

**E/4184**  
**E/CN.4/916**



**COMMISSION ON HUMAN RIGHTS**  
**REPORT ON THE TWENTY-SECOND SESSION**

**8 March – 5 April 1966**

**ECONOMIC AND SOCIAL COUNCIL**  
**OFFICIAL RECORDS : FORTY-FIRST SESSION**  
**SUPPLEMENT No. 8**

**UNITED NATIONS**



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**New York, 1966**

NOTE

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

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## I. ORGANIZATION OF THE SESSION

### A. Opening and duration of the session

1. The Commission on Human Rights held its twenty-second session at the Headquarters of the United Nations, New York, from 8 March to 5 April 1966.
2. The session was opened by Mr. Salvador P. Lopez (the Philippines), Chairman of the Commission at its twenty-first session (851st meeting).

### B. Attendance

3. Attendance at the session was as follows:

#### MEMBERS

Argentina: Mr. Carlos Sanchez Viamonte, Mr. Juan Carlos M. Beltramino;\*

Austria: Mr. Felix Ermacora, Mr. Georg Hennig;\*

Chile: Mr. Juan Castillo Velasco,<sup>1/</sup> Mr. Narciso Irureta,\* Miss Elsa Wiegold;\*

Costa Rica: Mr. Fernando Volio Jiménez, Mr. José L. Redondo Gómez,<sup>2/</sup>  
Mr. Arnólido Ortiz López,\* Mrs. Emilia C. de Barish;\*

Dahomey: Mr. Maxime-Léopold Zollner, Mrs. Huguette Achard;\*

France: Mr. René Cassin,<sup>1/</sup> Mr. P. Juvigny,\* Mr. Yves Boulet,\*  
Mr. Henry Beffeyte;\*

India: Mr. Krishna C. Pant, Mr. B.C. Mishra,\* Mr. S.K. Singh,\*  
Mr. K.P. Saksena,\*\* Dr. I.A. Sajjad;\*\*

Iraq: Mrs. Badia Afnan, Mr. Abdul Hussein Alisa;\*

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\* Alternate.

\*\* Adviser.

1/ Did not attend the session.

2/ In accordance with rule 13, paragraph 2, of the rules of procedure of the functional commissions of the Economic and Social Council, Mr. José L. Redondo Gómez represented Costa Rica in the Commission during the session.

Israel: Mr. Haim H. Cohen, Mr. Joel Barromi,\* Mr. M. Rosenne;\*

Italy: Mr. Giuseppe Sperduti, Mr. Carlo Maria Rossi-Arnaud,\*  
Mr. M. Pisani Massamormile,\* Mr. Viovanni Scolamiero;\*

Jamaica: Mr. E.R. Richardson, Miss Angela King;\*

Netherlands: Mr. J.A. Mommersteeg, Mr. Hein Th. Schaapveld,\*\*  
Mr. Th.C. van Boven,\*\* Mr. J.F. Boddens Hosang;\*\*

New Zealand: Mr. R.Q. Quentin-Baxter, Mr. C.D. Beeby;\*\*

Philippines: Mr. Salvador P. Lopez, Mr. Privado G. Jiménez,\*  
Mr. Ernesto L. Calingasan,\*\* Mr. Virgilio C. Nañagas,\*\* Mr. Antonio J. Uy;\*\*

Poland: Mr. Zbigniew Resich, Mr. Slawomir Dabrowa;\*

Senegal: Mr. Ibrahima Boye, Mr. Charles Delgado,\* Mr. Abdou Ciss;\*

Sweden: Mr. Love Kellberg, Mr. Per-Olof V. Forshell;\*

Ukrainian Soviet Socialist Republic: Mr. P.E. Nedbailo, Mr. Y.K. Kachurénko,\*  
Mr. V.P. Cherniavsky;\*\*

Union of Soviet Socialist Republics: Mr. P.D. Morozov, Mr. E.N. Nasinovsky,\*  
Mr. A.S. Shuvalov,\*\* Mr. L.I. Verenikhin;\*\*

United Kingdom of Great Britain and Northern Ireland: Sir Samuel Hoare,  
Mr. John G. Taylor,\* Mr. Arthur John Coles;\*

United States of America: Mr. Morris B. Abram, Mr. A. Edward Elmendorf,\*\*  
Mrs. Rachel C. Nason.\*\*

#### OBSERVERS

Belgium: Mr. Erik Bal;

Byelorussian Soviet Socialist Republic: Mr. G. Chernushchenko,  
Mr. O.A. Tikhonov;

Burundi: Mr. M. André Nyankiye;

Czechoslovakia: Mr. Luděk Handl;

Ghana: Mrs. Clariette Wilmot;

Kuwait: Mr. Soubhi J. Khanachet;

Lebanon: Miss Souad Tabbara;

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\* Alternate.

\*\* Adviser.

Nepal: Mr. Devendra Raj Upadhya;  
Nigeria: Mr. A.A. Mohammed;  
Pakistan: Mr. Rafee-uddin Ahmed, Mr. Naseem Mirza;  
Peru: Mr. Jorge Pablo Fernandini;  
Romania: Mr. Romulus Neagu;  
Saudi Arabia: Mr. Jamil M. Barody;  
Turkey: Mr. Ayhan Kamel, Mrs. Filiz Dinçmen;  
United Arab Republic: Mr. Salah Ibrahim;  
United Republic of Tanzania: Mr. W.E. Waldron-Ramsey;  
Yugoslavia: Mr. Zoran Lazarević.

COMMISSION ON THE STATUS OF WOMEN

Miss Helena Benitez

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

Mr. Francisco Urrutia;

Miss Ann Petluck.

SPECIALIZED AGENCIES

International Labour Organisation (ILO): Mr. P. Blamont, Mr. F. Abdel-Rahman,  
Mrs. M.E. Tanco de Lopez;

Food and Agriculture Organization of the United Nations (FAO):  
Mr. Joseph L. Orr, Mr. Morris A. Greene;

United Nations Educational, Scientific and Cultural Organization (UNESCO):  
Mr. Hana Saba, Mr. Asdrúbal Salsamendi;

World Health Organization (WHO): Dr. Rodolphe L. Coigney, Dr. L.F. Thomen.

ORGANIZATION OF AMERICAN STATES

Mr. Eurico Penteado

NON-GOVERNMENTAL ORGANIZATIONS

Category A

International Confederation of Free Trade Unions: Mr. Paul Barton,  
Mr. Kwaku Baah, Mr. Heinz Umrath;

International Federation of Christian Trade Unions: Mr. Johannes Pietryga,  
Mr. Gérard Thormann;

International Organization of Employers: Mr. James Tanham;

World Federation of United Nations Associations: Mr. Hilary Barrett-Brown;

World Veterans Federation: Miss Brenda Brimmer.

Category B

Agudas Israél World Organization: Dr. I. Lewin;

Amnesty International: Mr. Allan Kalker;

Catholic International Education Office: Father Philippe de la Chapelle,  
Father Edward B. Rooney, Paul A. Fitz Gerald, S.J.;

Commission of the Churches on International Affairs:  
Rev. A. Dominique Micheli, Dr. O. Frederick Nolde;

Consultative Council of Jewish Organizations: Mr. Moses Moskowitz;

Coordinating Board of Jewish Organizations: Mr. William Korey;

Friends World Committee for Consultation: Mrs. William R. Huntington,  
Mrs. Nancy Smedley;

International Alliance of Women - Equal Rights, Equal Responsibilities:  
Miss Frieda S. Miller, Mrs. Frances A. Doyle;

International Commission of Jurists: Mr. Sean MacBride,  
Mr. Charles G. Raphael;

International Conference of Catholic Charities: Dr. Louis Longarzo;

International Council of Jewish Women, The: Mrs. I. Levy;

International Council of Women: Mrs. Eunice Carter;

International Council of Jewish Social Welfare Services: Dr. Eugene Hevesi;

International Federation for the Rights of Man, The: Mrs. Roberta Cohen;

International Federation of University Women: Miss Dorothy V. Weston,  
Miss Elmira R. Lucke;

International Federation of Women Lawyers: Mrs. Rose Korn Hirschman,  
Mrs. Frieda L. Lorber, Mrs. Anna Kumin, Miss M. Eugenia Charles;

International League for the Rights of Man, The: Dr. Jan Papenek,  
Mr. Sydney Liskofsky, Mrs. Dora D. Roitburd;

International Movement for Fraternal Union Among Races and Peoples:  
Miss Elizabeth Reid;

International Society for Criminology: Dr. Albert G. Hess,  
Prof. G.O.W. Mueller, Prof. Thorsten Sellin;

International Union for Child Welfare: Miss Frieda S. Miller;

International Union of Family Organizations: Mrs. Peter Lawton Collins,  
Mrs. Raymond A. Werbe;

Pan-Pacific and Southeast Asia Women's Association, The: Mrs. Charles Horwitz;

Women's International League for Peace and Freedom: Mrs. Elsie Picon,  
Mrs. Eugenie Intemann;

World Alliance of Young Men's Christian Associations: Mr. Dalton F. McClelland;

World Federation of Catholic Young Women and Girls: Dr. Rosemary Higgins Cass,  
Miss Jasperdean Kobes;

World Jewish Congress: Dr. Maurice L. Perlzweig;

World Union of Catholic Women's Organizations: Miss Catherine Schaefer;

World Young Women's Christian Association: Mrs. James G. Forsyth,  
Miss Elsie D. Harper.

#### Register

International Humanist and Ethical Union: Mrs. Walter M. Weis;

St. Joan's International Alliance: Mrs. Frances L. McGillicuddy;

World Association of Girl Guides and Girl Scouts: Mrs. E.F. Johnson,  
Mrs. J.J. Carney.

4. Mr. John P. Humphrey, Director of the Division of Human Rights, and Mr. Edward Lawson, Deputy Director, represented the Secretary-General. Mr. Pedro L. Yap, Chief of Section, Division of Human Rights, and Mr. Maxime E. Tardu acted as Secretaries of the Commission.

#### C. Election of Officers

5. At the 851st meeting, on 8 March 1966, the representative of Poland nominated Mr. P.E. Nedbailo (Ukrainian SSR) as Chairman. This nomination was seconded by the

representatives of India and the USSR. At the same meeting, the representative of Argentina nominated Mr. Fernando Volio Jiménez (Costa Rica) as Chairman. This nomination was seconded by the representative of Israel. After some discussion (851st and 852nd meetings), the representative of Poland withdrew the nomination of Mr. Nedbailo (Ukrainian SSR), on the understanding that, as stated by the acting Chairman, the majority of the members of the Commission were prepared to lend their support to the election of Mr. Nedbailo at the twenty-third session. A number of members, however, said that they could not commit their Governments in this matter. There being no other nomination, Mr. Fernando Volio Jiménez (Costa Rica) was unanimously elected Chairman of the Commission.

6. At its 852nd meeting, the Commission unanimously elected the following other officers:

Mr. Krishna C. Pant (India), First Vice-Chairman;  
Mr. Ibrahima Boye (Senegal), Second Vice-Chairman;  
Mr. R.Q. Quentin-Baxter (New Zealand), Rapporteur.

7. At its 892nd meeting on 5 April 1966, in view of the absence of both the Chairman and the Vice-Chairmen, the Commission, on the proposal of the Rapporteur, unanimously elected Mr. Salvador P. Lopez (Philippines) as acting Chairman for the remainder of the session.

#### D. Agenda

##### Adoption of the agenda

8. The Commission discussed this item at its 852nd, 859th and 860th meetings on 8 and 14 March 1966. It had before it the provisional agenda drawn up by the Secretary-General (E/CN.4/894). The Commission also had a note by the Secretary-General (E/CN.4/894/Add.1) adding the following supplementary items to the provisional agenda:

- (a) The question of violation of human rights in Burundi;
- (b) The question of the violation of human rights and fundamental freedoms including policies of racial discrimination and segregation, and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories.

9. Item (a) had been included in the provisional agenda at the request of the International Labour Organisation (ILO) (E/CN.4/909 and Add.1).

10. Additional item (b) had been included in the provisional agenda in accordance with resolution 1102 (XL) adopted by the Economic and Social Council on 4 March 1966 (E/CN.4/911). In that resolution, the Council had asked the Commission at its twenty-second session to consider the question as a matter of importance and urgency.

11. The attention of the Commission was also drawn by the Secretary-General (E/CN.4/910) to resolution 1101 (XL), adopted by the Economic and Social Council on 2 March 1966, in which the Council, inter alia, referred to the Commission on Human

Rights for study and possible utilization, as appropriate, the report by the Secretary-General (E/4143) 3/ and the reports by the Director-General of the ILO (E/4144) 3/ and by the Director-General of UNESCO (E/4133) 3/ on organizational and procedural arrangements for the implementation of conventions and recommendations in the field of human rights.

12. At its 852nd meeting, the Commission adopted, without objection, the twenty items of its provisional agenda (E/CN.4/894). The Commission also decided to consider at its 859th meeting the question of including in its agenda the additional items listed in document E/CN.4/894/Add.1.

13. At the 859th meeting of the Commission, the Observer from Burundi stated that his Government was opposed to the inclusion in the agenda of the item proposed by the ILO on "the question of violation of human rights in Burundi". He stressed that, in the opinion of his Government, the inclusion of this item would constitute interference in matters of domestic jurisdiction, in violation of the Charter of the United Nations. If, in spite of its constitutional limitations, the Commission on Human Rights decided to consider the matter, this would create a very dangerous precedent: every Member State could conceivably be subjected to such interference. Moreover, in the present case, the only result of the Commission's action would be to encourage the subversive activities of certain groups against the unity and welfare of the people of Burundi. The ILO, under its Constitution, was also debarred from interfering in matters of domestic jurisdiction. The unusual action taken by that organization was likely to raise some doubts as to its impartiality: one might wonder, for instance, why it had seen fit to criticize Burundi so sharply while it had not condemned South Africa before the latter country had withdrawn from membership. The Government of Burundi considered that the action taken by the ILO had been the result of a misunderstanding, since the acts complained against consisted only of penal sanctions taken, according to law, against certain persons guilty of serious crimes. Nevertheless, the Observer from Burundi stated, his Government was willing to hold thorough discussions with the ILO on the matter, provided that the sovereignty of Burundi was fully respected and that there be no interference in the internal affairs of his country.

14. The representative of the ILO reserved the position of his organization with regard to the allegations made by the Observer of Burundi. Without entering into the merits of the case, he recalled that the decision of the Governing Body of the ILO had been unanimous, without reservations or abstentions. In conformity with the ILO Constitution, the competent organs of the ILO had received serious allegations of infringements of trade union rights in Burundi, involving the execution of trade-unionists without trial, and, in spite of repeated requests for information, no reply had been received from the Government concerned. The statement made by the Observer from Burundi conveyed for the first time certain information on the matter. The representative of the ILO asked the Observer from Burundi to confirm that the statement, according to which the Government of Burundi was willing to hold thorough discussions with the ILO, meant that the Government was now prepared to disclose the facts of the matter, and to answer the ILO request for an account of the procedure, including the judgements which it was now contended had been passed and had led to the executions. The Observer of Burundi stated that

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3/ See Official Records of the Economic and Social Council, Fortieth Session, Annexes, agenda item 9.

this understanding was correct, and that his Government was prepared to send a mission to the ILO to establish the facts and hold discussions with that agency. The ILO representative, in the light of this last statement, said that he was authorized by the ILO not to press for the inclusion of the proposed item in the agenda of the twenty-second session of the Commission on Human Rights, provided that the matter would be fully reported to the Economic and Social Council for its information and that of the General Assembly.

15. The Commission took note of the statements made by the Observer from Burundi and the representative of the ILO, and, in the light of those statements, decided not to include the proposed item in its agenda, but to include the above-mentioned statements in the present report.

16. The Commission decided, without objection, to include in its agenda the new item concerning "the violation of human rights and fundamental freedoms including policies of racial discrimination and segregation, and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories" (E/CN.4/894/Add.1, para. 1 (b)). This item was placed on the agenda as item 20, and the original item 20 was renumbered as item 21.

17. The Commission also decided, without objection, to take note of resolution 1101 (XL) of the Economic and Social Council, which drew attention to the organizational and procedural arrangements for the implementation of conventions and recommendations in the field of human rights (E/CN.4/894/Add.1, para. 2).

