested that the subject should be approached from the standpoint of human dignity and the inherent right of men to move freely about on earth, and to come and go as they wished. However, the view was also expressed that the study should be limited, in so far as possible, to problems arising from discrimination.

169. There was wide agreement with the Special Rapporteur's emphasis upon the desirability of obtaining a complete picture of the actual situation, de facto, as well as de jure, existing in various countries, and upon the importance of

obtaining information from non-governmental as well as governmental sources. In this connexion several members deplored the fact that a number of important countries had not yet submitted information for use in the study, and that the information submitted by non-governmental organizations had not been very substantial.

170. While some members approved of the Special Rapporteur's decision not to refer to particular countries by name in the draft report, one member expressed the view that the text might have been more meaningful, and more intelligible to the average reader, had specific reference been made to countries by name. The Special Rapporteur, while pointing out that information about each country was available in the respective country monograph, reserved his decision as to whether or not countries should be referred to by name in the final report.

171. Some of the principal issues which arose in the detailed examination of the draft report are summarized below.

172. Orientation of the study. In chapter I of the draft report the Special Rapporteur explained his approach to the subject of the study. Several members of the Sub-Commission expressed the hope that in the preparation of his final report he would adopt the broadest possible approach and would aim at establishing standards reflecting the ideals which should guide governments and which, while not ignoring the interests and obligations of States, would be truly international in character. Others, however, warned that no State or society could be expected to give all citizens the material means they needed in order to exercise their right to leave the country, and that to wish otherwise would be unrealistic. In some circumstances, they pointed out, discrimination was unavoidable. For example, certain countries lacked an adequate supply of foreign currency and were forced to restrict the allocation of such currency to certain categories of citizens, such as persons sent abroad for specialized training. Other restrictions had to be imposed because of the existence of international tensions and disagreements between States, and in such cases it was considered useful to establish general controls, even if they were discriminatory in nature, in order to avoid diplomatic disputes and incidents between States. In still other cases it was necessary for States to take action to protect their citizens against mendacious propaganda whose sole purpose was to cause a stampede from the country, and thus to save them from

painful disillusionment. Finally, some countries found it necessary to oppose mass migration because of the material factors involved, although they did not prohibit individual migration.

173. For his part, the Special Rapporteur pointed out that while he appreciated the suggestion that his study should suggest the formulation of broad general principles of an idealistic nature, he thought that by doing that he would depart somewhat from the position which earlier Special Rapporteurs had taken; they had proposed minimum principles designed to serve as basic standards for the guidance of Governments. In this case, however, it seemed of secondary importance to him whether the principles to be prepared were optimum or minimum in nature, since the situation was that the right of individuals to leave their own country was seldom recognized in constitutions or fundamental laws, and the crux of the problem was how to induce Governments to embody this right in such basic texts.

He could not fully accept either of the two points of view which had been expressed in the Sub-Commission: on the one hand, that he should stress the right of the State to place limitations upon freedom of movement, and on the other hand, that he should emphasize the paramountcy of the rights of the individual. However, he thought it should be clearly stated in the final report that there were certain limits, set forth precisely in article 30 of the Universal Declaration of Human Rights, beyond which no government could go.

174. In response to suggestions put forward by several members and by the representative of the Commission on the Status of Women, the Special Rapporteur agreed that several articles of the Universal Declaration of Human Rights might be added to those mentioned in the draft report (para. 18) as having an important bearing upon the subject under study, including article 3, on the right to 'liberty of person; article 9, on arbitrary arrest, detention and exile; article 13 (1), on freedom of movement; article 15, on the right to a nationality; and article 16, on the right to marry and to found a family. These articles, he indicated, might be grouped together and their relationship to the subject discussed in greater detail. He also agreed with the suggestion that the final report should include, at an appropriate place, the legislative history of article 13 (2), and a recognition that the right under study had its basis in natural law and that it amounted to a virtual right of self-determination for the individual.

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175. He also undertook to deal in greater detail, in the final report, with a number of indirect ways in which the right was denied to individuals, including the case of persons who were unable to go back to their own country because they feared that they would be prevented from leaving again once they returned, the case of foreigners who had difficulty in obtaining exit visas and were placed under pressure to adopt the nationality of the country of their sojourn, and the case of persons who were not allowed to leave their country if it was known that they intended to settle permanently elsewhere. With regard to the case of persons separated from their families who found it impossible to reunite the family in the new country of residence, he explained that this situation might be considered to fall somewhat outside the terms of article 13 (2), which did not proclaim the right of individuals to enter any country. However, the case of nationals who wish to leave their country in order to join their families abroad, but were prevented from doing so, was certainly relevant and in the final report he would refer to the situation of divided families resulting from such a policy.

176. Reference was made by one member of the Sub-Commission to the situation of persons who, upon their return to the country of their birth after naturalization in another country, are deprived of their passports by their country of birth or are made to renounce their new citizenships. The Special Rapporteur indicated that he had not dealt with any such situation because no information indicating its existence had been submitted to him. In his view it could be suggested, as a general principle, that no one should be deprived of his nationality or of the means required to prove that nationality.

177. Types of discrimination. In chapter II, the Special Rapporteur described the various forms taken by discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country. In reply to criticisms voiced by some members of the Sub-Commission of the skeletal structure of the chapter, he explained that he had attempted to comply with a request made by members of the Sub-Commission at the thirteenth session that he concentrate on the grounds of discrimination enumerated in article 2 of the Universal Declaration of Human Rights, but that he had not had sufficient information at hand to illustrate each type of discrimination fully. This paucity of material would be remedied, he hoped, before he prepared the final report.

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178. With regard to his interpretation of the meaning of the term "discrimination" as used in the draft report, the Special Rapporteur explained that he had attempted to deal first with direct discrimination based on one or more of the grounds mentioned in article 2 of the Declaration, and secondly with discrimination arising out of limitations upon the exercise of the right imposed by Governments but not justified under the terms of article 29.