18. The agenda of the twenty-second session of the Commission on Human Rights, as adopted at the 852nd and 859th meetings, read as follows:

1. Election of officers
2. Adoption of the agenda
3. Draft declaration and draft international convention on the elimination of all forms of religious intolerance
4. Question of the punishment of war criminals and of persons who have committed crimes against humanity
5. International Year for Human Rights
6. Question concerning the implementation of human rights through a United Nations High Commissioner for Human Rights or some other appropriate international machinery
7. Periodic reports on human rights
8. Advisory services in the field of human rights
9. Prevention of discrimination and protection of minorities
  - (a) Draft principles on freedom and non-discrimination in the matter of religious rights and practices
  - (b) Draft principles on freedom and non-discrimination in the matter of political rights

- (c) Study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country
  - (d) Membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
  - (e) Name and terms of reference of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
  - (f) Report of the seventeenth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
  - (g) Report of the eighteenth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
10. Measures for the speedy implementation of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination
  11. Freedom of information
    - (a) Report on developments in the field of freedom of information since 1954
    - (b) Annual reports on freedom of information for 1960-1961, 1961-1962, 1962-1963 and 1963-1964
  12. Study of the right of everyone to be free from arbitrary arrest, detention and exile, and draft principles on freedom from arbitrary arrest and detention
  13. Study of the right of arrested persons to communicate with those whom it is necessary for them to consult in order to ensure their defence or to protect their essential interests
  14. Capital punishment
  15. The question of an international code of police ethics
  16. Further promotion and encouragement of respect for human rights and fundamental freedoms
  17. Study of special problems relating to human rights in developing countries
  18. Communications concerning human rights
  19. Review of the human rights programme; control and limitation of documentation
  20. Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation, and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories

21. Report of the twenty-second session of the Commission to the Economic and Social Council

Order of consideration of agenda items and organization of work of the Commission

19. At the 852nd meeting, the Commission decided to start at its next meeting with the consideration of the "Draft international convention on the elimination of all forms of religious intolerance" (item 3) and to consider at its 859th meeting the order of discussion of other items of the agenda.

20. After some discussion (859th and 860th meetings), the Commission, at its 860th meeting, decided by 17 votes to none, with 4 abstentions, to consider certain items of its agenda in the following order and in accordance with the following time-table:

1. Draft international convention on the elimination of all forms of religious intolerance (item 3) - 9 meetings;
2. Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation, and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories (item 20) - 4 meetings;
3. Question of the punishment of war criminals and of persons who have committed crimes against humanity (item 4) - 2 meetings;
4. Question concerning the implementation of human rights through a United Nations High Commissioner for Human Rights or some other appropriate international machinery (item 6) - 4 meetings;
5. Measures for the speedy implementation of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination (item 10) - 1 meeting;
6. International Year for Human Rights (item 5) - 1 meeting;
7. Advisory services in the field of human rights (item 8) - 1 meeting;
8. Periodic reports on human rights (item 7) - 2 meetings;
9. Reports of the seventeenth and eighteenth sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (items 9 f and g) - 4 meetings;
10. Membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (item 9 d) and name and terms of reference of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (item 9 e) - 1 meeting;
11. Capital punishment (item 14) - 1 meeting;
12. Further promotion and encouragement of respect for human rights and fundamental freedoms (item 16)
13. Report of the twenty-second session of the Commission to the Economic and Social Council (item 21)

E. Meetings, resolutions and documentation

21. The Commission held forty-two plenary meetings. The views expressed at those meetings are summarized in the records of the 851st to 892nd meetings (E/CN.4/SR.851-892).
22. At its 879th, 886th, 887th and 888th meetings, the Commission heard statements by Miss Helena Benitez, Chairman and representative of the Commission on the Status of Women.
23. The Commission granted hearings at its 859th, 862nd, 873rd, 875th, 887th and 892nd meetings to the Observers from Burundi, Saudi Arabia, the Byelorussian SSR, Czechoslovakia, Romania and Kuwait.
24. At its 892nd meeting, the Commission heard statements by Mr. Constantin A. Stavropoulos, Under-Secretary, the Legal Counsel of the United Nations.
25. In accordance with rule 75 of the rules of procedure of the functional commissions of the Economic and Social Council, the Commission also granted hearings (856th, 858th, 863rd, 869th, 876th and 882nd meetings) to representatives of the following non-governmental organizations:
- Category A: International Confederation of Free Trade Unions: (Mr. Paul Barton); International Federation of Christian Trade Unions: (Mr. Johannes Pietryga);
- Category B: Agudas Israël World Organization (Dr. I. Lewin); Catholic International Education Office (Father Philippe de la Chapelle); Consultative Council of Jewish Organizations (Mr. Moses Moskowitz); International Commission of Jurists (Mr. Sean MacBride); International Movement for Fraternal Union Among Races and Peoples (Father Philippe de la Chapelle); International Union for Child Welfare (Miss Frieda S. Miller); World Jewish Congress (Dr. Maurice L. Perlzweig); World Union of Catholic Women's Organizations (Father Philippe de la Chapelle).
26. The resolutions (1-17 (XXII)) and decisions of the Commission appear below under the appropriate headings. The draft resolutions submitted for consideration by the Economic and Social Council are set out in chapter XVIII of the present report.
27. Annex I to this report reproduces the report (E/CN.4/L.850) of the Chairman of the Commission on Human Rights, the Chairman of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa and the Permanent Representative of Brazil to the United Nations on the organization of the International Seminar on Apartheid (see below, chap. VIII, res. 10 (XXII)). Statements of financial implications made by the Secretary-General in relation to certain proposals are reproduced in annex II. The documents before the Commission at its twenty-second session are listed in annex III.

II. DRAFT DECLARATION AND DRAFT INTERNATIONAL CONVENTION ON  
THE ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE

28. The Commission had been requested by the General Assembly, in resolution 1781 (XVII), to prepare: (a) a draft declaration on the elimination of all forms of religious intolerance, to be submitted to the Assembly at its eighteenth session; and (b) a draft international convention on the elimination of all forms of religious intolerance to be submitted to the Assembly, if possible at its nineteenth session, and, in any case, not later than at its twentieth session.

29. At its twentieth session, the Commission began work on a draft declaration, but, owing to the lack of time, it was unable to adopt such a draft, and decided to transmit the relevant documents to the Economic and Social Council for its consideration. In resolution 1015 C (XXXVII), the Council suggested to the General Assembly that it take a decision on the further course to be followed on the matter.

30. At its twenty-first session, the Commission undertook the preparation of a draft convention on the elimination of all forms of religious intolerance. It adopted the preamble and four articles, but was unable for lack of time to complete its work on the draft convention, and decided (resolution 1 (XXI)) to give absolute priority at the twenty-second session to completing the preparation of such a draft. The Economic and Social Council, in resolution 1074 B (XXXIX), drew the attention of the Assembly to that decision of the Commission.

31. By its resolution 2020 (XX), the General Assembly requested the Economic and Social Council to invite the Commission to make every effort to complete, at its twenty-second session, the preparation of the draft declaration and of the draft international convention on the elimination of all forms of religious intolerance, in order that they might be submitted to the Assembly at its twenty-first session. The Economic and Social Council, at its resumed thirty-ninth session, transmitted this resolution to the Commission on Human Rights.

32. At its 852nd meeting, on 8 March 1966, the Commission decided to continue with the preparation of the draft international convention on the elimination of all forms of religious intolerance which it had begun at the twenty-first session.

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION  
OF ALL FORMS OF RELIGIOUS INTOLERANCE

33. The Commission devoted its 853rd to 869th meetings to the consideration of the draft convention. It had before it a note of the Secretary-General (E/CN.4/900) containing, inter alia, the preliminary draft convention prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (annex II A), a preliminary draft of proposed articles on additional measures of implementation transmitted to the Commission by the Sub-Commission (annex II B) and the text of the preamble and of the articles adopted by the Commission at its twenty-first session (annex II C).

34. The Commission also had before it the following documents: the debates at the seventeenth session of the General Assembly, <sup>4/</sup> the comments and suggestions from the Governments of Chad, Finland, Ireland, Nigeria and the United Kingdom of Great Britain and Northern Ireland (E/CN.4/Sub.2/243), the comments submitted by UNESCO (E/CN.4/852), and the ILO (E/CN.4/852/Add.1), and statements submitted by the following non-governmental organizations: the International Council of Jewish Women, the Coordinating Board of Jewish Organizations and the Commission of the Churches on International Affairs (E/CN.4/NGO/132, 134, 135).

35. At its 856th, 858th and 863rd meetings, the Commission heard statements by representatives of the following non-governmental organizations: the International Union for Child Welfare, Agudas Israël World Organization and the Catholic International Education Office. (The representative of the last-named organization also spoke on behalf of the International Movement for Fraternal Union Among Races and Peoples and the World Union of Catholic Women's Organizations.)

36. At its 862nd meeting, the Commission heard a statement by the Observer from Saudi Arabia.

37. The Commission considered first article IV of the preliminary draft convention submitted by the Sub-Commission. It was able to adopt the text of articles IV, V, VI, VII and X. It agreed to defer consideration of articles VIII and IX until its twenty-third session (see para. 155 below). At its 869th meeting on 21 March 1966, it decided to continue with the preparation of the draft convention at its next session (see para. 162 below).

38. The following paragraphs set out the proposals and amendments, the voting thereon, and the texts adopted with a brief indication of the main issues discussed. These paragraphs do not contain all the opinions expressed by the various members of the Commission; a full account of these opinions will be found in the records of the discussions (853rd to 869th meetings).

#### ARTICLE IV

39. The text of article IV submitted by the Sub-Commission (E/CN.4/900, annex II A) read as follows:

"1. The States Parties undertake to respect the prior right of parents and, when applicable, legal guardians, to choose the religion or belief of their children.

"2. In the case of a child who has been deprived of its parents, their expressed or presumed wishes shall be duly taken into account.

"3. In the case of a child who has reached a sufficient degree of understanding, his wishes shall be taken into account.

"4. In both these cases the best interests of the child, as determined by the competent authorities, shall be the guiding principle."

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<sup>4/</sup> Official Records of the General Assembly, Seventeenth Session, Third Committee, 1165th to 1173rd meetings, and *ibid.*, Plenary Meetings, 1187th meeting.

40. The Commission considered article IV at its 853rd-858th meetings, held from 9 to 11 March 1966, and at its 860th meeting held on 14 March.

Amendments submitted

41. Amendments were submitted by Israel (E/CN.4/L.778 and E/CN.4/L.778/Rev.1); Poland (E/CN.4/L.779); Austria (E/CN.4/L.780); the Philippines (E/CN.4/L.782); Chile, Costa Rica and the Philippines (E/CN.4/L.782/Rev.1) and Poland (E/CN.4/L.785). Sub-amendments were submitted by Austria (E/CN.4/L.781 and 783), the Ukrainian SSR (E/CN.4/L.784), Poland (E/CN.4/L.785) and Dahomey (E/CN.4/L.786).

42. The amendment of Israel (E/CN.4/L.778) was to replace article IV by the following text:

"1. The States Parties undertake to respect the prior right of parents and, where applicable, legal guardians, to determine the religion or belief in which their children shall be brought up.

"2. Nothing in this article shall derogate from the guiding principle that, in all cases relating to children, the best interests of the children, as determined by a competent judicial authority, shall always be the paramount consideration.

"3. Where a child has been deprived of both his parents, it shall be presumed to be in his best interests to grow up in the religion or belief practised by his parents.

"4. In determining the best interests of a child who has reached a sufficient degree of understanding, his wishes shall always be taken into account."

A revised text of the amendment (E/CN.4/L.778/Rev.1) was subsequently proposed which would have replaced paragraphs 1-4 by the following text:

"1. The States Parties undertake to respect the liberty of parents, and, where applicable, legal guardians, to bring up their children in conformity with the parents' religion or belief, and the right of children deprived of their parents to be brought up in conformity with their parents' religion or belief."

Both these were subsequently withdrawn, with the exception of paragraph 3 of the original amendment of Israel (E/CN.4/L.778) which was reintroduced as an amendment to the text submitted by the informal working party (E/CN.4/L.787). At the 857th meeting, this amendment was orally revised and the paragraph in question replaced by the text of paragraph 2 of the Sub-Commission's draft (see para. 39 above).

43. The amendment of Poland (E/CN.4/L.779) was to insert in paragraph 4 of article IV of the Sub-Commission's text after the words "In both these cases" the following: ", and also in the case of absence of agreement between the parents,".

44. The Austrian amendment (E/CN.4/L.780) to article IV of the Sub-Commission's text was to replace paragraph 3 of article IV by the following text:

"3. A child who has reached a sufficient degree of understanding must be free to choose his religion or belief and his religious education."

This text, which was orally modified at the 855th meeting by the representative of Austria, by the deletion of the words "and his religious education", was also moved as a sub-amendment to the Israel (E/CN.4/L.778) and Philippine (E/CN.4/L.782) amendments.

45. The Philippine amendment (E/CN.4/L.782) proposed to replace article IV of the Sub-Commission's text by the following text:

"1. The States Parties undertake to respect the right of parents and, when applicable, legal guardians, to bring up their children in accordance with a religion or belief.

"2. The exercise of this right shall impose an obligation on parents and legal guardians to inculcate in their children respect for the religion or belief of others, and to protect them from any precepts or practices based on religious intolerance or discrimination on the ground of religion or belief."

46. The representative of the Philippines submitted a revised text of his amendment co-sponsored by Chile and Costa Rica (E/CN.4/L.782/Rev.1) as follows:

"1. The States Parties undertake to respect the right of parents and where applicable, legal guardians, to determine the religion or belief in which their children shall be brought up.

"2. The States Parties undertake to adopt effective measures with a view to ensuring that parents or legal guardians, in exercising this right, shall inculcate in their children tolerance for the religion or belief of others, and protect them from any precepts or practices based on religious intolerance or discrimination on the ground of religion or belief."

47. The Polish sub-amendment (E/CN.4/L.785) proposed to replace paragraph 1 of article IV of the Sub-Commission's text and of the Philippine amendment (E/CN.4/L.782) by the following:

"1. If a child has not reached a sufficient degree of understanding, the choice of his religion or belief rests with his parents or, when applicable, legal guardians, excluding cases when the competent authorities consider that their choice would be incompatible with the interests of a child."

48. The sub-amendment of Dahomey (E/CN.4/L.786) to the three-Power amendment (E/CN.4/L.782/Rev.1) would have replaced paragraph 1 by the following:

"1. The States Parties undertake to respect the right of parents and, when applicable, legal guardians to bring up in the religion or belief of their choice their children or wards who have not yet reached a sufficient degree of understanding."

49. The sub-amendment of the Ukrainian SSR (E/CN.4/L.784) to the three-Power amendment proposed to add as a third paragraph the following:

"3. In all cases, the guiding principle in determining the religion or belief in which a child should be brought up shall be full regard for the interests of the child.

"Being brought up in a given religion or belief must not be injurious to the health of the child and must not do him physical or moral harm."

50. On behalf of an informal working party which was formed at the request of the Chairman of the Commission, the representative of the Philippines introduced the following proposed text for article IV (E/CN.4/L.787):

"1. The States Parties undertake to respect the right of parents and, where applicable, legal guardians, to bring up in the religion or belief of their choice their children or wards who are as yet incapable of exercising the freedom of choice guaranteed under article III - 1 a.

"2. The exercise of this right carries with it the duty of parents and legal guardians to inculcate in their children or wards tolerance for the religion or belief of others, and to protect them from any precepts or practices based on religious intolerance or discrimination on the ground of religion or belief.

"3. In applying the provisions of this article the best interest of the child shall be the guiding principle in accordance with the provisions of the present Convention.7"

The representative of the Philippines stated that paragraph 3 of the above text was not accepted by all members of the informal working party. The text of that paragraph was orally revised during the discussion (857th meeting) upon the suggestion of the Philippines to read as follows:

"In applying the provisions of this article the best interests of the child shall be the guiding principle for those who are responsible for the upbringing and education of the child."

#### Issues discussed

51. Certain representatives doubted whether article IV was necessary and felt that it should be deleted. The article seemed to run counter to the very object of the convention which was to promote the elimination of religious intolerance. The article might also conflict with Principle 10 of the Declaration on the Rights of the Child, adopted by the General Assembly on 20 November 1959 (resolution 1386 (XIV)), which enunciated, inter alia, the right of the child to protection against practices which might foster religious discrimination. Moreover, as the article dealt with matters within the sphere of domestic law, it was doubtful whether a satisfactory text could be found which would cover the divergent legal systems.

52. Many representatives, however, felt that the article should be retained, although its formulation needed to be improved. The right of parents to decide

upon the religion or belief in which their children were to be brought up was an essential element of the right to freedom of thought, conscience and religion, and consequently an article to that effect should be included in the convention. It was suggested that the right of parents to determine the religious upbringing of their children was a fundamental right, and that in the formulation of the article care should be taken to avoid impairment of the right. It was pointed out that the Sub-Commission's text, which spoke of the "prior" right of parents, seemed to imply that other authorities had "secondary" rights in the matter; this might impair the parents' right to determine the religion or belief in which their children should be brought up.

53. In the view of some representatives, there was a need in the article for a greater emphasis on the right of the child than on that of the parents. A child who had reached a sufficient degree of understanding should be free to choose his religion or belief. A provision to this effect was proposed by Austria (para. 44 above). Other representatives, however, thought that the article dealt only with children of tender age who were not yet capable of determining for themselves the question of their religion or belief. The right of a child who was sufficiently mature to be able to make a decision on the matter himself was covered by the provisions of article III.