179. Several members expressed the view that the subject-matter under certain headings was inadequately dealt with. It was suggested, for example that the section dealing with discrimination on the ground of sex should be expanded to deal with cases where parental authority is vested in the father to the exclusion of the mother, and that the section on discrimination on the ground of religion might be elaborated and enlarged to deal inter alia with the case of a person to whom a passport is denied because he professes no religion. It was also suggested that the paragraphs on discrimination on the ground of political or other opinion should be expanded, in view of the Special Rapporteur's own statement that this form of discrimination is most wide-spread, and improved by an explicit condemnation of all obstacles placed in the way of those who wish to acquaint themselves with other ideological systems, as well as by statistical data indicating the extent to which persons cross their national frontiers clandestinely in order to seek asylum in another State. In connexion with the question of clandestine departures, it was suggested that the final report should take note of the fact that in some countries the penalty was one of utmost severity, and should draw the conclusion that such extreme penalties were wholly out of keeping with the offence since the person fled his own country not in order to harm it but simply to find a new, and presumably better, life elsewhere. It was also suggested that the report should refer not only to clandestine exit from a country but also to clandestine entry, which occurred when persons were denied the necessary travel documents. The Special Rapporteur indicated that it was his intention to expand chapter II and to revise it completely on the basis of further information, which he hoped would be forthcoming from non-governmental as well as governmental sources.



180. Limitations, conditions and other factors. Some members of the Sub-Commission suggested that chapter III, which in their view lacked unity, might be rearranged and subdivided. The Special Rapporteur indicated that he intended, in preparing the final report, to devote an entire chapter to the question of limitations, including a section on those which were permissible and another on those which were discriminatory. In addition, there would be a separate chapter on conditions or regulations of a legal or economic nature not directly limiting but affecting the exercise of the right under study.

181. Some members felt that in the treatment of limitations on travel, a distinction should be drawn between restrictions imposed upon those who leave their country permanently and those who leave it temporarily. The Special Rapporteur observed that in fact few if any countries actually imposed stricter limitations upon emigrants. He indicated, however, that in the final report he would suggest that Governments should deal more leniently with those leaving the country temporarily than with those leaving permanently.

182. In response to suggestions made by several members, the Special Rapporteur indicated that he would give consideration as to where a section might be inserted dealing with bureaucratic abuses which have the effect of preventing the exercise of the right under study. He would also stress the importance of bilateral and multilateral agreements which dispense with the need for passports and visas and permit people to cross national frontiers freely.

183. Several members questioned the desirability of including in this chapter the section (paras. 91-92) dealing with national security and "the interest of the State", on the ground that sometimes these terms were so broadly interpreted as to amount to a denial of the right itself. In this connexion the Special Rapporteur drew attention to the text of article 12 of the draft Covenant on Civil and Political Rights, in which "national Security" appears as a permissible limitation on the right to leave one's country. The concept of "the interest of the State" was even broader than "national security", he stated, and could not be invoked as a justified restriction upon the right when in fact no question of national security was involved. Moreover, article 30 of the Universal Declaration of Human Rights provided that no limitation, however, justified, could be invoked if aimed at the destruction of the right.

184. The Special Rapporteur was congratulated by several members of the Sub-Commission for his stand (paras. 93-97) against hypocritical measures of an economic nature taken against persons desiring to leave their country, which often resulted in concealed discrimination. A question was raised, however, concerning his assertion that severe restrictions upon the amount of personal property which an emigrant is allowed to take out of a country could amount to a negation of the right to leave the country; it was pointed out that it was not advisable to link the question of currency controls with the right to leave a country. A question was also raised concerning the right of individuals to take out of a country articles having historical or artistic value or materials required in order to maintain the national economy. The Special Rapporteur explained that he had used the term "personal property" as referring to movable, as distinguished from immovable, property, and explained that a person leaving a country permanently might wish to take his household effects as well as his personal effects with him. He recognized the validity of restrictions placed upon the amount of currency which persons were allowed to take out of the country, but thought that reasonable arrangements could be made for individuals who found it necessary to remove large sums to do so in instalments.

185. Remedies available. Members of the Sub-Commission generally expressed their satisfaction with chapter IV; one member suggested, however, that a reference to the General Assembly's declaration on the granting of independence to colonial territories and peoples might be included in the final paragraph.

186. Trends and conclusions. While recognizing that chapter V contained the Special Rapporteur's own evaluation of the situation prevailing as regards recognition and enjoyment of the right of everyone to leave any country, including his own, and to return to his country, various members of the Sub-Commission suggested that in some respects the subject had been treated from a national point of view, while what was needed was to ensure that a truly international viewpoint prevailed. The Special Rapporteur pointed out that there was naturally some difference of opinion as to how to strike a balance between the interests of the State and those of the individual in respect of the right under study. Various members had emphasized the importance of one over the other. In his own view there was one point beyond which governments could never go: they could not destroy the right altogether, whether by direct or indirect means. He stated /...

that in his final report he would probably recommend that all limitations upon the right, however justifiable, should be reduced to a minimum, and that these should in every case be compatible with the terms of article 29 of the Declaration of Human Rights and article 12 of the draft Covenant on Civil and Political Rights.

187. Tentative proposals. In chapter VI, the Special Rapporteur set out a series of tentative proposals, mainly to serve as a basis for discussion in the Sub-Commission. His final proposals could not be formulated, he explained, until he had examined and evaluated information relating to a large number of countries. A number of suggestions were made for revision of the proposals. The Special Rapporteur indicated that he would take these suggestions into account in preparing the final report.

188. Annexes. Annex I, containing the outline used by the Special Rapporteur for the collection of material for country monographs, did not give rise to any discussion. In the light of suggestions made by several members of the Sub-Commission, the Special Rapporteur indicated that he would consider the desirability of including the text of annex II, summarizing the consideration of a number of problems relating to the right under study by other organs within or outside the framework of the United Nations, in the body of the final report. The Special Rapporteur also agreed to include, in annex II, a reference to the European Common Market Treaty, providing for free circulation of persons, services and funds among the six signatory countries.