54. There was also some discussion as to whether reference should be made to the problem of children who had been deprived of both parents. The Sub-Commission's text would have had the expressed or presumed wishes of the parents duly taken into account in such cases. It was pointed out that the wishes of parents in the matter were rarely expressed and it was difficult to ascertain their presumed wishes. The representative of Israel accordingly proposed an amendment (see para. 42 above) which would have established the presumption that it was in the best interests of a child deprived of both parents to grow up in the religion or belief practised by them. Objections were, however, raised to such a provision, as it was too rigid and restrictive and might be in conflict with the legislation of some countries, particularly legislation on adoption. The Sub-Commission's text was to be preferred since it was in accord with a principle accepted in most States, namely that, in the case of a child deprived of its parents, both their religion and background had to be taken into account in its upbringing. Other speakers thought that this provision might conflict with the interests of the child and did not give sufficient emphasis to the part that might be played, in determining those interests, by the competent authorities.

55. Several representatives shared the view that article IV ought not merely to safeguard the rights of parents to determine the religious upbringing of their children as they saw fit, but should also stress the duty of parents to bring up their children in a manner consistent with the aims of the convention. Parents should not be allowed to inculcate in their children the ideas and practices of religious intolerance. In this connexion many members welcomed the Philippine amendment (see para. 45 above) which, in their view, presented a more balanced text than that prepared by the Sub-Commission.

56. Some representatives maintained that the right of parents in the matter of the upbringing of their children was not unlimited. The State had a role to play in the choice of a religion or belief for a child as yet incapable of making the choice himself. The authorities should intervene when the exercise of parental rights was detrimental to the interests of the child. Both the sub-amendment of the Ukrainian SSR (see para. 49 above) and that of Poland (see para. 47 above)

sought to establish such a limitation on the right of parents. Other representatives, however, pointed out that it would be dangerous to allow the State to interfere with the right of parents to choose the religion or belief of their children. If it was in the interest of the child that his parents should be prevented from imposing upon him religious practices which might do him harm, the provisions of article XII were ample.

57. There was general agreement as regards paragraphs 1 and 2 of the text prepared by the informal working party (see para. 50 above) which took into account various amendments and suggestions made during the debate. However, several members expressed misgivings regarding paragraph 3 of that text which they thought might provide grounds for limiting the right of parents to determine the religion or belief in which their children would be brought up. Some representatives stated that they could support the text only if they were convinced that it could not be used by an authority outside the family to contravene the parents' wishes with respect to the upbringing of their children. A compromise text was adopted (see para. 50 above), which stipulated that the "best interests of the child" would be the guiding principle "for those who are responsible for the upbringing and education of the child". Some representatives said that they interpreted paragraph 3 of the text prepared by the working party as in no way restricting the rights recognized in paragraph 1. Others felt that paragraph 3 should prevail in all cases of conflict.

#### Adoption of Article IV

58. At its 858th meeting, the Commission voted on the text of article IV and the amendments thereto.

59. The revised Israel amendment (see para. 42 above) to the text of the working party (E/CN.4/L.787) was adopted by 9 votes to 7, with 4 abstentions. The adopted text became paragraph 3 of article IV as a whole.

60. Paragraph 3 of the text of the working party (E/CN.4/L.787), as revised orally (see para. 50 above), was adopted by 17 votes to none, with 4 abstentions. This text became paragraph 4 of article IV as a whole.

61. Paragraph 1 of the working party's text was adopted by 19 votes to none, with 2 abstentions.

62. Paragraph 2 of the informal working party's text was adopted by 19 votes to none, with 2 abstentions.

63. Article IV as a whole, as amended, was adopted by 16 votes to none, with 5 abstentions.

64. The text of article IV as adopted reads as follows:

1. The States parties undertake to respect the right of parents and, where applicable, legal guardians, to bring up in the religion or belief of their choice their children or wards who are as yet incapable of exercising the freedom of choice guaranteed under article III - 1 a.

2. The exercise of this right carries with it the duty of parents and legal guardians to inculcate in their children or wards tolerance for the religion or belief of others, and to protect them from any precepts or practices based on religious intolerance or discrimination on the ground of religion or belief.

3. In the case of a child who has been deprived of its parents, their expressed or presumed wishes shall be duly taken into account.

4. In applying the provisions of this article, the best interests of the child shall be the guiding principle for those who are responsible for the upbringing and education of the child.

#### PROPOSAL FOR A NEW ARTICLE

65. At the Commission's 860th meeting, the representative of the USSR introduced a proposal first made by the USSR at the Commission's twenty-first session (see E/4024, para. 329) for the inclusion of a new article between articles IV and V of the draft convention. The text (E/CN.4/L.792) was as follows:

"States Parties shall do everything within their power to encourage all persons and organizations holding religious or other convictions to unite their efforts and activities for the strengthening of universal peace, friendship and co-operation among peoples and States."

66. In support of this proposal, the representative of the USSR stressed the importance of having States Parties encourage persons and organizations holding religious and other convictions to work together for universal peace, friendship and co-operation among people and States. The proposed article would further these aims and make a significant contribution to the effectiveness of the convention.

67. A number of representatives, while approving many of the elements in the text submitted, expressed concern at the possible duplication between the proposed new article and article V. The latter article, which was of wide scope, contained most of the ideas approved in the article submitted by the USSR; to the extent that it did not, appropriate elements in the text of the USSR might be incorporated in it.

68. The representative of the USSR agreed that unnecessary duplication should be avoided. At the 861st meeting, he withdrew his proposal and moved the substance of it as an amendment to article V (see para. 78 below).

#### ARTICLE V

69. The text of article V submitted by the Sub-Commission read as follows:

"States Parties undertake to adopt immediate and effective measures by methods appropriate to national conditions and practice, particularly in the fields of teaching, education and information, with a view to promoting understanding, tolerance and friendship among nations and religious groups, as well as to propagating the purposes and principles of the Charter of the United Nations and the Universal Declaration of

Human Rights, and to combat prejudices which lead to religious intolerance between persons, groups and institutions and to discrimination on the ground of religion or belief."

70. The Commission considered this article at its 360th-364th meetings held from 14 to 16 March 1966.

#### Amendments submitted

71. Amendments to the Sub-Commission's text were submitted by the Philippines (E/CN.4/L.788), Israel (E/CN.4/L.791), the Ukrainian SSR (E/CN.4/L.793), Austria, the Netherlands and the Philippines (E/CN.4/L.794/Rev.1), the USSR (E/CN.4/L.795), Austria (E/CN.4/L.798 and E/CN.4/L.798/Rev.2) and India (E/CN.4/L.799). Sub-amendments were submitted by the Netherlands (E/CN.4/L.794), the USSR (E/CN.4/L.796), Chile (E/CN.4/L.797 and E/CN.4/L.797/Rev.1) and Dahomey (E/CN.4/L.801).

72. The Philippine amendment (E/CN.4/L.788) was to delete the words: "by methods appropriate to national conditions and practice" and to insert the word "culture" after the word "education" and the words: "and this Convention" after the words "Universal Declaration of Human Rights". This amendment was later withdrawn in favour of an amendment sponsored by Austria, the Netherlands and the Philippines (E/CN.4/L.794/Rev.1, see para. 81 below).

73. The Netherlands submitted a sub-amendment (E/CN.4/L.794) to the amendment of the Philippines (E/CN.4/L.788) which would have had the text of article V read as follows:

"States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to religious intolerance between persons, groups and institutions and to discrimination on the ground of religion or belief, and to promoting understanding, tolerance and friendship among nations and religious groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights and this Convention."

74. The Chilean sub-amendment (E/CN.4/L.797) to the sub-amendment of the Netherlands (E/CN.4/L.794) and to the sub-amendment of the USSR (E/CN.4/L.796, see para. 77 below) was to insert after the word "prejudices" the following clause: "such as anti-Semitism or other similar cases of discrimination against specific religions or beliefs". Later the representative of Chile revised the text of his sub-amendment (E/CN.4/L.797/Rev.1) to read as follows: "as, for example, anti-Semitism and other manifestations".

75. The representative of Dahomey submitted a sub-amendment (E/CN.4/L.801) to the Netherlands sub-amendment (E/CN.4/L.794), the Philippine amendment (E/CN.4/L.788) and the revised amendment of Austria (E/CN.4/L.798/Rev.1), to replace the text by the following:

"States Parties undertake to adopt early and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to religious intolerance between persons, groups and institutions and to discrimination on the ground

of religion or belief, and to promoting, in the interest of universal peace, understanding, tolerance, co-operation and friendship among nations and groups, whatever their religions or beliefs, in accordance with the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights and this Convention."

After the introduction of the joint amendment of Austria, Netherlands and the Philippines (E/CN.4/L.794/Rev.1, see para. 81 below), the representative of Dahomey said that his text should be regarded as constituting two separate sub-amendments to that joint amendment. The first sub-amendment would replace the word "immediate" by the word "early" and the second sub-amendment would replace the words "as well as to propagating" by the words "in accordance with".

76. Israel submitted an amendment (E/CN.4/L.791) to insert after the words "and to combat prejudices", the words "such as anti-Semitism". This amendment was subsequently withdrawn in favour of the sub-amendment submitted by Chile (see para. 74, above).

77. The USSR submitted a sub-amendment (E/CN.4/L.796) to the Israel amendment which would insert after the words, "and to combat", the words "those prejudices in respect of the Christian, Moslem, Buddhist, Hindu, Judaic and other religions". When the Israel amendment was withdrawn, the representative of the USSR maintained his sub-amendment as an amendment to the Chilean sub-amendment (E/CN.4/L.797/Rev.1).

78. After withdrawing a proposal for a new article (see para. 68 above), the USSR moved the substance of that proposal as an amendment (E/CN.4/L.795) to article V of the draft prepared by the Sub-Commission. The amendment would have replaced the words "promoting understanding, tolerance and friendship among nations and religious groups" by the words "uniting the efforts and activities of all persons and organizations irrespective of their religions or beliefs, in the interests of universal peace, friendship and co-operation among peoples and States, and the promotion of understanding and tolerance among different religions or beliefs". This amendment was subsequently withdrawn.

79. The Ukrainian SSR submitted an amendment (E/CN.4/L.793) to delete the words "and religious" before the word "groups", and insert after the latter the words "and individuals, irrespective of their religion or belief".

80. The revised Austrian amendment (E/CN.4/L.798/Rev.1) would have replaced the text of the article by the following:

"States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education and information, with a view to combating prejudices which lead to religious intolerance, stimulating the efforts and activities of all organizations and persons, irrespective of their religion or beliefs, in the interest of universal peace, friendship and co-operation among peoples and States, and promoting understanding and tolerance among persons and groups, religions and beliefs."

The representative of Austria withdrew his revised amendment in favour of the joint amendment by Austria, the Netherlands and the Philippines.

81. The joint amendment of Austria, the Netherlands and the Philippines (E/CN.4/L.794/Rev.1), as revised upon the proposal of the representative of Italy (864th meeting), would have replaced the text of the article by the following:

"States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to religious intolerance and to discrimination on the ground of religion or belief, and to promoting and encouraging in the interest of universal peace, understanding, tolerance, co-operation and friendship among nations, groups and individuals, irrespective of differences in religion or belief, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights and this Convention."

82. The amendment of India (E/CN.4/L.799) was to delete the words "immediate and" at the beginning of the article.

#### Issues discussed

83. There was general agreement on the aims of the article.

84. The representative of the Philippines, in introducing his amendment (see para. 72 above), pointed out that in view of the similarity between article V of the draft of the Sub-Commission and article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination which had been adopted by the General Assembly in resolution 2106 (XX), the wording of the two texts should be as close as possible. For that reason, he proposed the insertion of the words "culture" and "and this Convention". The deletion of the words "by methods appropriate to national conditions and practice" was justified on the ground that such an expression, which did not appear in article 7 of the Convention on the Elimination of All Forms of Racial Discrimination, might be used by States as an excuse for taking inadequate measures to comply with the purposes of the convention.

85. The representative of the Netherlands supported the Philippine amendment to the extent that it made the structure of article V consistent with that of article 7 of the earlier Convention. He suggested, however, that the primary emphasis should be placed on the elimination of religious intolerance; for this reason, he proposed, consistent with the wording of the earlier Convention, to reverse the order of the ideas expressed in article V. Many representatives supported the text proposed by the Netherlands (see para. 73 above). Some others took the view that, in formulating an article, the use of words and expressions taken from texts of other conventions was not always desirable. It was stated that the words "friendship" and "nations" had no place in article V and that the reference to the United Nations Charter was not necessary.

86. The amendment by India (E/CN.4/L.799) to delete the word "immediate" was supported by some representatives, whilst others saw no juridical reason for such a deletion. Those supporting it expressed the opinion that article V enjoined States to take action to combat prejudices in the field of teaching and education, which was not a rapid process, and the word "immediate" would be meaningless. Moreover, the fact of its retention would give greater importance to one article of the Convention than to others. Those opposing the deletion believed that

there should be no distinction in this respect between the two conventions and that in both the obligation of States Parties was to initiate action that would take a long time.

87. In introducing his amendment (see para. 79 above), the representative of the Ukrainian SSR observed that the Sub-Commission's text contained a reference to tolerance and friendship among nations and "religious groups" and that its reference to "belief" was made only at the end of article V. There should be tolerance and friendship among all peoples, groups and individuals, whether they were religious or not. His amendment therefore aimed to ensure a balance between different notions of article V and to bring that article into line with article I.

88. In introducing his amendment (see para. 78 above) the representative of the USSR referred to the reasons which had prompted his original proposal for a new article (see para. 65 above). Some representatives criticized that amendment on the ground that, while it contained an unexceptionable principle, it was irrelevant to the purpose of the convention. Moreover, the text as proposed was suitable for a declaration but not for a convention. It was also observed that the USSR amendment had the defect of authorizing State action in a sphere where no undue outside interference should be permitted. Special encouragement by States for peace and friendship should not apply only to "persons and organizations holding religious or other convictions" but to all people.

89. Some other representatives thought that certain elements of the USSR amendment had already been covered by terms mentioned in article V; they felt that such duplication should be avoided. However, they recognized that article V of the draft convention did not refer to the strengthening of universal peace and co-operation among peoples and States; they favoured therefore the idea of incorporating appropriate elements of the USSR text in the joint amendment (E/CN.4/L.794/Rev.1) to article V provided that no obligation in the matter would result for the States Parties. The representative of the USSR agreed to that suggestion, stating that since the aim of his amendment was not to refer to any obligation for the States to unite religions, he was prepared to accept any of the previously proposed words to replace the term "uniting".

90. Considerable discussion took place concerning the amendment of Israel (E/CN.4/L.791), to insert in article V an express reference to "anti-Semitism". It was recalled that during the discussion in the General Assembly of the draft international convention on the elimination of all forms of racial discrimination, an express reference to such phenomena as anti-Semitism was proposed. Although the General Assembly had decided not to mention anti-Semitism in that Convention, the present convention was one in which it should be mentioned, as anti-Semitism was clearly a phenomenon of religious intolerance and discrimination. It should be explicitly mentioned in the convention for it was the most typical, the most striking, the most universal and it had the longest history. Under the nazi régime it had motivated the most ruthless religious persecutions of recent times. It was also pointed out that it was not the first time that the Commission on Human Rights had been directly concerned with anti-Semitism, for resolution 6 (XVI) was adopted after the anti-Semitic flare-up in 1959-1960 which, it was stated, had also been the genesis of the convention now being prepared.

91. Some speakers drew the distinction that apartheid, unlike anti-Semitism, was enforced by government decree. Other speakers, however, felt that, as anti-Semitism was the prototype of religious intolerance, it should occupy the same place in

relation to this draft convention which apartheid occupied in relation to the Convention on the Elimination of All Forms of Racial Discrimination. It was pointed out that the nazi persecution of the Jews had also been enforced by government action.

92. Several representatives stated that their Governments had condemned anti-Semitism together with all forms of religious intolerance and racial discrimination, and would therefore support any proposal which aimed to secure the total eradication of such intolerance and discrimination. Some, even though not generally in favour of specific references, felt that the mention of anti-Semitism in this case would be justified, for the Commission would have shown that it remembered the tragedies of the past years. They preferred the Chilean sub-amendment (E/CN.4/L.797) which referred to prejudices "such as anti-Semitism or other similar cases of discrimination against specific religions or beliefs".

93. Some representatives, on the other hand, objected to a reference to anti-Semitism since they saw no reason why the Commission should single it out among many forms of religious intolerance, particularly in a convention which was intended to be of universal scope. It was pointed out that anti-Semitism was in no way universal and that it was a specifically European phenomenon. It was also stressed that at the last session of the General Assembly a large majority had opposed the use of any words ending in "ism" in connexion with the preparation of the Convention on the Elimination of All Forms of Racial Discrimination.

94. Some representatives, while considering anti-Semitism a particularly repulsive phenomenon which should be eradicated, were opposed to any special reference to anti-Semitism in the article as it was out of place in a convention concerning religious intolerance. Article I of that Convention, the text of which had been adopted at the previous session, specified that the expression "religions or beliefs" included "theistic, non-theistic and atheistic beliefs". But anti-Semitism, as a legal system of intolerance and persecution under the nazi régime, went beyond that definition for it stood as a phenomenon of racial discrimination. On the other hand, religious intolerance itself went beyond the scope of anti-Semitism. They stressed that at the international level, anti-Semitism had already been condemned by implication in the Convention on the Elimination of All Forms of Racial Discrimination. That was clear from the definition of the term "racial discrimination" given in article 1 of that Convention and from the obligations assumed by the States under article 2. For these reasons they were opposed to the mention of "anti-Semitism" but would accept, if any specific reference were to be made, the insertion in the Convention of an article referring to the religion of the Jewish people provided that other religions which were much more widespread were also mentioned. A sub-amendment (E/CN.4/L.796, see para. 77 above) reflecting such a view was submitted by the USSR delegation. The majority in the Commission, however, supported the Chilean sub-amendment which was later revised to read: "as, for example, anti-Semitism and other manifestations" (E/CN.4/L.797/Rev.1). This revised version was eventually adopted (see para. 97 below).

#### Adoption of article V

95. At its 864th meeting, the Commission agreed to the suggestion made by the Chairman that the various texts before the Commission should be voted upon in the following order: the Soviet sub-amendment (E/CN.4/L.796), the Chilean sub-amendment (E/CN.4/L.797/Rev.1), the second Dahomean sub-amendment (E/CN.4/L.801), the Indian amendment (E/CN.4/L.799), the first Dahomean sub-amendment (E/CN.4/L.801), the three-Power text (E/CN.4/L.794/Rev.1) and, finally, the Ukrainian amendment (E/CN.4/L.793), if necessary.

96. The Soviet sub-amendment (E/CN.4/L.796) was rejected by 12 votes to 3, with 6 abstentions.
97. The Chilean sub-amendment (E/CN.4/L.797/Rev.1) was adopted by 12 votes to 4, with 5 abstentions.
98. The second Dahomean sub-amendment (E/CN.4/L.801) was adopted by 12 votes to 3, with 6 abstentions.
99. The Indian amendment (E/CN.4/L.799) was rejected by 8 votes to 7, with 5 abstentions.
100. The first Dahomean sub-amendment (E/CN.4/L.801) was rejected by 8 votes to 6, with 7 abstentions.
101. The three-Power text (E/CN.4/L.794/Rev.1) as a whole, as amended, was adopted by 15 votes to none, with 6 abstentions.
102. The text of article V as adopted read as follows:

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices as, for example, anti-Semitism and other manifestations which lead to religious intolerance and to discrimination on the ground of religion or belief, and to promoting and encouraging, in the interest of universal peace, understanding, tolerance, co-operation and friendship among nations, groups and individuals, irrespective of differences in religion or belief, in accordance with the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights and this Convention.

#### ARTICLE VI

103. The text of article VI submitted by the Sub-Commission reads as follows:

"1. States Parties shall take effective measures to prevent and eliminate discrimination based on religion or belief, including the enactment or abrogation of legislation where necessary to prohibit such discrimination by any person, group or organization.

"2. States Parties undertake in particular that they shall not pursue any policy or enact or retain rules and regulations restricting or impeding freedom of religion and belief or the free and open exercise thereof; nor discriminate against any person, group or organization on account of membership in, practice of, or adherence to any religion or belief."

104. The Commission considered article VI at its 865th and 868th meetings held on 17 and 18 March 1966.

Amendments submitted

105. Amendments were submitted by the United Kingdom (E/CN.4/L.790), Austria (E/CN.4/L.803), Senegal (E/CN.4/L.805), Costa Rica (E/CN.4/L.806), Argentina and Senegal (E/CN.4/L.807), Dahomey (E/CN.4/L.808), and the USSR (E/CN.4/L.809).

106. The United Kingdom amendment (E/CN.4/L.790) proposed to add the words "In compliance with the fundamental obligations laid down in Article II" at the beginning of paragraph 1 and to substitute for the words "based on" the words "on the ground of". It also proposed to reword the opening phrase of paragraph 2 as follows: "In particular, States Parties undertake not to pursue" and to replace the phrase "rules and regulations" by "rules or regulations".

107. The Austrian amendment (E/CN.4/L.803) proposed (a) to insert in paragraph 1, after the word "legislation", the expression "and administrative practices"; (b) to delete in paragraph 2 the word "and" after "rules", insert a comma after the word "rules" and also insert after the word "regulations" the words "and administrative practices"; and (c) in paragraph 2 to replace the phrase "of membership in, practice of, or adherence to any religion or belief" by the phrase "of membership and non-membership in, practice and non-practice of, or adherence or non-adherence to any religion or belief". At the 867th meeting the representative of Austria orally revised his amendment, substituting the word "measures" for the word "practices" in (a) and (b) above.

108. The amendment of Senegal (E/CN.4/L.805) proposed to replace the word "legislation" after the words "enactment or abrogation of" in paragraph 1 by the words "laws or regulations" and, in paragraph 2, to replace the words "rules and regulations" by the words "laws or regulations". This amendment was withdrawn at the 866th meeting in favour of the amendment jointly submitted by Argentina and Senegal (see para. 110 below).

109. The Costa Rican amendment (E/CN.4/L.806) proposed (a) to replace in paragraph 1 the word "legislation" by the words "legal and administrative rules" and (b) in paragraph 2 to replace the words "rules and regulations" by the words "legal or administrative rules". At the 866th meeting the amendment was withdrawn.

110. The amendment of Argentina and Senegal (E/CN.4/L.807) was to replace, in paragraph 1, the word "legislation" by the words "legislative or regulatory provisions" and, in paragraph 2, the words "rules and regulations" by the words "legislative or regulatory provisions". At the 867th meeting it was decided that the words "legislativas o reglamentarias" in the Spanish original of this amendment should be translated in the English text by the words "laws or regulations".

111. The Dahomey amendment (E/CN.4/L.808) would replace the words "predront des mesures" in paragraph 1 of the French text, by the words "s'engagent à prendre des mesures".

112. At the 866th meeting, the USSR representative orally suggested combining paragraphs 1 and 2 into one article and he also proposed (1) the insertion of the word "conscience" before the word "religion" in the first part of paragraph 2; (2) to replace the words "States Parties undertake in particular" at the beginning of the same paragraph by the words "in particular they undertake" and (3) to delete the last phrase of article VI beginning with the words "nor discriminate". On the

basis of these oral amendments, the USSR representative subsequently submitted an amendment (E/CN.4/L.809) proposing the replacement of article VI submitted by the Sub-Commission by the following text:

"States Parties shall take the necessary measures to prevent and eliminate discrimination based on religion or belief, including the enactment or abrogation of legislation where necessary to prohibit such discrimination by any person, group or organization; in particular, they undertake that they shall not pursue any policy and shall not enact or retain any laws or regulations restricting or impeding freedom of conscience, religion or belief or the free and open exercise thereof."

#### Issues discussed

113. Many representatives expressed the wish to retain, as far as possible, the substance of the text submitted by the Sub-Commission. They held the view that article VI was of vital importance and that it would be unwise to attempt to depart too far from the Sub-Commission's text. The main issues discussed in connexion with article VI concerned its wording and construction.

114. One delegation expressed the view that the position of article VI would have to be changed. It might be inserted at the end of article II, which would then have three paragraphs, or between articles II and III. The latter listed the rights and freedoms which the States Parties undertook to ensure and it would be logical to have it preceded by article VI, which was of a more general nature; article III would then be a natural development of the former article VI.

115. The representative of the United Kingdom, in introducing his amendments (see para. 106 above) stated that the insertion at the beginning of paragraph 1 of the words "In compliance with the fundamental obligations laid down in article II" was necessary in order to establish between article VI and article II, which was the basic article of the convention, the link which existed between articles 5 and 2 of the Convention on the Elimination of All Forms of Racial Discrimination. The two conventions would thus be brought into harmony.

116. On the other hand, some representatives suggested that it was not necessary for the Commission to establish links between the various texts which it had to prepare or to attempt to bring them into line with each other. In the view of one representative, article VI of the present draft did not correspond to article 5 but to article 6 of the Convention on the Elimination of All Forms of Racial Discrimination; hence the analogy drawn by the United Kingdom representative was not justified. Moreover, as articles VII and VIII of the draft convention could equally well be linked to article II, there was no reason to refer specifically to article II in article VI and not in those other articles where such a reference would be equally justified.

117. The references to "legislation" and "rules and regulations" in paragraphs 1 and 2 respectively of the Sub-Commission's text gave rise to a good deal of discussion. There was a consensus in the Commission that the term "legislation" was too narrow and the phrase "rules and regulations" unsatisfactory. These difficulties, some of which were recognized to be linguistic, were settled to the satisfaction of most representatives by the amendment of Argentina and Senegal which, as revised (see para. 110 above), replaced both references by the phrase "laws or

regulations". Some representatives, however, favoured the reference to "administrative measures", included in the revised text of the Austrian amendment, on the ground that the sphere of administration, as well as that of laws and regulations, was not free from discriminatory practices. Others criticized this amendment. It was suggested that it was unnecessary to mention "administrative measures" since they were governed by legislation and repealed when legislation was repealed; and, in addition, a special reference to "administrative measures" might lead to the overburdening of the text with references to other measures. One representative observed that administrative measures could not be "enacted".

118. Certain delegations expressed the fear that article VI might permit States to interfere in the citizen's private life. Some problems were raised by the wording of the final part of paragraph 1; while States must certainly prohibit any discriminatory activity by a public authority, it was questionable whether that prohibition should also extend to individuals in their private life. It was observed that it was very difficult, if not impossible, to draw what amounted to a demarcation line between public and private life. On the other hand, it was pointed out that if States Parties were determined to undertake measures with a view to creating a climate of tolerance, they would have to be prepared also to accept all logical consequences of their decision. Moreover, while State intervention could hardly be justified in certain extreme cases, such as, for example, in order to compel professional associations of persons of a certain religion to admit persons of another religion, it would be unthinkable in many cases that the State should not intervene to end discriminatory practices. It was also noted that it was the responsibility of each country to interpret the provisions of the article reasonably and that it would be dangerous for the Commission to make the provisions of article VI subject to restrictions which would, moreover, be inconsistent with the provisions adopted earlier.

#### Adoption of article VI

119. At the 867th meeting, on 18 March 1966, the Commission voted on article VI and the amendments thereto.

120. USSR amendment (E/CN.4/L.809) to insert the word "conscience" before the word "religion" in the first part of paragraph 2 of article VI was adopted by 20 votes to none, with 1 abstention.

121. USSR amendment (E/CN.4/L.809) to replace the words "States Parties undertake in particular", at the beginning of paragraph 2 of article VI, by the words "in particular they undertake" and to link paragraphs 1 and 2 of article VI was rejected by 10 votes to 3, with 8 abstentions.

122. USSR amendment (E/CN.4/L.809) to delete the last phrase of article VI beginning with the words "nor discriminate" was rejected by 16 votes to 4, with 1 abstention.

123. The third Austrian amendment (E/CN.4/L.803) was adopted by 15 votes to 3, with 3 abstentions.

124. The United Kingdom amendment (E/CN.4/L.790) to add at the beginning of paragraph 1 of article VI the words "In compliance with the fundamental obligations laid down in article II" was adopted by 14 votes to 3, with 4 abstentions.

125. The amendment by Argentina and Senegal (E/CN.4/L.807) to paragraph 1 of article VI was adopted by 20 votes to none.
126. The amendment by Argentina and Senegal (E/CN.4/L.807) to paragraph 2 of article VI was adopted by 18 votes to none, with 2 abstentions.
127. The first Austrian amendment (E/CN.4/L.803, as orally revised) concerning paragraph 1 of article VI was rejected by 8 votes to 4, with 7 abstentions.
128. The second Austrian amendment (E/CN.4/L.803, as orally revised) concerning paragraph 2 of article VI was rejected by 8 votes to 4, with 7 abstentions.
129. At the request of the representative of Italy, a separate vote was taken on the retention of the words "in particular" in the first United Kingdom amendment to paragraph 2 (E/CN.4/L.790). These words were rejected by 13 votes to 6, with 1 abstention.
130. It was decided that the other amendments by the United Kingdom (E/CN.4/L.790), and the amendment by Dahomey (E/CN.4/L.808), were linguistic in character, and should not be put to the vote but should be taken into account by the Secretariat in assuring the concordance of the text in the working languages.
131. The text of the article as a whole, as amended, was adopted by 20 votes to none.
132. The text of article VI, as adopted, read as follows:

1. In compliance with the fundamental obligations laid down in article II, States Parties shall take effective measures to prevent and eliminate discrimination on the ground of religion or belief, including the enactment or abrogation of laws or regulations where necessary to prohibit such discrimination by any person, group or organization.

2. States Parties undertake not to pursue any policy or enact or retain laws or regulations restricting or impeding freedom of conscience, religion or belief or the free and open exercise thereof; nor discriminate against any person, group or organization on account of membership and non-membership in, practice and non-practice of, or adherence or non-adherence to any religion or belief.

#### ARTICLE VII

133. The text of article VII submitted by the Sub-Commission reads as follows:

"States Parties undertake to ensure to everyone equality before the law without any discrimination in the exercise of the right to freedom of thought, conscience and religion, and to equal protection of the law against any discrimination on the ground of religion or belief."

134. The Commission considered article VII at its 866th meeting held on 17 March 1966.

#### Amendments submitted

135. The Ukrainian SSR amendment (E/CN.4/L.804) proposed to omit the word "and" from the phrase "conscience and religion" and to insert after the word "religion" the words "or belief".

#### Issues discussed

136. In introducing the amendment, the Ukrainian representative pointed out that it was submitted in order to complete the enumeration of the freedoms which the convention was intended to protect.

137. One delegation observed that the reference to freedom of thought was superfluous and another delegation suggested that the words "without any discrimination" might be omitted.

138. Certain representatives, while stating that they were prepared to support the Sub-Commission's text, as amended by the Ukrainian SSR, expressed a preference for the more concise draft submitted by Mr. Krishnaswami at the seventeenth session of the Sub-Commission.

#### Adoption of article VII

139. At the 866th meeting, the Ukrainian amendment (E/CN.4/L.804) was unanimously adopted by the Commission. Article VII as a whole, as amended, was adopted by 20 votes to none, with 1 abstention.

140. The text of article VII, as adopted, read as follows:

States Parties undertake to ensure to everyone equality before the law without any discrimination in the exercise of the right to freedom of thought, conscience, religion or belief, and to equal protection of the law against any discrimination on the ground of religion or belief.

#### ARTICLE X

141. The text of article X submitted by the Sub-Commission read as follows:

"States Parties undertake to make available appropriate remedial relief by their competent judicial or administrative authorities for any violation of the rights protected by this Convention."

142. The Commission considered this article at its 868th and 869th meetings, held on 18 and 21 March 1966.

#### Amendments submitted

143. The representative of the Ukrainian SSR (E/CN.4/L.815) proposed (1) to replace the word "judicial" by the words "national courts", and (2) to add at the end of the text of the article the words "and by the Constitution of the State". This latter amendment was later withdrawn.

144. The representative of the United States proposed a substitute text (E/CN.4/L.816) for article X to read as follows:

"States Parties shall assure to everyone within their jurisdiction effective protection and remedies through the competent national tribunals and other State institutions, against any acts of discrimination on the ground of religion or belief."

This amendment was later withdrawn in favour of the amendment of Austria and the Philippines.

145. The representatives of Austria and the Philippines (E/CN.4/L.817) proposed to replace article X by the following:

"States Parties shall ensure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of discrimination on the ground of religion or belief which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination."

146. This amendment was subsequently revised and co-sponsored by Austria, Italy, Philippines and the United Kingdom. The revised amendment (E/CN.4/L.817/Rev.1) read:

"States Parties shall ensure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts, including acts of discrimination on the ground of religion or belief, which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such acts."

#### Issues discussed

147. Many representatives felt that the text prepared by the Sub-Commission was vague, particularly in its reference to "appropriate remedial relief", and incomplete. They preferred the text proposed in the four-Power amendment (E/CN.4/L.817/Rev.1) which followed closely the wording of article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination. The text of that article was clearer, more precise and afforded wider protection in that it guaranteed the right to seek reparation or satisfaction for damages suffered. It was recalled that article 6 had been adopted by the Third Committee of the General Assembly without a dissenting vote and after a long discussion in which certain interpretations had been clearly accepted; in particular, there had been a clear understanding that "adequate reparation or satisfaction" did not necessarily mean financial reparation.

148. Some representatives, while agreeing that article 6 of the Convention on the Elimination of All Forms of Racial Discrimination should be taken as the basis for article X, pointed out that there were differences in the objects of the two conventions. The principal aim of the Convention on the Elimination of All Forms

of Racial Discrimination was the elimination of discrimination; in the present draft convention the object was both the elimination of discrimination and the protection of rights associated with the exercise of religion or belief, as was clear from article III. The rights set forth in that article could be violated in a non-discriminatory way. For this reason article X should mention both the violation of rights protected by the convention and acts of discrimination contrary to the convention.