#### Consideration of draft resolution

189. A draft resolution on the study of discrimination in respect of the right of anyone to leave any country, including his own, and to return to his country was submitted jointly by Mr. Matsch and Mr. Saario (E/CN.4/Sub.2/L.263).

190. After the co-sponsors had revised the second operative paragraph of their proposal in the light of comments made by other members, the draft resolution was adopted unanimously, as follows:

RESOLUTION 3 (XIV)

STUDY OF DISCRIMINATION IN RESPECT OF THE RIGHT OF EVERYONE TO LEAVE  
ANY COUNTRY, INCLUDING HIS OWN, AND TO RETURN TO HIS COUNTRY

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

Recalling resolution 2 (XIII), adopted by the Sub-Commission at its  
thirteenth session,

Having considered the draft report on the study of discrimination in  
respect of the right of everyone to leave any country, including his own, and  
to return to his country, submitted by the Special Rapporteur, Mr. José D. Ingles  
(E/CN.4/Sub.2/L.234),

1. Expresses its warm appreciation to Mr. Ingles for his highly  
informative draft report, which it considers to represent a substantial  
contribution towards the Sub-Commission's work in this field;
2. Joins with Mr. Ingles in thanking the Governments and non-governmental  
organizations which have responded to his request for information, and requests  
those Governments and non-governmental organizations which have not yet supplied  
information to do so as soon as possible;
3. Invites Mr. Ingles, taking into account the exchange of views on his  
draft report during the fourteenth session of the Sub-Commission, to complete  
the final report in time for it to be considered by the Sub-Commission at its  
fifteenth session.

VII. MEASURES TO BE TAKEN FOR THE CESSATION OF ANY ADVOCACY OF  
NATIONAL, RACIAL OR RELIGIOUS HOSTILITY THAT CONSTITUTES AN  
INCITEMENT TO HATRED AND VIOLENCE, JOINTLY OR SEPARATELY

Item 7 of the agenda

191. At the 372nd meeting the Sub-Commission considered item 7 of its agenda "Measures to be taken for the cessation of any advocacy of national, racial or religious hostility that constitutes an incitement to hatred and violence, jointly or separately".

192. No formal proposal on this item was placed before the Sub-Commission. However, Mr. Ostrovsky reviewed the measures which had already been taken in this field by various organs of the United Nations, referring in particular to article 2 of the draft Convention on Freedom of Information, articles 19 and 26 of the draft Covenant on Civil and Political Rights, and resolution 826 B (XXXII) of the Economic and Social Council, on manifestations of racial prejudice and national and religious intolerance. He suggested that a Special Rapporteur should be appointed by the Sub-Commission to undertake a study of the extent to which such manifestations continue to exist and what further measures should be recommended with a view to their eradication.

193. While some members of the Sub-Commission supported Mr. Ostrovsky's suggestion, others questioned the wisdom of undertaking such a study before the General Assembly had completed its consideration of the item entitled "Manifestations of racial prejudice and national and religious intolerance". The Third Committee had not been able to examine that item or the draft resolution submitted to it by the Economic and Social Council in resolution 826 B (XXXII), at the sixteenth session, but had decided to deal with the question as soon as possible at its seventeenth session and to devote as many meetings as possible to it (A/RES/1684 (XVI)).

194. Those who favoured the immediate initiation of a study were of the view that the matter was important and urgent, and that it was unnecessary to wait another year for final action by the General Assembly, since the Economic and Social Council and the Third Committee had already laid down a general line and the study itself could be based on the Charter and on the relevant articles of the Universal Declaration of Human Rights. Those who opposed such action maintained that it was

inappropriate for the Sub-Commission to anticipate decisions which the General Assembly was expected to make at its seventeenth session. If the General Assembly should decide that the action recommended to it by the Economic and Social Council was sufficient, no further study would be required. If, on the other hand, it called upon the Sub-Commission to undertake a study, the work could begin immediately.

195. The Sub-Commission decided, by 6 votes in favour to none against, with 2 abstentions, to postpone consideration of the item to its fifteenth session in view of the decision of the General Assembly to consider the item entitled "Manifestations of racial prejudice and national and religious intolerance" at its seventeenth session.

## VIII. PROTECTION OF MINORITIES

### Item 8 of the agenda

196. At the 372nd and 373rd meetings, the Sub-Commission considered item 8 of its agenda, "Protection of minorities".

197. The Sub-Commission had before it a compilation of the texts of those international instruments and similar measures of an international character which are of contemporary interest and which provide special protective measures for ethnic, religious or linguistic groups (E/CN.4/Sub.2/214), prepared by the Secretariat in accordance with resolution 7 (XIII) of the Sub-Commission.

198. Discussion of the item was centred upon a proposal submitted by Mr. Matsch (E/CN.4/Sub.2/L.264) in the form of two draft resolutions. In the first, it was recommended that the Sub-Commission should request the Secretary-General to prepare a "comprehensive factual analysis of the question of special protective measures of international character for ethnic, religious or linguistic groups on the basis of documents E/CN.4/Sub.2/85, 133, 194 and 214, as well as E/CN.4/367"; and to submit this analysis to the Sub-Commission for consideration at its fifteenth session. In the second, it was recommended that the Commission on Human Rights should be requested to authorize the Secretary-General to publish a compilation of measures taken on the national level for the protection of minorities, similar to the first supplementary volume of the Yearbook on Human Rights. The compilation would be based on information supplied by Governments and would be documented by reference to legislative enactments, constitutions, and other authoritative sources.

199. In submitting the draft resolutions to the Sub-Commission, Mr. Matsch pointed out that its terms of reference called upon it inter alia "to undertake studies and to make recommendations to the Commission on Human Rights concerning the protection of racial, national, religious and linguistic minorities", and that the Commission on Human Rights had requested the Sub-Commission, in 1954, to report on any recommendations which it might be in a position to make with regard to special measures for the protection of minorities. Thus the Sub-Commission was fully entitled to proceed with studies on this subject even in the absence of special directives from the Commission on Human Rights.