149. Certain representatives, however, took the view that the Sub-Commission's text was better suited to the general context of the draft convention. The structure, aims and scope of the draft convention differed from that of the International Convention on the Elimination of All Forms of Racial Discrimination. One representative pointed out that article 6 of the latter Convention was justified in that the acts of discrimination to which it applied were well defined and the redress it provided was for violation of the rights of individuals; the draft convention under consideration, however, recognized certain rights, such as the freedom to organize and maintain associations, which had been characterized as collective rights.

150. There was some discussion on the Ukrainian proposal (see para. 143 above) to add at the end of the article a reference to the constitutions of States Parties. It was pointed out that, by adding such a reference, the protection afforded by the article would be extended not only to the rights guaranteed in the convention, but also to those defined in the constitution or domestic laws. The effect of the addition of such a reference would be to strengthen the power of the courts to provide effective remedies against violations of the convention. It was not thought that such a provision would compel States to alter their constitutions. On the other hand, some representatives felt that the amendment would create ambiguity in the relationship between the convention and the constitutions of States Parties. In the event of a conflict between the two, the task of the courts would be unduly complicated. Moreover, the proposed reference might even prove dangerous in that it would leave a loophole enabling States Parties to evade their obligations under the convention on the pretext that they were prevented from carrying them out by the provisions of their constitutions or laws.

#### Adoption of article X

151. At its 869th meeting, the Commission voted on the text of the article and the amendments thereto.

152. At the request of the representatives of Iraq and the USSR, a separate vote was taken on the words "any acts, including" and the words "as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such acts" in the four-Power amendment (E/CN.4/L.817/Rev.1). These words were retained by 14 votes to 4, and 13 votes to 4, with 2 abstentions, respectively.

153. The four-Power amendment (E/CN.4/L.817/Rev.1) as a whole was adopted by 17 votes to none, with 4 abstentions.

154. The text of article X as adopted read as follows:

States Parties shall ensure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals

and other State institutions, against any acts, including acts of discrimination on the ground of religion or belief, which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such acts.

#### FURTHER CONSIDERATION OF THE DRAFT CONVENTION

155. At its 868th meeting, the Commission agreed to postpone consideration of articles VIII and IX to its twenty-third session.

156. The following amendments relating to the draft convention submitted by the Sub-Commission were proposed at the twenty-second session but were not considered by the Commission:

##### (a) Amendments to article VIII

157. Argentina and the United States proposed an amendment (E/CN.4/L.810) to replace article VIII as follows:

"States Parties shall not deny equal protection of the law in enacting any legislation against promotion or incitement to religious intolerance or discrimination on the ground of religion or belief. Any acts of violence against any religion or belief or its adherents, any incitement to such acts, and any incitement to hatred of any religion or belief likely to result in such acts, shall be considered an offence punishable by law."

158. Poland proposed an amendment (E/CN.4/L.812) to add the following sentence at the end of article VIII:

"Membership in organizations based on religion or belief does not remove the responsibility for the above-mentioned acts."

##### (b) Amendment to insert new article between articles XII and XIII

159. India proposed (E/CN.4/L.814) to add the following new article between articles XII and XIII and to renumber the other articles accordingly:

"This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State party to this Convention between citizens and non-citizens."

#### Adoption of resolution on further consideration of the draft convention

160. At its 869th meeting, the Commission considered a draft resolution submitted by Dahomey, Netherlands and the Philippines (E/CN.4/L.813) relating to further consideration of the draft convention. By that draft resolution, the Commission would, inter alia, decide "to give the highest priority at its twenty-third session to the completion of the preparation of the draft convention".

161. At the request of the representative of the USSR, a separate vote was taken on the retention of the words "the highest" in the first paragraph of the draft resolution. By 16 votes to none, with 5 abstentions, the Commission decided to retain those words. The three-Power draft resolution (E/CN.4/L.813) as a whole was adopted unanimously.

162. The text of the resolution as adopted at its 869th meeting, on 21 March 1966, reads as follows:

1 (XXII). Draft international convention on the elimination of all forms of religious intolerance

The Commission on Human Rights,

Noting General Assembly resolutions 1781 (XVII) and 2020 (XX) requesting, inter alia, the preparation of a draft international convention on the elimination of all forms of religious intolerance for early submission to the General Assembly,

Having adopted, at its twenty-first session, a preamble and four articles and, at its twenty-second session, five more articles, but having been unable to complete its work on the draft convention,

Convinced that all energetic efforts should be continued to conclude as soon as possible an international convention on the elimination of all forms of religious intolerance,

1. Decides to give the highest priority at its twenty-third session to the completion of the preparation of the draft convention;
2. Recommends to the Economic and Social Council that it adopt the following draft resolution:

/For the text of the draft resolution, see chapter XVIII, draft resolution I./

III. QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID IN ALL COUNTRIES WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

163. On 4 March 1966 the Economic and Social Council adopted resolution 1102 (XL), reading as follows:

"The Economic and Social Council,

Considering that, in its resolution of 18 June 1965, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples drew the attention of the Commission on Human Rights to the evidence submitted by petitioners concerning violations of human rights

committed in Territories under Portuguese administration and also in South West Africa and Southern Rhodesia,

"Considering further that, in its resolutions 2022 (XX), of 5 November 1965, on the question of Southern Rhodesia, and 2074 (XX), of 17 December 1965, on the question of South West Africa, the General Assembly condemned such violations of human rights as policies of racial discrimination and segregation and the policies of apartheid and declared that they 'constitute a crime against humanity',

"Considering further that the problem of racial discrimination involves in the world today one of the most vicious and widespread violations of human rights,

"1. Invites the Commission on Human Rights, at its twenty-second session, to consider as a matter of importance and urgency the question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and territories, and to submit to the Council at its forty-first session its recommendations on measures to halt those violations;

"2. Requests the Secretary-General to prepare for the Council a document containing the texts of for extracts from decisions taken by United Nations bodies which contain any relevant provisions;

"3. Requests further the Secretary-General to supplement this document annually with the texts of for extracts from new decisions, and to submit the document to the Commission on Human Rights, the Commission on the Status of Women and the Sub-Commission on Prevention of Discrimination and Protection of Minorities."

164. At its 859th meeting on 14 March 1966, the Commission decided to include the item specified in operative paragraph 1 of resolution 1102 (XL) as an additional item on its agenda. In addition to the text of Council resolution 1102 (XL), the Commission had before it a note by the Secretary-General (E/CN.4/898) concerning the resolution adopted on 18 June 1965 by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, and a note by the Secretary-General (E/CN.4/913) transmitting the text of a communication received from the Government of South Africa. The Commission considered this item at its 869th to 873rd and 877th meetings.

#### Proposal by the Union of Soviet Socialist Republics

165. At the 869th meeting of the Commission, on 21 March 1966, the representative of the Union of Soviet Socialist Republics submitted a draft resolution (E/CN.4/L.818) which read as follows:

"The Commission on Human Rights,

"Considering that the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in its resolution of 18 June 1965,

drew the attention of the Commission on Human Rights to the evidence submitted by petitioners concerning violations of human rights committed in Territories under Portuguese administration and also in South West Africa and Southern Rhodesia, and expressed its profound shock at the violations of human rights committed in order to stifle the legitimate aspirations of the African populations to self-determination and independence,

"Considering further that the Economic and Social Council, in its resolution 1102 (XL), asked that the Commission on Human Rights, at its twenty-second session, should consider as a matter of importance and urgency the question of the violation of human rights and fundamental freedoms including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories, and should submit to the Council at its forty-first session its recommendations on measures to halt those violations,

"Guided by the Declaration on the Granting of Independence to Colonial Countries and Peoples, which proclaims the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations,

"1. Shares the Special Committee's profound shock at the violations of human rights committed by the colonialists, and fully supports the measures provided for in that Committee's aforementioned resolution and in the corresponding resolutions of the General Assembly, including the branding as 'offences against mankind' of such crude violations of human rights as the policies of apartheid, racial discrimination and segregation;

"2. Requests the Economic and Social Council to recommend to the General Assembly:

"(a) That in considering measures for the implementation of the Declaration on the Elimination of All Forms of Racial Discrimination, it should give special attention to measures for the suppression of the policies of apartheid and the elimination of racial discrimination and segregation in colonial and dependent countries;

"(b) That it arrange for the celebration of Human Rights Day in 1966 under the motto of protection for the victims of arbitrary rule and of other violations of human rights committed by the colonialists and racists;

"3. Instructs the Sub-Commission on Prevention of Discrimination and Protection of Minorities to prepare a special report containing an analysis and summary of the evidence referred to in the Special Committee's resolution of 18 June 1965 with regard to violations of human rights in colonial and dependent countries, and to submit such report to the Commission on Human Rights for consideration at its twenty-third session;

"4. Requests the Special Committee to keep the Commission on Human Rights abreast of the information coming to the Committee's attention and

of the Committee's discussions and decisions on questions of violations of human rights in colonial and dependent countries;

"5. Decides to consider at its twenty-third session the question of the Commission's tasks and functions and its role in assisting the Special Committee in giving effect to the Declaration on the Granting of Independence to Colonial Countries and Peoples and to the decisions of the General Assembly based on the Declaration in so far as questions of human rights and fundamental freedoms are concerned and having regard to whatever opinions and recommendations may be expressed by the Special Committee on this question;

"6. Requests the Secretary-General to bring this resolution to the attention of the Special Committee on the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples."

#### Amendments submitted

166. At the 871st meeting, on 22 March 1966, amendments to the proposal of the USSR (E/CN.4/L.818) were submitted by Poland (E/CN.4/L.823), Jamaica (E/CN.4/L.824), the United States (E/CN.4/L.825), the Philippines (E/CN.4/L.826), and Dahomey and Senegal (E/CN.4/L.827). A sub-amendment was submitted by India (E/CN.4/L.828).

167. The Polish amendments (E/CN.4/L.823) proposed the insertion, after operative paragraph 2, of a new paragraph worded as follows:

"Recommends to the Economic and Social Council

"(a) To invite all States which have not yet done so to accede as soon as possible to the Convention on the Elimination of All Forms of Racial Discrimination;

"(b) To urge all States which have not yet done so to comply with the General Assembly and the Security Council resolutions recommending the application of economic and diplomatic sanctions against the Republic of South Africa;

"(c) To appeal to public opinion and, in particular, to the juridical associations to render judicial assistance to the victims of the policy of racial discrimination, segregation and apartheid."

In addition, the Polish amendments proposed the insertion of a new paragraph after operative paragraph 4. This new paragraph read as follows:

"Expresses the conviction that the seminar on apartheid that will be held in August 1966 will study effective and concrete measures against the policy of apartheid."

168. The amendments submitted by Jamaica (E/CN.4/L.824) proposed the following:

(i) The replacement, in the third preambular paragraph, of the words "Guided by" by the word "Recalling";

(ii) The insertion of an additional preambular paragraph to read:

"Sharing the Special Committee's profound shock at the violations of human rights committed in colonies and dependent Territories,";

(iii) The consequential amendment of operative paragraph 1, which would then read:

"Supports the measures provided for in the Special Committee's resolution of 18 June 1965 and the designation of such violations of human rights as the policies of apartheid and racial discrimination as crimes against humanity."

(iv) The replacement, in operative paragraph 2 (a), of the word "suppression" by "elimination";

(v) The replacement of operative paragraph 2 (b) by the following:

"That it dedicates Human Rights Day 1966 to the protection of victims of the violations of human rights committed by colonialists and racists."

(vi) The insertion, in operative paragraph 3, of the word "all" before "the evidence" and of the words "including that" before "referred to".

169. The amendments of the United States (E/CN.4/L.825) contained the following proposals:

(i) To insert a new third preambular paragraph reading as follows:

"Noting that the materials available to the Commission at its twenty-second session are insufficient for the serious consideration of violations of human rights in all countries,";

(ii) In the original third preambular paragraph, to insert, after "Guided by" the words "the Universal Declaration of Human Rights and the standards proclaimed therein, and by";

(iii) To insert a new final preambular paragraph reading as follows:

"Recognizing that the procedures in the United Nations for obtaining and considering information relating to violations of human rights in dependent Territories are highly developed, and that such procedures in connexion with violations of human rights in other areas are still embryonic;"

(iv) To replace operative paragraph 1 by the following:

"Recognizes the urgency of the question of violations of human rights and fundamental freedoms in all countries, and the importance in this connexion of the elimination of policies of racial discrimination, segregation and apartheid;"

(v) To insert a new second operative paragraph reading as follows:

"Expresses the view that the information and machinery available to it are currently inadequate for the preparation of substantive recommendations on measures to halt violations of human rights in all countries;"

(vi) To replace operative paragraph 2 (a) by the following:

"That it continue to encourage all eligible States to become Parties as soon as possible to all Conventions which aim to protect human rights and fundamental freedoms, including in particular the International Convention on the Elimination of All Forms of Racial Discrimination."

(vii) To replace operative paragraph 2 (b) by the following:

"That for the purpose of the implementation of the Declaration on the Elimination of All Forms of Racial Discrimination, all possible measures should be taken for the suppression of the policies of apartheid and segregation and the elimination of racial discrimination wherever it occurs."

(viii) In operative paragraph 3, to replace the words following "Protection of Minorities" by "to examine the documents submitted to it by the Secretary-General in accordance with paragraphs 2 and 3 of Council resolution 1102 (XL), and to submit to the Commission such recommendations or comments as they consider appropriate".

(ix) To replace operative paragraph 4 by the following:

"Informs the Council that, in order to fulfil its request in resolution 1102 (XL), it will be necessary for the Commission to consider fully the means by which it may be informed of violations of human rights with a view to devising recommendations for measures to halt them."

(x) In operative paragraph 5, to replace the words following "and its role" by the words "in relation to violations of human rights in all countries";

(xi) To delete operative paragraph 6.

170. The amendments submitted by the Philippines (E/CN.4/L.826) sought the insertion of:

(i) A new first paragraph of the preamble, reading:

"Bearing in mind its special responsibilities for the promotion of human rights and fundamental freedoms;"

(ii) A new operative paragraph 1 worded as follows:

"Condemns violations of human rights and fundamental freedoms everywhere;"

171. The amendments submitted jointly by Dahomey and Senegal (E/CN.4/L.827) proposed the following:

- (i) To make the second preambular paragraph the first preambular paragraph, deleting the word "further" and to put the original first paragraph second.
- (ii) To delete operative paragraph 1 and insert before the last preambular paragraph a new paragraph reading as follows:

"Sharing the Special Committee's profound shock and taking into account the measures provided for in the Committee's aforementioned resolution and the corresponding resolutions of the General Assembly, including the branding as 'offences against mankind' of such crude violations of human rights as the policies of apartheid, racial discrimination and segregation."

- (iii) To replace operative paragraph 2 (b) by the following text:

"(b) That it arrange for the celebration of Human Rights Day in 1966 with the theme of protection for the victims of violation of human rights and fundamental freedoms, in particular in colonial and other dependent territories."

- (iv) To delete operative paragraph 4 and add the text of that paragraph to paragraph 2 as a sub-paragraph (c) beginning with the words:

"That it request the Special Committee to keep the Commission...".

- (v) To delete operative paragraph 6.

172. The sub-amendment of India (E/CN.4/L.828) to the amendment submitted by Jamaica (E/CN.4/L.824) proposed:

- (i) To replace the text for an additional preambular paragraph suggested in the Jamaican amendment by the following:

"Sharing the Special Committee's profound shock at the violations of human rights committed in colonies and dependent territories and taking into account the designation of such violations of human rights as the policies of 'apartheid' and racial discrimination as crimes against humanity."

- (ii) The amendment of operative paragraph 1 suggested in the Jamaican amendment to read as follows:

"Supports the measures provided for in the Special Committee's resolution of 18 June 1965."

- (iii) In operative paragraph 5 of the draft resolution to delete "in so far as questions of human rights and fundamental freedoms are concerned" and to insert after the word "Declaration", "in relation to violations of human rights in all countries";
- (iv) In operative paragraph 6 of the draft resolution to replace the words "The Secretary-General to bring" by "The Economic and Social Council to transmit", and to delete the words "the attention of".

### Issues discussed

173. Members of the Commission were unanimous in their denunciation of violations of human rights and fundamental freedoms in all countries, including policies of racial discrimination, segregation and apartheid. There was a sharp division of opinion, however, regarding the true nature of the mandate entrusted to the Commission by Council resolution 1102 (XL) and the exact scope of the Commission's competence.

174. Several representatives, supporting the tenor of the draft resolution submitted by the Union of Soviet Socialist Republics (E/CN.4/L.818), recalled the genesis of resolution 1102 (XL) and the resolution adopted on 18 June 1965 by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. <sup>5/</sup> They contended that the Commission's mandate was, in essence, to make recommendations for the elimination of inequities suffered in the political, social and economic spheres by the indigenous populations of dependent territories. Many documents prepared by United Nations bodies showed that the plight of these populations was often desperate and that violations of their basic rights were rampant. The various instruments adopted by the United Nations for the protection of dependent peoples against racial discrimination, including most recently the Declaration and the International Convention on the Elimination of All Forms of Racial Discrimination, could offer substantial protection against continued abuses, but only if their provisions were accepted as binding and observed. Moreover, since General Assembly resolutions 2022 (XX) and 2074 (XX), specifically referred to in Council resolution 1102 (XL), classified violations of human rights in certain dependent Territories as "crimes against humanity", it was clear that the Council expected the Commission to act urgently and to confine its specific recommendations to the intolerable situations prevailing in those territories without dwelling on generalities.