200. While paying tribute to the Secretariat for the valuable work which it had done in preparing the compilation, Mr. Matsch pointed out that the Sub-Commission, in resolution 7 (XIII), had also requested an analysis of the measures appearing therein. The introduction to the compilation, while describing these measures, could hardly be considered a technical analysis. He believed, therefore, that it would be advisable to extract from the instruments referred to in the compilation the various special protective measures which they provided and to present those measures in a catalogue or index form. Such a guide to the texts would be available to interested parties whenever the need arose to provide special protective measures for a minority, and would undoubtedly prove to be of great practical value.

201. Mr. Matsch suggested that the Secretariat, in addition to preparing the analysis, could also bring together into a single comprehensive document all the information available relating to international measures taken for the protection of minorities, including those referred to in such documents as E/CN.4/Sub.2/85, E/CN.4/Sub.2/133, E/CN.4/367, E/CN.4/Sub.2/194 and E/CN.4/Sub.2/214. Such a document, which would replace earlier memoranda which were no longer easily available, could be printed after review by the Sub-Commission.

202. Finally, Mr. Matsch suggested that the publication of a volume bringing together all the information available relating to measures taken on the national level relating to the protection of minorities, similar to the first supplementary volume of the Yearbook on Human Rights (which had dealt with the question of arbitrary arrest, detention and exile), would be extremely useful. His proposal was that the Governments concerned would themselves decide what information they would furnish for inclusion in such a volume, which could serve as a convenient reference work for students and public authorities.

203. Several members of the Sub-Commission supported the first proposal, and agreed that it would be useful to merge the various documents relating to international measures for the protection of minorities into a single comprehensive publication containing an analysis - which could be in the form of an analytical index - making it possible to locate the material easily. They suggested, however,



that it might be necessary to bring much of the material up to date and to add information concerning the situation in newly independent countries.

204. Other members, however, expressed doubts about the proposal, and requested clarification as to how the compilation or indexing of such measures would contribute to the protection of minorities concerned or improve the conditions under which they lived. Moreover, these members felt that the bringing together of a large volume of information might give the impression that all necessary measures were being taken on the international level to protect minorities, which was by no means the case. In addition, it was maintained that some of the United Nations documents referred to in the draft resolution had no direct bearing on the problem of protection of minorities, and that it would be impossible to merge these diverse materials.

205. There was less support in the Sub-Commission for the second proposal. Some members pointed out that better results could be obtained if Governments were to be invited, when submitting material for publication in the Yearbook on Human Rights, to furnish all available information concerning measures which they had taken for the protection of minorities. Others felt that the publication of such measures in a special volume would be an act of extravagance which could hardly be justified. The sponsor of the proposal, on the other hand, could not agree that it was extravagant to issue a second supplementary volume to the Yearbook, as it would appear more than five years after the date of publication of the first such volume.

206. In the light of the discussion in the Sub-Commission, Mr. Matsch withdrew the first preambular paragraph of his first draft resolution and added as a second preambular paragraph the words: "Considering that a classification or index would facilitate the use of the document". In this connexion he stated that it was his understanding that the Secretariat, in preparing such an index, would not undertake any measures of analysis. However, references to the five documents mentioned, not reproduced in the compilation for technical reasons, would be included.

207. Mr. Matsch also amended the operative paragraph of the draft resolution to read:

"Requests the Secretary-General to prepare a document listing and classifying special protective measures of an international character for ethnic, religious or linguistic groups, with special reference to document E/CN.4/Sub.2/214, and including a brief bibliography of other relevant United Nations documents."

208. Finally, Mr. Matsch revised the operative paragraph of the second draft resolution, in the light of the discussion in the Sub-Commission, to read as follows:

"Invites Governments, in accordance with Economic and Social Council resolution 303 F (XI), to furnish information with regard to the question of racial, national, religious and linguistic groups, as contained in legislative enactments, constitutions and other authoritative sources, and

"Requests the Secretary-General, in accordance with Economic and Social Council resolution 683 D (XXVI), to publish, similar to the first supplementary volume to the Yearbook on Human Rights, a compilation with regard to the protection of such groups."

209. This revised text, however, was not supported by some members on the ground that it was useless to request Governments to furnish information when no precise criteria had been laid down as to the scope of the data required. Mr. Matsch accordingly withdrew the second draft resolution on the understanding that its further consideration would be deferred to the Sub-Commission's fifteenth session.

210. The first draft resolution, as revised by its author, was adopted unanimously, as follows:

#### RESOLUTION 4 (XIV)

#### PROTECTION OF MINORITIES

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

Noting with appreciation the compilation of the texts of those international instruments and similar measures of an international character which are of contemporary interest and which provide special protective measures for ethnic, religious or linguistic groups (E/CN.4/Sub.2/214),

Considering that a classification or index would facilitate the use of this document,

Requests the Secretary-General to prepare a document listing and classifying special protective measures of an international character for ethnic, religious or linguistic groups, with special reference to document E/CN.4/Sub.2/214, and including a brief bibliography of other relevant United Nations documents.

## IX. FUTURE WORK OF THE SUB-COMMISSION

### Item 9 of the agenda

211. At the 374th and 375th meetings, the Sub-Commission considered item 9 of its agenda "Future work of the Sub-Commission, including the question of undertaking any new studies, the question of the priority to be given any such studies, and the question of control and limitation of documentation". It had before it a memorandum on this subject which had been submitted to it by the Secretary-General at its eleventh session (E/CN.4/Sub.2/195) and a note by the Secretary-General supplementing that memorandum (E/CN.4/Sub.2/217). In the supplementary note the Secretary-General pointed out that:

"If the work of the Sub-Commission is to continue at its normal pace and without undue interruption, a programme of future work must be formulated in time for approval during 1962 by the Commission on Human Rights and the Economic and Social Council.

"The studies called for by the present programme, as endorsed by the Council in resolution 586 C (XX), will have been completed when the Sub-Commission concludes its examination of the final report on discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, at its fifteenth session in January 1963.

"In addition to recommending what further studies should be undertaken, either by the Sub-Commission directly or by a specialized agency or other body, the Sub-Commission may wish to consider what measures should be taken to follow up studies already completed, and what further activities should be envisaged."

212. The Sub-Commission also had before it a statement on its future work submitted by the Consultative Council of Jewish Organizations, Co-ordinating Board of Jewish Organizations, Friends World Committee for Consultation, International Commission of Jurists, International Council of Women, International Federation of University Women, International Federation of Women Lawyers, International League for the Rights of Man, International Union of Christian Democrats, Women's International League for Peace and Freedom, World Jewish Congress, World Union for Progressive Judaism, World Young Women's Christian Association and the International Humanist and Ethical Union (E/CN.4/Sub.2/NGO/23), and a statement submitted by the International League for the Rights of Man (E/CN.4/Sub.2/NGO/26).

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213. Attention was drawn to a memorandum submitted by the International Labour Organisation (ILO) summarizing its recent activities in combating discrimination in respect of employment and occupation (E/CN.4/Sub.2/215) and to a memorandum submitted by UNESCO summarizing its recent activities in the field of race relations and in combating discrimination in education (E/CN.4/Sub.2/216).

214. In the general debate, statements were made by various members of the Sub-Commission, by the representatives of the ILO and UNESCO, and by the representatives of the Co-ordinating Board of Jewish Organizations, the Friends World Committee for Consultation and the International League for the Rights of Man.

215. It was pointed out that it was vitally important for the Sub-Commission to select new subjects for study at this stage, in order to avoid an interruption in its work. At the same time, members found it very difficult to decide what subjects for study should be accorded priority.

216. The Sub-Commission examined the question on the basis of draft resolutions submitted by Mr. Hiscocks (E/CN.4/Sub.2/265) and Mr. Rodriguez Fabregat (E/CN.4/Sub.2/L.266).

217. Mr. Hiscocks proposed that the Sub-Commission should decide to undertake a study on the matter of discrimination against persons born out of wedlock and to appoint a Special Rapporteur to carry out the study. He further proposed that the Sub-Commission should decide to put on its agenda, as a regular item at its future sessions, the following subject: "Review of progress made in the work against those forms of discrimination which have already been the subject of studies by the United Nations and specialized agencies"; and that it should put on the agenda of its fifteenth session as the first main item: "Consideration of the future work of the Sub-Commission".

218. Mr. Rodriguez Fabregat proposed that the Sub-Commission should decide to undertake a study of discrimination against persons born out of wedlock and of the status of mothers, whether married or otherwise, and that it should further decide to appoint a Special Rapporteur to prepare a study of discrimination in respect of the right to education and the right to culture proclaimed in articles 26 and 27 of the Universal Declaration of Human Rights. He explained that his first suggestion repeated the first proposal of Mr. Hiscocks but added to the subject for study the situation of women who are mothers; he was prepared

to withdraw this proposal if Mr. Hiscocks accepted it as an amendment to his own, but otherwise wished to put it forward independently.

219. Various members of the Sub-Commission suggested subjects which in their opinion could usefully be studied from the point of view of discrimination, including studies on the rights set forth in articles 7, 8, 10, 13 (1), 16 (1), 22 and 25 of the Universal Declaration of Human Rights. In addition, it was suggested that the field of activities of the Sub-Commission might be broadened so that it could serve as a general subsidiary organ of the Commission on Human Rights and undertake studies outside the field of prevention of discrimination and protection of minorities. Some members however were of the opinion that it would be preferable to leave the selection of a new subject for study to the reorganized Sub-Commission which would meet in 1963, as the personnel of that group would be different and would probably have different interests.

220. The Chairman pointed out, in his individual capacity, that seven subjects for study had been approved by the Sub-Commission in its resolution on future programme of work adopted at its fifth (1952) session and approved by the Commission on Human Rights at its ninth (1953) session. It behoved the Sub-Commission therefore to consider the two remaining subjects that had not yet been dealt with, namely discrimination in respect of residence and movement and discrimination in respect of the right to choose a spouse and the enjoyment of family rights. Some members of the Sub-Commission, however, did not concur in this statement of position; they stated that the Council had only approved the studies mentioned specifically in resolution 586 C (XX), all but one of which had been completed, and that the resolution adopted by the Commission on Human Rights at its ninth session had not constituted a definite commitment.

221. Some members of the Sub-Commission opposed the proposal of Mr. Hiscocks that a study of discrimination against persons born out of wedlock should be undertaken by the Sub-Commission, pointing out that the Commission on Human Rights had already considered a draft resolution on the position of persons born out of wedlock submitted by the Sub-Commission, and had at its ninth session requested the Economic and Social Council to draw the attention of the Social Commission to the discrimination which may, in existing social conditions, be practised against such persons. The Council had referred the question to the Social

Commission, which had not yet studied it in detail. They pointed out, moreover, that many aspects of the question had already been considered by the Commission on the Status of Women and other United Nations bodies, and that it would be extremely difficult to work out a programme which would avoid overlapping with the work of those bodies. Other members, while not opposing the proposal as such, questioned the need for appointing a Special Rapporteur to carry it out; they felt that the position of persons born out of wedlock could more appropriately be dealt with in an over-all study of the right of everyone to equality before the law, or in a study of the right to an adequate standard of living proclaimed in article 25 of the Universal Declaration of Human Rights. In reply it was pointed out that the question of discrimination against persons born out of wedlock had been raised in the Sub-Commission as early as 1951 and that the Social Commission, to which the matter had been referred, had not yet taken any action on it. The representative of the Secretary-General subsequently stated that it was very unlikely that the Social Commission would deal with the question as such in the foreseeable future, and that he did not think that there was any overlapping between the work programme of the Social Commission and the study proposed by Mr. Hiscocks.