175. In the opinion of other representatives, however, the reference in Council resolution 1102 (XL) to "all countries", coupled with the terms "including" and "with particular reference to", showed that the Commission's recommendations could not be confined to dependent territories alone. In their opinion, the United States amendments (E/CN.4/L.825) would redress the balance which the proposal of the Soviet Union (E/CN.4/L.818) tended to upset. For while the Council had called for some special attention to colonial and other dependent territories, it would be wrong to forget that the Commission's over-all competence derived directly from the Charter and was of a universal character. The authors of the Charter had included therein provisions concerning human rights, precisely because they recognized that violations of such rights could have international repercussions and threaten international peace in any part of the world. An artificial restriction of the Commission's competence to a specific category of countries could not, consequently, be justified.

176. Certain speakers recalled the debates which had preceded the adoption of Council resolution 1102 (XL). The reference to "all countries" had been inserted in the text at a late stage, in order to reflect the fact that the Commission's general competence extended to all areas; it had always been clearly understood,

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<sup>5/</sup> Official Records of the General Assembly, Twentieth Session, Annexes, addendum to agenda item 23 (A/6000/Rev.1), chap. II, para. 463.

however, that by resolution 1102 (XL) the Council had meant to ask the Commission to lay a very special emphasis on the situation in colonial and other dependent countries, and in several countries where the Government pursued policies of apartheid, segregation and racial discrimination towards the indigenous inhabitants. The Commission's recommendations should, accordingly, recognize this special emphasis, without losing sight of the universal nature of the Commission's work.

177. Some speakers pointed out, in this connexion, that violations of human rights were on occasions as frequent in independent States as in dependent countries. Apartheid itself, in its classical form, was an institution affirmed by legislation in a sovereign country; and recent history had been full of instances of man's inhumanity to man. In their view, independence in itself did not guarantee the rule of law, which was necessary to ensure respect for the inherent rights of every person. Other speakers stated that colonial peoples, by achieving their independence, made the first conquest towards the attainment of human rights. While not disputing the difficulties facing newly independent States, particularly their needs in the field of economic, social and cultural rights, they felt that the peoples of dependent territories were nevertheless the most in need of international protection; for those peoples were the most vulnerable and, in the event of any denial of their rights, often had no means of recourse except to the world community.

178. Several representatives, expressing their general support for the USSR proposal (E/CN.4/L.813), drew attention to the fact that, by resolution 1102 (XL), the Council had assigned to the Commission a new role exceeding its previously recognized range of competence. And by indicating the specific area of the proposed survey and recommendations, the Council had asked the Commission to enter into questions previously reserved to purely political bodies. This was a welcome step, which could help the Commission to assume added responsibilities, to pass beyond its thus far largely academic purview and to join in the process of carrying into effect the practical measures urged in United Nations instruments towards the final eradication of racial discrimination.

179. Other speakers, while welcoming any expansion of the Commission's activities, pointed out that, whereas the procedures in the United Nations for obtaining information relating to violations of human rights in dependent territories were highly developed, the material and machinery available for considering the question in all countries were still embryonic. The Commission's recommendations should therefore include, in the manner of the United States amendments (E/CN.4/L.825), a reference to the Commission's needs in that regard. In support of those amendments the view was expressed that the elimination of violations of human rights depended on research and the dissemination of knowledge regarding individual and collective prejudices or aberrations.

180. The representative of the Soviet Union pointed out that the greater volume of material available with respect to dependent territories was a legitimate reason for the Commission to concentrate on those areas. A number of those supporting the USSR proposal (E/CN.4/L.813) expressed the view that, before assuming wider functions, the Commission should exhaust its existing possibilities, bearing in mind that by concentrating on dependent territories, to which it could not be claimed that Article 2 (7) of the Charter applied, it would be asserting its competence in a sector where its authority was now unquestioned and where any successful action could eventually help to breach the wall of suspicion built up

around some sovereign States invoking the principle of non-intervention. Attention was drawn, in this connexion, to the useful work which could be done by regional bodies and by groups or associations of jurists and legislators.

181. Representatives critical of the USSR proposal relied, in particular, on the following arguments: operative paragraph 1 would result in the Commission's exceeding its authority, which was not to share the emotions or support the recommendations of political committees but to submit its own recommendations designed to exert persuasive force throughout the world; paragraph 2 (a) was inconsistent with Council resolution 1102 (XL), since, instead of recommending any measure to a higher organ, it directly invited the General Assembly to formulate recommendations; paragraph 2 (b) envisaged the unprecedented designation of a central theme for Human Rights Day; paragraph 3 would involve the Commission in the work of the Special Committee, when the spheres of competence of the two bodies were distinct; paragraph 4 would further burden the Commission with documentation which it could readily consult in any event; paragraph 5 wrongly restricted the question which the Commission must consider at an early date; and paragraph 6 called for the transmittal to the Special Committee of a text which contained practically no substantive recommendations. It was also mentioned, in this connexion, that part c of the new paragraph proposed by Poland to follow operative paragraph 2 (see paragraph 167 above) called on the Commission to interfere in a political matter wholly outside its area of authority, while the Polish amendment referring to the seminar on apartheid, to be held in Brazilia in August 1966, would invite action never previously taken by such a gathering under the programme of advisory services in the human rights field.

182. The amendments proposed by the United States (E/CN.4/L.825) evoked objections on the following grounds: they seemed expressly designed to prevent compliance with, and to exceed, the Commission's mandate, as set forth in Council resolution 1102 (XL), which largely restricted the scope of the Commission's recommendations to the question of violations of human rights in colonies and other dependent territories; they ignored the extreme urgency of the question, recognized in the Council's classification of such violations as "crimes against humanity"; they invited censure from the higher organs which sought to expand the Commission's functions; paragraph (ix) (see para. 169 above), in effect, presented the Economic and Social Council with an ultimatum; and paragraph (x) proposed a new item never envisaged by the Council, namely, the question of changes in the Commission's competence and procedures. In the opinion of several representatives, the United States amendments should have been presented, not as amendments to the USSR proposal (E/CN.4/L.818), but as a separate draft resolution on ways and means. Since this had not been done, they could not accept most of those amendments as such, but would welcome any attempt to incorporate them into the proposal of the Soviet Union as supplementary provisions.

183. Some representatives objected to the United States amendments and made the following points: that those amendments embodied unfounded charges against all States; that the General Assembly not only had never expressed the opinion that racial discrimination and apartheid might exist in all countries but had clearly stated that the policies of apartheid existed only in the Republic of South Africa, and racial discrimination "in some countries"; that the result of accusing all countries of violating human rights was to undermine the Commission's authority; and that the purpose of the United States amendments was to shield the colonialists and racists who had been accused by the Committee of Twenty-four of violating human rights and to shelter the colonialists and racists under the general term "all countries".

184. Other representatives pointed out that it was not correct to say that the United States amendments neglected the problems of colonialism. These amendments made no accusations against States, and they would not eliminate references to colonial and dependent territories or to apartheid. There had been no statement that the situation was worse in independent countries, and it had been pointed out further that the problem for human rights in colonial and dependent territories was more complex. The fact was that it mattered little where violations of human rights occurred; all violations should be condemned, and all violations deserved the attention of the Commission, as the Council had expected in connexion with the agenda item under consideration.

185. At the 872nd meeting, the representative of the USSR accepted in principle all of the amendments submitted by Poland (E/CN.4/L.823), Jamaica (E/CN.4/L.824), the Philippines (E/CN.4/L.826), and Dahomey and Senegal (E/CN.4/L.827).

#### Establishment of the working group

186. At the 872nd meeting, on the proposal of the representative of India, the Commission established a working group to attempt a co-ordination of the various proposals submitted. This group, composed of the representative of India (Chairman) and of the representatives who had made written proposals (see para. 166 above) or oral suggestions, held two meetings, on 23 and 24 March 1966. Working Paper No. 1, prepared by the Philippines in an effort to reconcile the various amendments with the proposal of the USSR, served as the basis for the discussions of the working group.

#### Consideration of the draft resolution prepared by the working group

187. The text of the draft resolution submitted by the working group (E/CN.4/L.832), including the working group's indications of the measure of disagreement remaining among its members, read as follows:

"The Commission on Human Rights,

"Bearing in mind its special responsibilities for the promotion of human rights and fundamental freedoms everywhere,

One representative reserved his right to oppose this paragraph."

"Considering that the Economic and Social Council, in its resolution 1102 (XL), asked that the Commission on Human Rights, at its twenty-second session, should consider as a matter of importance and urgency the question of the violation of human rights and fundamental freedoms including policies of racial discrimination and segregation and of apartheid in all countries with particular reference to colonial and other dependent countries and territories, and to submit to the Council at its forty-first session its recommendations on measures to halt those violations,

"Considering further that the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in its resolution of

18 June 1965, drew the attention of the Commission on Human Rights to the evidence submitted by petitioners concerning violations of human rights committed in Territories under Portuguese administration and also in South West Africa and Southern Rhodesia, and expressed its profound shock at the violations of human rights committed in order to stifle the legitimate aspirations of the African population to self-determination and independence,

"Expressing its profound indignation at [these] violations of human rights committed in colonies and dependent territories and taking into account the designation, in General Assembly resolutions 2022 (XX) and 2074 (XX), of such violations of human rights as the policies of apartheid and racial discrimination as "crimes against humanity";

[There was no general agreement as regards the word "these".]

"Guided by the Universal Declaration of Human Rights and the standards proclaimed therein and the Declaration on the Granting of Independence to Colonial Countries and Peoples which proclaims the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations;

[There was no complete agreement on this text.]

"Noting that the materials, [procedures] and [time] available to the Commission at its twenty-second session are insufficient for complying in full with the mandate given in Council resolution 1102 (XL),

[There was no general agreement on the insertion of the words "procedures" and "time". One representative reserved his position on this text.]

A

"1. Condemns violations of human rights and fundamental freedoms wherever they occur;

"2. [Supports the measures provided for in the Special Committee's resolution of 18 June 1965];

"3. Requests the Economic and Social Council to recommend to the General Assembly:

"(a) that it continue to encourage all [eligible] States to become Parties as soon as possible to all Conventions which aim to protect human rights and fundamental freedoms, including in particular the International Convention on the Elimination of All Forms of Racial Discrimination;

"(b) that for the purpose of the implementation of the Declaration on the Elimination of All Forms of Racial Discrimination all possible measures should be taken for the suppression of the policies of apartheid and segregation and the elimination of racial discrimination wherever it occurs, but particularly in colonial and other dependent countries and territories;

"(c) that it arrange for the celebration of Human Rights Day in 1966 with the theme of protection for the victims of violations of human rights and fundamental freedoms, in particular in colonial and other dependent countries and territories;

"(d) that it request the Special Committee to apprise the Commission on Human Rights of the relevant information coming to the Committee's attention and of its discussions and decisions on questions of violations of human rights in colonial and dependent countries and territories;

"(e) that it urge all States which have not yet done so to comply with the relevant General Assembly and Security Council resolutions recommending the application of economic and diplomatic sanctions against the Republic of South Africa;

There was no agreement on this text.

"(f) that it appeal to public opinion and, in particular, to juridical associations to render assistance to the victims of the policies of racial discrimination, segregation and apartheid;

"4. Expresses the hope that the International Seminar on Apartheid that will be held in Brazil in August 1966 will study and recommend effective and concrete measures against the policy of apartheid;

"5. Instructs the Sub-Commission on Prevention of Discrimination and Protection of Minorities to examine all relevant United Nations materials, including the Special Committee's resolution of 18 June 1965, and the documents referred to in paragraph 3 (d) of the present resolution and in Council resolution 1102 (XL), and to submit to the Commission at its twenty-third session such recommendations or comments as it considers appropriate;

"6. Requests the Economic and Social Council to transmit this resolution to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples;

B

"1. Informs the Council that, in order completely to deal with the question of violations of human rights and fundamental freedoms in all countries, it will be necessary for the Commission to consider fully the means by which it may be more fully informed of violations of human rights with a view to devising recommendations for measures to halt them;

"2. Decides to consider at its twenty-third session the question of the Commission's tasks and functions and its role in relation to violations of human rights in all countries, including appropriate assistance to the Special Committee in giving effect to the Declaration on the Granting of Independence to Colonial Countries and Peoples and to the decisions of the General Assembly based on the Declaration in so far as questions of human rights and fundamental freedoms are concerned and having regard to whatever opinions and recommendations may be expressed by the Special Committee on this question."

188. Some representatives, while agreeing that the working group's text (E/CN.4/L.832) showed improvement in comparison with the original proposal of the Soviet Union (E/CN.4/L.818), expressed regret at the continued tendency to overemphasize violations of human rights in dependent territories as against similar violations elsewhere. This criticism applied, in particular, to the fourth preambular paragraph, which additionally referred to "crimes against humanity" without regard to the limited scope given to that expression by the law of nations.

189. Criticism was also advanced of paragraphs 2 and 3 (e) in operative part A. It was said that a distinction should have been drawn between the functions reserved to the Commission and those of other United Nations bodies. The Council had referred a problem to the Commission, after its consideration elsewhere from the political angle, to see how far the Commission's techniques could prove helpful in its solution; by confining itself to endorsing the action taken elsewhere, the Commission was not making a contribution commensurate with its stature. Some speakers stressed that the Commission had no competence to take a position on matters within the jurisdiction of other, particularly higher, bodies. Other representatives, however, contended that even paragraph 3 (e), the most far-reaching of the provisions which had raised the issue of competence, was perfectly proper: the Commission was not suggesting courses of action to higher organs; it merely asked those organs to remind certain Member States of their duty to comply with directives designed to ease the lot of victims of discrimination. Furthermore, the Commission had received a mandate to submit recommendations on measures to halt violations of human rights; under this broad mandate, the Commission was fully competent, not only to recommend measures of its own devising, but also to commend measures adopted by other United Nations bodies.

190. Some representatives voiced misgivings regarding the tenor of operative part B. In their view, the procedures available to the Commission were fully adequate and there was no need to review or change them. In addition, the Council had never asked the Commission for its views on the adequacy of present arrangements; adoption of operative part B would involve a revision of the Commission's functions and working procedures, which would mean going beyond the subject under discussion. Other speakers, however, felt that operative part B was the most positive feature of the draft resolution, since it brought it back within the Commission's mandate and restored the balance which some of the provisions of part A tended to disturb.

191. One representative, urging the adoption of the entire draft resolution, felt that, for all its shortcomings, it would enable the Commission to carry out the mandate entrusted to it by the Council and form a bridge between present and future possibilities.

#### Voting on the draft resolution prepared by the working group

192. The Commission voted on the working group's text (E/CN.4/L.832) at its 877th meeting, on 25 March 1966. The voting was paragraph by paragraph, with additional separate votes on all words placed in square brackets and on other words and questions in respect of which separate votes were requested.

#### Preamble

193. The first and second paragraphs of the preamble were each adopted unanimously.

194. The third preambular paragraph was adopted by 20 votes to none, with 1 abstention.

195. The word "these", in the fourth preambular paragraph, was rejected by 11 votes to 7, with 3 abstentions.

196. The words "Expressing its profound indignation at violations of human rights", in the fourth preambular paragraph, on which a separate vote had been requested by the representative of Israel, were approved by 16 votes to 3, with 2 abstentions.

197. The remainder of the fourth preambular paragraph was approved by 12 votes to 5, with 4 abstentions. At the request of the representative of Senegal the vote was taken by roll-call. The voting was as follows:

In favour: Argentina, Chile, Costa Rica, Dahomey, India, Iraq, Philippines, Poland, Senegal, Sweden, Ukrainian SSR, Union of Soviet Socialist Republics.

Against: France, Netherlands, New Zealand, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Austria, Israel, Italy, Jamaica.

198. The fourth preambular paragraph, as amended, as a whole, was adopted by 12 votes to 5, with 4 abstentions. At the request of the representative of Senegal the vote was taken by roll-call. The voting was as follows:

In favour: Argentina, Chile, Costa Rica, Dahomey, India, Iraq, Philippines, Poland, Senegal, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Against: France, Netherlands, New Zealand, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Austria, Israel, Italy, Jamaica.

199. The fifth preambular paragraph was adopted unanimously.

200. The word "procedures", in the sixth preambular paragraph, was approved by 14 votes to 3, with 4 abstentions.

201. The word "time", in the same paragraph, was approved by 17 votes to 3, with 1 abstention.

202. The sixth preambular paragraph as a whole was adopted unanimously.

#### Operative part A

203. Paragraph 1 of operative part A was adopted unanimously.

204. The representative of the United States moved, under rule 52 of the rules of procedure, that the Commission declare itself lacking competence to adopt paragraph 2. The Commission upheld its competence by 10 votes to 9, with

1 abstention. At the request of the representative of the Soviet Union the vote was taken by roll-call. The voting on the question whether the Commission had the competence to adopt the paragraph was as follows:

In favour: Argentina, Austria, Dahomey, India, Iraq, Philippines, Poland, Senegal, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Against: France, Israel, Italy, Jamaica, Netherlands, New Zealand, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Chile.

205. Paragraph 2 was adopted by 11 votes to 10. At the request of the USSR representative, the vote was taken by roll-call. The voting was as follows:

In favour: Argentina, Chile, Costa Rica, Dahomey, India, Iraq, Philippines, Poland, Senegal, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Against: Austria, France, Israel, Italy, Jamaica, Netherlands, New Zealand, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

206. The word "eligible", in paragraph 3 (a), was approved by 14 votes to 6, with 1 abstention.

207. Paragraph 3 (a) as a whole was adopted by 20 votes to 1.

208. Paragraph 3 (b) was adopted by 20 votes to 1.

209. Paragraph 3 (c) was adopted by 14 votes to none, with 7 abstentions.

210. Paragraph 3 (d) was adopted by 19 votes to none, with 2 abstentions.

211. The representative of the United States moved, under rule 52 of the rules of procedure, that the Commission was not competent to adopt paragraph 3 (e). The Commission upheld its competence by 10 votes to 9, with 1 abstention. At the request of the representative of the Union of Soviet Socialist Republics, a vote was taken by roll-call on the Commission's competence to adopt paragraph 3 (e). The voting was as follows:

In favour: Argentina, Dahomey, India, Iraq, Jamaica, Philippines, Poland, Senegal, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Against: Austria, France, Israel, Italy, Netherlands, New Zealand, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Chile.

212. Paragraph 3 (e) was adopted by 11 votes to 10. At the request of the representative of Dahomey, the vote was taken by roll-call. The voting was as follows:

In favour: Argentina, Chile, Costa Rica, Dahomey, India, Iraq, Philippines, Poland, Senegal, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Against: Austria, France, Israel, Italy, Jamaica, Netherlands, New Zealand, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

213. Paragraph 3 (f) was adopted unanimously.

214. Paragraph 4 was adopted by 17 votes to none, with 4 abstentions.

215. The words "United Nations" in paragraph 5 were approved by 11 votes to 5, with 5 abstentions.

216. Paragraph 5 as a whole was adopted by 20 votes to none, with 1 abstention.

217. Paragraph 6 was adopted by 18 votes to none, with 3 abstentions.

#### Operative part B

218. Paragraph 1 in operative part B was adopted by 17 votes to 3, with 1 abstention.

219. The words "The question of the Commission's tasks and functions and its role in relation to violations of human rights in all countries, including", in paragraph 2, were approved by 16 votes to 3, with 2 abstentions. At the request of the representative of the Netherlands the vote was taken by roll-call. The voting was as follows:

In favour: Argentina, Austria, Chile, Costa Rica, Dahomey, France, Israel, Italy, Jamaica, Netherlands, New Zealand, Philippines, Senegal, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

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

Abstaining: India, Iraq.

220. Paragraph 2 as a whole was adopted by 18 votes to none, with 3 abstentions.

#### Adoption of the draft resolution

221. The draft resolution as a whole, as amended, was adopted by 12 votes to 1, with 8 abstentions. At the request of the representative of the Philippines the vote was taken by roll call. The voting was as follows:

In favour: Argentina, Chile, Costa Rica, Dahomey, India, Iraq, Jamaica, Philippines, Poland, Senegal, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Against: United Kingdom of Great Britain and Northern Ireland.

Abstaining: Austria, France, Israel, Italy, Netherlands, New Zealand, Sweden, United States of America.

222. The resolution adopted by the Commission at its 877th meeting, on 25 March 1966, reads as follows:

- 2 (XXIII). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and territories

The Commission on Human Rights,

Bearing in mind its special responsibilities for the promotion of human rights and fundamental freedoms everywhere,

Considering that the Economic and Social Council, in its resolution 1102 (XL), asked that the Commission on Human Rights, at its twenty-second session, should consider as a matter of importance and urgency the question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and territories, and to submit to the Council at its forty-first session its recommendations on measures to halt those violations,

Considering further that the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in its resolution of 18 June 1965, drew the attention of the Commission on Human Rights to the evidence submitted by petitioners concerning violations of human rights committed in Territories under Portuguese administration and also in South West Africa and Southern Rhodesia, and expressed its profound shock at the violations of human rights committed in order to stifle the legitimate aspirations of the African population to self-determination and independence,

Expressing its profound indignation at violations of human rights committed in colonies and dependent Territories and taking into account the designation, in General Assembly resolutions 2022 (XX) and 2074 (XX), of such violations of human rights as the policies of apartheid and racial discrimination as "crimes against humanity",

Guided by the Universal Declaration of Human Rights and the standards proclaimed therein and the Declaration on the Granting of Independence to Colonial Countries and Peoples which proclaims the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations,

Noting that the materials, procedures and time available to the Commission at its twenty-second session are insufficient for complying in full with the mandate given in Council resolution 1102 (XL),

A

1. Condemns violations of human rights and fundamental freedoms wherever they occur;

2. Supports the measures provided for in the Special Committee's resolution of 18 June 1965;

3. Requests the Economic and Social Council to recommend to the General Assembly:

(a) That it continue to encourage all eligible States to become Parties as soon as possible to all Conventions which aim to protect human rights and fundamental freedoms, including in particular the International Convention on the Elimination of All Forms of Racial Discrimination;

(b) That for the purpose of the implementation of the Declaration on the Elimination of All Forms of Racial Discrimination all possible measures should be taken for the suppression of the policies of apartheid and segregation and the elimination of racial discrimination wherever it occurs, but particularly in colonial and other dependent countries and territories;

(c) That it arrange for the celebration of Human Rights Day in 1966 with the theme of protection for the victims of violations of human rights and fundamental freedoms, in particular in colonial and other dependent countries and territories;

(d) That it request the Special Committee to apprise the Commission on Human Rights of the relevant information coming to the Committee's attention and of its discussions and decisions on questions of violations of human rights in colonial and dependent countries and territories;

(e) That it urge all States which have not yet done so to comply with the relevant General Assembly and Security Council resolutions recommending the application of economic and diplomatic sanctions against the Republic of South Africa;

(f) That it appeal to public opinion and, in particular, to juridical associations to render assistance to the victims of the policies of racial discrimination, segregation and apartheid;

4. Expresses the hope that the International Seminar on Apartheid that will be held in Brazil in August 1966 will study and recommend effective and concrete measures against the policy of apartheid;

5. Instructs the Sub-Commission on Prevention of Discrimination and Protection of Minorities to examine all relevant United Nations materials including the Special Committee's resolution of 18 June 1965 and the documents referred to in paragraph 3 (d) of the present resolution and in Council resolution 1102 (XL), and to submit to the Commission at its twenty-third session such recommendations or comments as it considers appropriate.

6. Requests the Economic and Social Council to transmit this resolution to the Special Committee on the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples;

B

1. Informs the Council that, in order completely to deal with the question of violations of human rights and fundamental freedoms in all countries, it will be necessary for the Commission to consider fully the means by which it may be more fully informed of violations of human rights with a view to devising recommendations for measures to halt them;

2. Decides to consider at its twenty-third session the question of the Commission's tasks and functions and its role in relation to violations of human rights in all countries, including appropriate assistance to the Special Committee in giving effect to the Declaration on the Granting of Independence to Colonial Countries and Peoples and to the decisions of the General Assembly based on the Declaration in so far as questions of human rights and fundamental freedoms are concerned and having regard to whatever opinions and recommendations may be expressed by the Special Committee on this question.

IV. THE QUESTION OF PUNISHMENT OF WAR CRIMINALS AND OF  
PERSONS WHO HAVE COMMITTED CRIMES AGAINST HUMANITY

223. This question had been considered by the Commission on Human Rights at its twenty-first session (E/4024, paras. 514-567). In resolution 3 (XXI), the Commission had requested the Secretary-General "to undertake a study of the problems raised in international law by war crimes and crimes against humanity, and by priority a study of legal procedures to ensure that no period of limitation shall apply to such crimes". The Commission had decided that the report concerning that study should be discussed as one of the matters of priority at its next regular session.

224. Upon the proposal of the Commission, the Economic and Social Council, by resolution 1074 D (XXXIX), urged all States to continue their efforts to ensure that, in accordance with international law and national laws, the criminals responsible for war crimes and crimes against humanity were traced, apprehended and equitably punished by the competent courts. For that purpose, under the terms of that resolution, States should co-operate, in particular, by making available any documents in their possession relating to such crimes. In the same resolution, the Council invited all eligible States which had not yet done so to accede as soon as possible to the Convention on the Prevention and Punishment of the Crime of Genocide, of 9 December 1948.

225. In accordance with resolution 3 (XXI) of the Commission, the Secretary-General submitted to the twenty-second session of the Commission a study on the question of the non-applicability of periods of limitation to war crimes and crimes against humanity, and, in particular, on legal procedures to ensure that no period of limitation shall apply to such crimes in international law (E/CN.4/906).

226. The Commission also had before it statements submitted by the following non-governmental organizations: the Coordinating Board of Jewish Organizations (E/CN.4/NGO/133) and the World Veterans Federation (E/CN.4/NGO/138).

227. The Commission considered this item at its 873rd, 874th, 875th, 876th, 878th, 879th, 889th and 890th meetings held on 23, 24, 25 and 28 March and on 2 and 4 April 1966. Oral statements were made at the 873rd meeting by the Observers for the Byelorussian SSR and Saudi Arabia, and at the 875th meeting by the Observer for Czechoslovakia. At the 876th meeting the Observer for the World Jewish Congress made a statement.

Draft resolution and amendments submitted

228. The representative of Poland submitted a draft resolution (E/CN.4/L.800) which read as follows:

"The Commission on Human Rights

"1. Recommends to the Economic and Social Council the adoption of the following resolution:

"The Economic and Social Council,

"Noting the report of the Commission on Human Rights on the question of the punishment of war criminals and of persons who have committed crimes against humanity,

"Recommends the following draft resolution to the General Assembly for consideration at its twenty-first session:

'The General Assembly,

'Recalling its resolutions 3 (I) of 13 February 1946 and 170 (II) of 31 October 1947 on extradition and punishment of war criminals and resolution 95 (I) of 11 December 1946 on affirmation of the principles of international law recognized by the Charter of the Nürnberg Tribunal,

'Recalling resolution 3 (XXI) of the Commission on Human Rights, which expresses conviction that the prosecution of and punishment for war crimes and crimes against humanity would prevent others from the commission of similar crimes, protect human rights and fundamental freedoms, promote confidence among peoples, and contribute to international peace and security,

'Recalling resolution 1074 D (XXXIX) of the Economic and Social Council which urges all States to continue their efforts to ensure that, in accordance with international law and national laws, the criminals responsible for war crimes and crimes against humanity are traced, apprehended and equitably punished by the competent courts,

'Expressing its appreciation to the Secretary-General for the study on the "Question of the non-applicability of statutory limitation to war crimes and crimes against humanity" (E/CN.4/906),

'Considering that the United Nations must continue to contribute to the solution of the problems raised by war crimes and crimes against humanity, which are serious violations of international law and that it must, in particular, contribute to the implementation of the just principle that there is no period of limitation for such crimes in international law,

'1. Urges all States to observe the principle of international law according to which no statutory limitation shall be applied to war crimes and crimes against humanity and to continue their efforts to ensure the arrest, extradition and punishment of persons responsible for war crimes and crimes against humanity;

'2. Invites all Governments to inform the Secretary-General of the measures they have adopted in pursuance of paragraph 1 of this resolution, so that he might submit the report on these measures at the twenty-third session of the Commission on Human Rights;

'3. Requests the Economic and Social Council to invite the Commission on Human Rights to elaborate, taking into consideration information from Governments and the study of the Secretary-General

(E/CN.4/906), recommendations concerning further steps to be taken with a view to developing international co-operation in the prosecution and equitable punishment of the criminals responsible for war crimes and crimes against humanity, and to submit, through the Economic and Social Council, these recommendations to the General Assembly at its twenty-second session.'

"2. Decides that recommendations concerning further steps to be taken with a view to developing international co-operation in the prosecution and equitable punishment of the criminals responsible for war crimes and crimes against humanity should be considered by the Commission at its twenty-third session as one of the matters of priority."

229. The following amendments (E/CN.4/L.830 and Add.1) were submitted jointly by Austria, France, Israel, the Netherlands, New Zealand and the United States:

1. In the draft resolution for the Economic and Social Council, delete the second paragraph and the line "The General Assembly".

2. In the first line of the following paragraph, replace "its" by "General Assembly".

3. Replace the last preambular paragraph by the following:

"Considering that this study lends further support to the desirability of establishing a principle of international law that there is no period of limitation for war crimes and crimes against humanity,

"Considering that the United Nations should take all possible action to establish and implement such a principle of international law and secure its universal application,".

4. Replace operative paragraph 1 by the following:

"Urges all States to take any measures necessary to prevent the application of statutory limitation to war crimes and crimes against humanity, and to make available to other States any documents in their possession relating to such crimes;".

5. Replace operative paragraph 3 by the following:

"Invites the Commission on Human Rights to prepare at its twenty-third session a draft convention providing that no statutory limitation shall apply to war crimes and crimes against humanity, irrespective of the date of their commission, for consideration by the Economic and Social Council at its forty-third session, and to consider and make any recommendations it believes desirable with a view to developing international co-operation in the prosecution and punishment of those responsible for war crimes and crimes against humanity;

"Requests the Secretary-General to prepare a preliminary draft for such a convention to assist the Human Rights Commission in its task."

6. Delete operative paragraph 2 of the draft resolution.

230. Some revisions were subsequently made to the six-Power amendments (E/CN.4/L.830/Rev.1).

231. The amendments to the last preambular paragraph of the draft resolution were revised to replace the word "establishing" by the word "affirming" and the word "establish" by the word "affirm". These amendments were further revised orally at the 878th meeting. In its final version, the last preambular paragraph of the draft resolution would be replaced by the following:

"Considering that this study lends further support to the desirability of affirming, in international law, the principle that there is no period of limitation for war crimes and crimes against humanity,

"Considering that the United Nations should take all possible action to affirm and implement such a principle of international law and secure its universal application,".

232. The six-Power amendment to operative paragraph 1 of the draft resolution was revised to insert the phrase: "and to continue their efforts to ensure the arrest, extradition and punishment of persons responsible for war crimes and crimes against humanity" between the words: "crimes against humanity" and "and to make available". The paragraph would thus read:

"Urges all States to take any measures necessary to prevent the application of statutory limitation to war crimes and crimes against humanity, and to continue their efforts to ensure the arrest, extradition and punishment of persons responsible for war crimes and crimes against humanity, and to make available to other States any documents in their possession relating to such crimes."

233. The six-Power amendment to operative paragraph 3 of the draft resolution was revised as follows:

(a) The words "as a matter of priority" were inserted between the words "twenty-third session" and "a draft convention";

(b) The word "providing", between the words "convention" and "that no statutory limitation", was replaced by the words "to the effect";

(c) The words "and for adoption by the General Assembly at its twenty-second session" were inserted between the words "at its forty-third session" and "and to consider";

(d) The word "further" was inserted between the word "any" and the word "recommendations".

Operative paragraph 3 of the draft resolution would, therefore, read as follows:

"3. Invites the Commission on Human Rights to prepare at its twenty-third session, as a matter of priority, a draft Convention to the effect that no statutory limitation shall apply to war crimes and crimes against humanity, irrespective of the date of their commission, for consideration by the Economic and Social Council at its forty-third session and for adoption by the General Assembly at its twenty-second session, and to

consider and make any further recommendations it believes desirable with a view to developing international co-operation in the prosecution and punishment of those responsible for war crimes and crimes against humanity;

"4. Requests the Secretary-General to prepare a preliminary draft for such a convention to assist the Human Rights Commission in its task."

234. The representative of the Ukrainian SSR submitted a sub-amendment (E/CN.4/L.833) to the revised six-Power amendments, whereby the following would be added at the end of new operative paragraph 4 of the draft resolution:

"and also to carry out a study as regards ensuring the arrest, extradition and punishment of persons responsible for war crimes and crimes against humanity."

At the 878th meeting, this sub-amendment was orally revised, at the suggestion of the representative of the United States, to add at the end, the words: ", and the exchange of documentation relating thereto".

#### Issues discussed

235. All the representatives who took part in the discussion stressed that the conscience of mankind demanded the prosecution and punishment of persons guilty of crimes against peace, war crimes and crimes against humanity. As was stated in the preamble of resolution 3 (XXI), effective measures to that end would prevent others from committing similar atrocities, protect human rights and fundamental freedoms, promote confidence among peoples, and contribute to international peace and security. With these ends in view, the United Nations, and particularly the Commission on Human Rights, should contribute to the solution of all problems raised by war crimes and crimes against humanity.