222. Mr. Ketrzynski stressed the importance of a new study, based on articles 22 and 25 of the Universal Declaration of Human Rights, dealing with the right to social security and the right to an adequate standard of living. This viewpoint was also supported by other members of the Sub-Commission. Mr. Ketrzynski; however, did not press for a full debate on this subject, expressing the hope that his proposal would be discussed at the fifteenth session of the Sub-Commission.

223. With reference to the proposal of Mr. Rodriguez Fabregat that a Special Rapporteur should be appointed to prepare a study on discrimination in respect of the right to education and the right to culture proclaimed in articles 26 and 27 of the Declaration, a question was raised as to the difference between the proposed study and the study of discrimination in education already completed by the Sub-Commission. The sponsor of the proposal explained that while the Sub-Commission could not ignore the value of its earlier study, it should examine the whole question more thoroughly and in particular consider the problem of discrimination in respect of access to graduate schools and universities.

224. There was wide support for the proposal of Mr. Hiscocks that the Sub-Commission should regularly review progress made in the work against those forms of discrimination which it had already studied. At the same time it was pointed out by some members that the studies of discrimination in the matter of religious rights and practices and discrimination in the matter of political rights had only recently been completed by the Sub-Commission, that they had not been considered by the Commission on Human Rights, and that it was premature to suggest any revision of these studies or to initiate further studies in the same areas. However, other members pointed out that the gathering of facts for the study on discrimination in the matter of religious rights and practices had ended in 1958. There had been a serious recrudescence of religious persecution since that time, and now a supplementary factual study was necessary, particularly since the subject-matter fell outside the scope of any of the specialized agencies. The view was also expressed that the study should not be limited to progress made, but should include all development, both favourable and unfavourable. This was supported by the statements in paragraphs 4 to 7 inclusive of the memorandum submitted to the Sub-Commission by a number of non-governmental organizations (E/CN.4/Sub.2/NGO/23).

225. Mr. Halpern proposed (E/CN.4/Sub.2/L.267), as an amendment to the draft resolution submitted by Mr. Hiscocks, that operative paragraph 2 of that draft resolution should be replaced by the following:

"2. Decides to undertake a supplementary study reviewing further developments, favourable and unfavourable, in the fields which have already been made the subject of study or inquiry by the Sub-Commission, concentrating on those topics which are not within the competence of any specialized agency of the United Nations, and to appoint a Special Rapporteur to carry out this supplementary study."

226. Mr. Halpern withdrew his amendment to the draft resolution and made an alternative suggestion. Mr. Hiscocks, taking the alternative suggestion into account, revised operative paragraph 2 of his proposal by changing the subject mentioned therein to read: "Review of further developments in the fields which have already been the subject of study or inquiry initiated by the Sub-Commission."

227. Mr. Rodriguez Fabregat did not press his proposal to a vote, stating that he reserved his right to refer to the proposal in due time.

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228. Mr. Hiscocks added to his draft resolution a fourth operative paragraph requesting the Commission on Human Rights to recommend to the Economic and Social Council that it approve the decision of the Sub-Commission to undertake a study of discrimination against persons born out of wedlock and to appoint a special rapporteur to carry out this study.

229. The draft resolution, as revised by its author, was adopted unanimously as follows:

RESOLUTION 5 (XIV)<sup>5/</sup>

FUTURE WORK OF THE SUB-COMMISSION

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

Considering that the study of discrimination in the matter of political rights has now been completed and that the final report of the Special Rapporteur on the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, is likely to be presented to the Sub-Commission for consideration at its fifteenth session,

Recalling document E/CN.4/Sub.2/125 on the position of persons born out of wedlock and resolution D on the same subject passed by the Sub-Commission at its fourth session,

Desiring to keep in touch with measures being taken against discrimination in all its forms and to take, when necessary, further action against those forms of discrimination which have already been the subject of studies,

Believing that the future work of the Sub-Commission deserves more comprehensive and detailed consideration than will be possible during the present session,

1. Decides to undertake a study on the matter of discrimination against persons born out of wedlock and to appoint a Special Rapporteur to carry out this study;

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<sup>5/</sup> The financial implications of this resolution are set out in annex I.

2. Decides also to put on its agenda as a regular item at its future sessions the following subject: "Review of further developments in the fields which have already been the subject of study or inquiry initiated by the Sub-Commission";

3. Resolves to put on the agenda of its fifteenth session as the first main item: "Consideration of the future work of the Sub-Commission";

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

The Economic and Social Council,

Approves the decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake a study on discrimination against persons born out of wedlock and to appoint a Special Rapporteur to carry out this study.

230. At the 376th meeting, on 2 February 1962, the Sub-Commission appointed Mr. Voitto Saario as its Special Rapporteur to carry out the study on discrimination against persons born out of wedlock.

231. At the 377th meeting the Sub-Commission decided to request the Economic and Social Council, through the Commission on Human Rights, to arrange for its fifteenth session to be of four weeks' duration, in order to enable it to consider fully the items on the agenda of that session, including the final report on the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country; a preliminary report on the study of discrimination against persons born out of wedlock, a consideration of the future work of the Sub-Commission, and a review of further developments in the fields which have already been the subject of study or inquiry initiated by the Sub-Commission.

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

Item 10 of the agenda

232. The Sub-Commission considered the draft report of its fourteenth session (E/CN.4/Sub.2/L.260 and Add.1-3) at its 376th and 377th meetings, on 2 February 1962, and adopted this report, as revised in the light of the discussion, unanimously.

ANNEX I

STATEMENT OF FINANCIAL IMPLICATIONS OF RESOLUTIONS 1, 2 AND 5 (XIV)

A. Resolution 1 B (XIV) - Study of discrimination in the matter of political rights

1. The Economic and Social Council is called upon to request the Secretary-General:

(a) to print and give wide circulation to the study on discrimination in the matter of political rights prepared by Mr. Hernán Santa Cruz, the Special Rapporteur, and

(b) to arrange for the preparation by the Special Rapporteur, or under his supervision, of a popular version of the study, so that this version may be published and used widely throughout the world, particularly in universities, schools and other educational institutions, to combat such discrimination.

2. It is estimated that the preparation of a popular version of the study by the Special Rapporteur, or under his supervision, would entail fees to a suitably qualified writer in the order of \$1,000. The publication of this popular version in three languages is estimated to cost \$1,500 based on a text of fifty-six printed pages. The printing of the report itself in three languages is estimated to cost \$2,500, based on a publication of 108 printed pages.

3. The 1962 budget makes provision, under the heading of printing of studies and reports, for the study. However, since funds are not available for a popular version, it cannot be published until 1963. Although arrangements could be made for hiring the writer towards the end of 1962, the bulk of the writer's fees and all of the printing cost would be dependent upon the revision of the initial 1963 budget estimates that will be submitted to the seventeenth session of the General Assembly in 1962.

B. Resolution 2 (XIV) - Attendance of the Special Rapporteur at the eighteenth session of the Commission on Human Rights

The Secretary-General is requested to make arrangements for the Special Rapporteur for the study of discrimination in the matter of political rights to attend the eighteenth session of the Commission on Human Rights. A review of the

funds available for Special Rapporteurs of the Sub-Commission indicates that the related costs can be financed within the 1962 appropriations.

C. Resolution 5 (XIV) - Future work of the Sub-Commission

1. The Economic and Social Council is requested to approve the decision of the Sub-Commission to undertake a study on discrimination against persons born out of wedlock and the appointment of a Special Rapporteur. The work of Mr. V.V. Saario (Finland) in carrying out the study, will require a round trip to Headquarters with a three-week stay in 1962 to prepare a preliminary study and report; and a further trip with a four-week stay to prepare the final report in 1964. No fee will be payable to the Special Rapporteur, whose travel and subsistence costs will amount to a total of \$7,200 in the years 1962-1964.

2. In his annual budget estimates the Secretary-General normally includes provision for two Special Rapporteurs and on the assumption that the General Assembly would approve such provision in 1963 and 1964, the costs arising in these years can be met.

3. In so far as 1962 is concerned, the Secretary-General expects that he will be able to absorb the additional costs of Mr. Saario's travel and subsistence from within the total appropriations available.

ANNEX II

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

1. Documents issued in the general series:

- |                   |  |
|-------------------|--|
| E/CN.4/Sub.2/195  | - Future work of the Sub-Commission<br>(Note by the Secretary-General)   |
| E/CN.4/Sub.2/212  | - Provisional Agenda of the Fourteenth<br>Session of the Sub-Commission on<br>Prevention of Discrimination and<br>Protection of Minorities   |
| E/CN.4/Sub.2/213  | - Study of Discrimination in the Matter<br>of Political Rights<br>(Report submitted by the Special<br>Rapporteur, Mr. Hernán Santa Cruz)   |
| E/CN.4/Sub.2/214  | - Protection of Minorities<br>(Compilation of the texts of those<br>international instruments and similar<br>measures of an international<br>character which are of contemporary<br>interest and which provide special<br>protective measures for ethnic,<br>religious or linguistic groups,<br>prepared by the Secretariat) |
| E/CN.4/Sub.2/215  | - Discrimination in Respect of Employment<br>and Occupation<br>(Memorandum by the International<br>Labour Organisation)  |
| E/CN.4/Sub.2/216  | - Race Relations and Discrimination in<br>Education<br>(Memorandum by UNESCO)  |
| E/CN.4/Sub.2/217  | - Future Work of the Sub-Commission<br>(Note by the Secretary-General)   |
| E/CN.4/Sub.2/CR.6 | - Non-Confidential List of Communications<br>Concerning Discrimination and<br>Minorities   |

2. Documents issued in the limited series:

E/CN.4/Sub.2/L.234

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country (Draft Report submitted by the Special Rapporteur, Mr. José D. Ingles)

E/CN.4/Sub.2/L.235

- Study of Discrimination in the Matter of Political Rights (Mr. Hiscocks: proposed amendments to principles contained in paragraph 370 of document E/CN.4/Sub.2/213)

E/CN.4/Sub.2/L.236

- Study of Discrimination in the Matter of Political Rights (Mrs. Mironova: amendment to paragraph 370 of document E/CN.4/Sub.2/213)

E/CN.4/Sub.2/L.237

- Study of Discrimination in the Matter of Political Rights (Mr. Wojciech Ketrzynski: amendment (E/CN.4/Sub.2/213))

E/CN.4/Sub.2/L.238

- Study of Discrimination in the Matter of Political Rights (Mr. Halpern: amendments to draft principles I and II on freedom and non-discrimination in the matter of political rights (E/CN.4/Sub.2/213))

E/CN.4/Sub.2/L.239

- Study of Discrimination in the Matter of Political Rights (Mr. Bouquin: amendment to principles on freedom and non-discrimination in the matter of political rights (E/CN.4/Sub.2/213))

E/CN.4/Sub.2/L.240

- Study of Discrimination in the Matter of Political Rights (Mr. Ammoun: amendment to principle IX (E/CN.4/Sub.2/213))

- E/CN.4/Sub.2/L.241
- Study of Discrimination in the Matter of Political Rights  
(Mr. Hiscocks: Sub-amendments to the amendments contained in document E/CN.4/Sub.2/L.236)
- E/CN.4/Sub.2/L.242
- Study of Discrimination in the Matter of Political Rights  
(Mr. Mudawi: amendments to principles contained in document E/CN.4/Sub.2/213)
- E/CN.4/Sub.2/L.243
- Study of Discrimination in the Matter of Political Rights  
(Mr. Halpern: amendments to draft Principles on Freedom and Non-Discrimination in the Matter of Political Rights (E/CN.4/Sub.2/213))
- E/CN.4/Sub.2/L.244
- Study of Discrimination in the Matter of Political Rights  
(Principles I and II, as adopted)
- E/CN.4/Sub.2/L.245
- Study of Discrimination in the Matter of Political Rights  
(Mr. Bouquin: amendment to principle III, paragraph (c) (E/CN.4/Sub.2/213))
- E/CN.4/Sub.2/L.246
- Study of Discrimination in the Matter of Political Rights  
(Mr. Halpern: sub-amendments to amendments proposed by Mr. Mudawi (E/CN.4/Sub.2/L.242))
- E/CN.4/Sub.2/L.247
- Study of Discrimination in the Matter of Political Rights  
(Mr. Halpern: amendments to draft principles of freedom and non-discrimination in the matter of political rights (E/CN.4/Sub.2/213))
- E/CN.4/Sub.2/L.248
- Study of Discrimination in the Matter of Political Rights  
(Mr. Halpern: sub-amendments to amendment submitted by Mrs. Mironova (E/CN.4/Sub.2/L.256))



- E/CN.4/Sub.2/L.249
- Study of Discrimination in the Matter of Political Rights  
(Mr. Halpern: New principle to be added to the draft principles on freedom and non-discrimination in the matter of political rights  
(E/CN.4/Sub.2/L.213))
- E/CN.4/Sub.2/L.250
- Study of Discrimination in the Matter of Political Rights  
(Messrs. Ammoun, Bouquin, Hiscocks and Mudawi: draft resolution)
- E/ N.4/Sub.2/L.250/Add.1
- Study of Discrimination in the Matter of Political Rights  
(Statement of Financial Implications)
- E/CN.4/Sub.2/L.251
- Study of Discrimination in the Matter of Political Rights  
(Mr. Bouquin: amendment to principle VI, paragraph (c)  
(E/CN.4/Sub.2/213))
- E/CN.4/Sub.2/L.252
- Study of Discrimination in the Matter of Political Rights  
(Principles III, IV and V as adopted)
- E/CN.4/Sub.2/L.253
- Study of Discrimination in the Matter of Political Rights  
(Mr. Ketrzynski: sub-amendments to Mr. Halpern's amendments  
(E/CN.4/Sub.2/L.243))
- E/CN.4/Sub.2/L.254
- Study of Discrimination in the Matter of Political Rights  
(Mr. Santa Cruz: revised text for Principle VI (e))
- E/CN.4/Sub.2/L.255
- Study of Discrimination in the Matter of Political Rights  
(Principles VI and VII as adopted)
- E/CN.4/Sub.2/L.256
- Study of Discrimination in the Matter of Political Rights  
(Mr. Santa Cruz: revised text for Principle IX)
- E/CN.4/Sub.2/L.257
- Study of Discrimination in the Matter of Political Rights  
(Mr. Mudawi: sub-amendments to the amendments of Mrs. Mironova  
(E/CN.4/Sub.2/L.236))

- E/CN.4/Sub.2/L.258
- Study of Discrimination in the Matter of Political Rights  
(Messrs. Halpern, Hiscocks and Matsch: draft resolution on the study of discrimination in the matter of political rights)
- E/CN.4/Sub.2/L.259
- Study of Discrimination in the Matter of Political Rights  
(Principles VIII, IX and X as adopted)
- E/CN.4/Sub.2/L.260  
and Adds. 1-3
- Draft Report of the Fourteenth Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights
- E/CN.4/Sub.2/L.261
- Study of Discrimination in the Matter of Political Rights  
(Messrs. Mudawi and Saario: proposal for new principles)
- E/CN.4/Sub.2/L.262
- Study of Discrimination in the Matter of Political Rights  
(Additional principles, as adopted)
- E/CN.4/Sub.2/L.263
- Study of Discrimination in Respect of the Right of Everyone to Leave any Country, Including his Own, and to Return to his Country  
(Messrs. Matsch and Saario: draft resolution)
- E/CN.4/Sub.2/L.264
- Protection of Minorities  
(Mr. Matsch: draft resolutions on the protection of minorities)
- E/CN.4/Sub.2/L.265
- Future Work of the Sub-Commission  
(Mr. Hiscocks: draft resolution on future work of the Sub-Commission)
- E/CN.4/Sub.2/L.266
- Future Work of the Sub-Commission  
(Mr. Rodriguez Fabregat: draft resolution on future work of the Sub-Commission)
- E/CN.4/Sub.2/L.267
- Future Work of the Sub-Commission  
(Mr. Halpern: amendment to draft resolution proposed by Mr. Hiscocks (E/CN.4/Sub.2/L.265))

3. Documents issued in the NGO series:

E/CN.4/Sub.2/NGO/22

- Study of Discrimination in the Matter of Political Rights  
(Statement by the International Humanist and Ethical Union)

E/CN.4/Sub.2/NGO/23

- Future Work of the Sub-Commission  
(Statement submitted by the Consultative Council of Jewish Organizations, Co-ordinating Board of Jewish Organizations, Friends World Committee for Consultation, International Commission of Jurists, International Council of Women, International Federation of University Women, International Federation of Women Lawyers, International League for the Rights of Man, International Union of Christian Democrats, Women's International League for Peace and Freedom, World Jewish Congress, World Union for Progressive Judaism, World Young Women's Christian Association and the International Humanist and Ethical Union, non-governmental organizations in consultative status, Category B and Register)

E/CN.4/Sub.2/NGO/24

- Study of Discrimination in the Matter of Political Rights  
(Statement submitted by the World Federation of Trade Unions, a non-governmental organization in consultative status, Category A)

E/CN.4/Sub.2/NGO/25

- Prevention of Discrimination and Protection of Minorities  
(Statement submitted by the International Humanist and Ethical Union, a non-governmental organization in consultative status, Register)

E/CN.4/Sub.2/NGO/26

- Future Work of the Sub-Commission  
(Statement submitted by the International League for the Rights of Man, a non-governmental organization in consultative status, Category B)