236. Certain representatives were of the view that these just demands of world public opinion were not met in some countries, particularly in one country which should be most actively concerned with the punishment of many war criminals. In that country, the prosecution of such criminals was ineffective. Several of them were left free, or had been acquitted on the basis of inadmissible excuses, or had been given too light sentences. Moreover, many known war criminals held high posts in the Government or the administration of that country. According to those representatives, these were very disturbing facts, since, in their opinion, these criminals tended to promote such evils as neo-nazism and to incite feelings in favour of a war of revenge. Some other representatives did not share these opinions and felt that the country in question was making efforts in good faith to solve difficult problems concerning the prosecution and punishment of war criminals. These representatives said that, in their view, no useful purpose would be served in launching unwarranted attacks and making one-sided criticisms against any particular country. The view was also expressed that, while crimes against humanity and war crimes should be condemned whenever and wherever they occurred, the United Nations should not dwell on the past but look to the future and concentrate its efforts on ensuring universal peace and promoting human rights.

237. The debate focused, as was the case during the twenty-first session, on the question of prescription in relation to war crimes and crimes against humanity.

Particular attention was paid to the issues as to whether it was an established principle of international law that there could be no prescription for such crimes and what steps should be taken to ensure that no prescription would apply to such crimes.

238. Many representatives stressed the need for ensuring that no prescription should apply to the prosecution and punishment of war crimes and crimes against humanity. The demands of justice could not admit that those guilty of such atrocities could escape punishment after the expiry of any time-limits. According to some representatives, very serious and urgent problems existed in that field, since in the particular country referred to in paragraph 236, the legislative authorities last year had confirmed that the domestic law on prescription would apply to war crimes and crimes against humanity. These representatives said that the legal device adopted in that country, according to which the period of limitation would run from a date later than that originally laid down, was quite inadequate to meet the requirements of effective and complete punishment for war criminals; and that at the expiry of this time-limit, in December 1969, many such criminals would probably go free in the country in which they were concentrated. Some other representatives, while admitting that other action against war criminals might perhaps be more effective, considered that action such as was being taken constituted a step in the right direction.

239. One representative, while not denying in any way the need for the effective punishment of war criminals, pointed out that, in his country as well as under certain other jurisdictions, the applicability of prescription to all criminal offences, however serious, was regarded as a fundamental principle of law.

240. Opinions were divided on the question as to whether the non-applicability of prescription to crimes against peace, war crimes and crimes against humanity was an existing principle of international law. Starting from different premises on that question, several representatives made different suggestions concerning the most appropriate procedures to ensure that no periods of limitation shall apply to war crimes and crimes against humanity.

241. Some representatives maintained that the application of any period of limitation to such crimes would violate a well-established principle of international law. According to these representatives, the basic legal principle universally recognized was that crimes should be punished to the full, unless express provision to the contrary were made in legal instruments. This principle, which was well established in the penal laws of all countries, existed in international law as well. An examination of international law relating to war crimes and to crimes against humanity showed that none of the relevant instruments mentioned even indirectly the possibility of applying prescription to such crimes. References were made, in this context, to the Declaration of St. James of 13 January 1942, the Moscow Declaration of 1 November 1943, the Potsdam Agreements of 1945, the Charter of the International Military Tribunal of Nürnberg annexed to the London Agreements of 8 August 1945, the judgements of that Tribunal rendered on 30 September and 1 October 1946, as well as to the Charter and judgements of the International Military Tribunal for the Far East. General Assembly resolutions 3 (I), 95 (I) and 170 (II) were also mentioned. According to those representatives, since none of the relevant international instruments contained any reference to periods of limitation, the conclusion was inescapable that international law totally forbade the application of prescription to crimes against peace, war crimes and crimes against humanity. They maintained that this interpretation was quite in accordance with the spirit of several of the

instruments mentioned, which called for the arrest of war criminals wherever and whenever they could be found. They pointed out also that the valuable study prepared by the Secretary-General (E/CN.4/906) generally supported this interpretation. They expressed the view that all States were under a legal obligation to conform to the principle of international law concerning the non-applicability of prescription to war crimes and crimes against humanity. To this end States, if necessary, should amend or repeal their laws or enact special laws. The Secretary-General's study indicated that a number of States had enacted special laws to that effect. Such laws, far from establishing new norms, merely implemented an existing principle of international law. These representatives felt that the most appropriate action which the United Nations should take was to reaffirm the principle of non-prescription of war crimes and to call for full observance thereof, as was proposed in the draft resolution submitted by Poland (see para. 228 above). In their view the preparation of an international convention in the matter, as proposed in the six-Power amendments, would tend to cast doubts as to the validity and the very existence of that principle of international law and would therefore constitute a step backwards. Besides, the technique of treaty-making was inadequate to meet the urgent needs of the international community in the matter. As the preparation of a convention and its ratification by the States would be time-consuming, such an instrument might not come into force before the expiry of the periods of limitation provided for by law in certain countries. The six-Power amendments might be acceptable only if they contained an unequivocal affirmation or reaffirmation of the existing principle of international law concerning the non-applicability of prescription to war crimes; in that case the convention to be prepared would have exclusively an interpretative or declaratory character.

242. One representative stated that, in the absence of any tacit or express proclamation of a principle of imprescriptibility for war crimes and crimes against humanity or of its adoption by States, his delegation was unable to accept it as a principle of international law, although the existence of a moral conviction was not in doubt. Other representatives doubted whether the conclusion that international law forbade the application of statutes of limitation to war crimes and crimes against humanity could be justified by reference to the silence of the relevant international instruments. That silence was ambiguous and was capable of more than one interpretation. While recognizing the value of the study by the Secretary-General (E/CN.4/906), they expressed reservations as regards certain of its conclusions in that respect. One representative stated that it proceeded on assumptions which had been contested at the Commission's twenty-first session.

243. According to one of those representatives, if the relevant international instruments did not refer to the prescription of such crimes, it was perhaps partly because the States Parties, at the time of the conclusion of those agreements, did not foresee that certain war criminals would remain unpunished some twenty years thereafter. This representative also noted that the main authors of these instruments had legal systems where prescription was not generally applicable, while those States where this institution was well established were not among the authors of those instruments. So far as concerned the proposition that periods of limitation applied, domestically, only by virtue of express law, that was true only for countries which adhered to the principle that courts could act only on the basis of express statutory provisions. It was not, therefore, a universally recognized principle of law.

244. Certain representatives drew attention to the view according to which limitations on State sovereignty could not be presumed, but should be expressly

stated in international law. On that basis, the international agreements on war criminals, since they did not refer to the question of prescription for such offences, should be regarded as leaving each State free to adopt any law or develop any policy which it deemed equitable in the matter. One representative who generally shared these views said that, in the absence of any stipulation to the contrary, the question of the applicability of prescription to war crimes and crimes against humanity was a matter of domestic jurisdiction in conformity with Article 2, paragraph 7, of the Charter. Some other representatives maintained that such a matter could not be considered as one of domestic jurisdiction as defined in Article 2 (7) of the Charter since it was in their view already regulated, implicitly but unequivocally, by international law.

245. Those representatives who had reservations concerning the existence in international law of a principle of imprescriptibility for war crimes and crimes against humanity regarded the draft resolution submitted by Poland as unsatisfactory in some respects. It was not for the Commission or even for the Assembly to attempt to state a doubtful point of international law by proclaiming or confirming that principle. The proper way to proceed was for the Commission to prepare a draft convention "establishing" the principle as proposed in the original six-Power amendments (see para. 229 above).

246. Certain other representatives, while believing that the principle of non-applicability of prescription to war crimes and crimes against humanity was present in international law, were also of the opinion that a convention to that effect would be most useful. It was only when they were clearly defined in writing that principles of law could have their strongest impact. The conclusion of a convention would, more than any other action by the United Nations, contribute to dispel the doubts which lingered as to the existence of a legal obligation to refrain from applying any periods of limitation to war crimes and crimes against humanity. The fear that the conclusion of a convention would cast doubts as to the pre-existence of unwritten rules was unfounded, as was shown by numerous instances of codification, both at the national level and on the international plane. Certain representatives suggested that the United Nations might well appeal to all States to observe the existing principle of international law referred to in the draft resolution by Poland, and also prepare a convention to clarify and interpret these principles in unequivocal terms.

247. Several representatives, without expressing an opinion concerning the existence or non-existence of a principle of international law in the matter, acknowledged as a fact that doubts and reservations had been raised on this point. They stressed that the Commission need not, and should not, become involved in that difficult theoretical question. Other bodies would be more competent to study it. The Commission should rather concentrate on finding the most effective means of ensuring that no period of limitation shall apply to war crimes and crimes against humanity. From a practical point of view, the conclusion of a convention appeared to be the most appropriate procedure for that purpose. Leaving aside the question whether it restated existing principles or whether it established them, this convention should clearly forbid the application of prescription to war crimes and crimes against humanity. Such an instrument would have a very great impact on world public opinion. Even the few Governments which persisted in applying statutes of limitation to such crimes would be impelled to ratify the convention, for fear of being cast away from the community of civilized nations. Thus, this rule of international law would be given full and universal recognition.

248. Most of these representatives expressed confidence that the drafting of such a convention, which would deal only with the non-applicability of prescription to war crimes and crimes against humanity, would be a relatively simple matter. Some representatives, however, were of the view that the definition, in the convention, of the crimes to which prescription should not apply, would be a difficult task. Some representatives drew attention, in that connexion, to the relevant instruments in force, none of which contained exhaustive definitions of such offences. They felt that the convention should not be based exclusively on provisions already in force as these were directed against only certain war crimes and crimes against humanity directly connected with the Second World War. The Commission should study this question of definitions very carefully, and also decide whether the prohibition of statutory limitations should apply to all penal offences committed in wartime, even to the most trivial ones, or whether the convention should concern only those crimes which shocked universal conscience. If the Commission adopted the latter approach, it should then attempt to lay down as precisely as possible its criteria for defining what constitutes a serious crime.

249. Nevertheless, it was thought by several representatives that the proposed convention could be prepared in a relatively short time and that it could be concluded well before the expiry of the time-limits for the prosecution of war crimes laid down in the penal legislation of various countries.

250. According to their sponsors, the revised six-Power amendments took no stand as regards the existence or non-existence of a principle of international law and were aimed at achieving the broadest possible agreement in the Commission. As orally revised, they referred to the desirability of "affirming" in international law, instead of "establishing" as in the original draft, the principle of the non-applicability of prescription to war crimes and crimes against humanity. They stressed the need to prepare, as a matter of priority, a draft convention for this purpose.

251. These formulations met with the agreement of most representatives. Some representatives stressed that they agreed to this text on the understanding that the convention would have a declaratory character, restating a well-established principle of international law.

252. Many representatives who took part in the discussions agreed that, while the question of prescription was the most urgent one, the United Nations should undertake studies and encourage international co-operation as regards other problems relating to the prosecution and punishment of war criminals.

253. Problems relating to the extradition of war criminals were frequently referred to during the debate. It was pointed out that the implementation of resolution 3 (I) of the General Assembly, calling for the extradition of war criminals to the countries in which they had committed their crimes, had encountered many obstacles. The laws and practices of States as well as the numerous bilateral agreements in the matter of extradition were very varied, and certain loopholes existed which could permit war criminals to escape punishment.

254. Some representatives laid stress on the seriousness of the problems relating to the extradition of war criminals. They pointed out that, in the absence of international regulations, cases involving the extradition of war criminals might give rise to tensions between States, and to the fear that the sovereignty of the State was being threatened. This unsatisfactory situation only benefited war

criminals who found shelter in the territory of various States. Problems relating to extradition were as important as those concerning the applicability of prescription, and these two categories of problems were closely interconnected. The Commission should therefore devote equal attention to both questions.

255. Most representatives thought, however, that the proposed convention on the non-applicability of prescription to war crimes should not deal also with problems relating to the extradition of war criminals. They feared that, in view of the complexity of the latter problems, the preparation of an instrument covering both subject-matters would be greatly delayed. The extradition of war criminals could perhaps be dealt with later in a separate convention. Some representatives also doubted whether the Commission was an appropriate body to deal with such a technical legal matter. Nevertheless most representatives agreed that the Commission should urge all States to continue their efforts to ensure the extradition of war criminals as proposed in the revised six-Power amendments; and that extradition could be one of the matters to be studied by the Secretary-General, as proposed in the Ukrainian sub-amendment (see para. 234 above).

256. In the view of some representatives, it was essential that all documentary evidence relating to war crimes and crimes against humanity be made available to the prosecuting States. In the absence of sufficient evidence, the courts, respectful of the right of everyone to be presumed innocent until found guilty, could only dismiss the cases or acquit the accused. Criticism of any country for not having carried out its obligations in the matter of the trial and punishment of war criminals by Governments which had refused to communicate the necessary evidence was paradoxical, to say the least. It was said that the motives behind such refusals were often of a political character; but that no political consideration could relieve the States from their obligation to co-operate in the prosecution and punishment of war criminals by making available to the prosecuting authorities all relevant documents. Certain representatives expressed the view that this matter might be regulated in a convention. It was generally agreed that the Commission and the Economic and Social Council should urge all States to continue to co-operate with each other in that important field.

257. One representative stated that the Ukrainian sub-amendment concerning the preparation of a study by the Secretary-General would be acceptable if it mentioned expressly, as one of the subject-matters of such a study, the exchange of documentation relating to war crimes and crimes against humanity. This suggestion was accepted by the author of the amendment.

258. Considering the Ukrainian sub-amendment as a whole, some representatives thought that the scope of the study proposed therein was very wide and that some of the subject-matter, particularly extradition of war criminals, was very complex.

259. Certain representatives wondered whether the Secretariat and, more particularly, the Commission were in a position to carry out such a task. It was feared that such an undertaking might delay or complicate the preparation and conclusion of the convention on the non-applicability of prescription to war crimes and crimes against humanity.

260. The representative of the Ukrainian SSR, supported by some other representatives, stressed that his proposal was quite in accordance with the terms of Commission resolution 3 (XXI) which made it clear that the study on the non-applicability of prescription to such crimes (E/CN.4/906) was only the first part

of a comprehensive project. The United Nations should continue to give full consideration to the problems relating to war crimes and crimes against humanity, in their various aspects. The proposed study should be a thorough and scientific work, based on the texts of laws and on the juridical literature on the subject. Admittedly this study would deal with complex matters and its completion might require some considerable time. There was no reason, however, why the carrying out of such a study should in any way impede or delay the preparation of a convention on the non-applicability of prescription to war crimes and crimes against humanity. Indeed, it was agreed that this convention should constitute a separate project of high priority dealing exclusively with the non-applicability of prescription to war crimes and crimes against humanity.

261. One representative expressed the view that no satisfactory solution had yet been reached as regards the award of compensation to the victims of nazi persecutions. He was contemplating the possibility of raising this question at the twenty-third session of the Commission on Human Rights.

#### Adoption of the draft resolution

262. At its 878th meeting, the Commission voted on the Polish draft resolution (see para. 228 above) and the amendments thereto (see paras. 231-234 above).

263. The first paragraph of the draft resolution by Poland and the preambular paragraph of the draft resolution for the Economic and Social Council embodied therein were adopted by 20 votes to none, with 1 abstention.

264. The six-Power amendment (see para. 229 above) to delete the second paragraph of the draft resolution for the Council submitted by Poland, as well as the words: "the General Assembly", was adopted by 20 votes to none, with 1 abstention. Consequently the five preambular paragraphs of the draft resolution for the General Assembly, contained in the draft resolution by Poland, became the second, third, fourth, fifth and sixth preambular paragraphs of a draft resolution for the Economic and Social Council.

265. What had become the second preambular paragraph of the draft resolution for the Council, as amended (by the substitution of "its" for "General Assembly") (see para. 229 above), was adopted by 20 votes to none, with 1 abstention.

266. The new third and fourth preambular paragraphs of the draft resolution for the Council were each adopted by 20 votes to none, with 1 abstention.

267. The new fifth preambular paragraph of the draft resolution for the Council was adopted by 19 votes to none, with 2 abstentions.

268. The revised six-Power amendments would replace the last preambular paragraph of the draft resolution for the Council by two paragraphs (see para. 231 above). The first of these paragraphs was adopted by 16 votes to none, with 3 abstentions. The second was adopted by 18 votes to none, with 3 abstentions.

269. The revised six-Power amendments to the last preambular paragraph of the draft resolution for the Council were adopted, as a whole, by 18 votes to none, with 3 abstentions.

270. The revised six-Power amendment to operative paragraph 1 of the draft resolution for the Council (see para. 232 above) was adopted by 20 votes to none, with 1 abstention.

271. Operative paragraph 2 of the draft resolution for the Council was adopted by 20 votes to none, with 1 abstention.

272. The revised six-Power amendments would replace operative paragraph 3 of the draft resolution for the Council by two paragraphs (see para. 233 above), which would become new operative paragraphs 3 and 4 respectively. The first of these paragraphs was adopted by 20 votes to none, with 1 abstention.

273. The Ukrainian sub-amendment, as orally revised, to the second of these paragraphs (see para. 234 above) was adopted by 16 votes to 1, with 4 abstentions.

274. New operative paragraph 4, as thus amended, was adopted by 19 votes to none, with 2 abstentions.

275. Operative paragraph 3 of the draft resolution for the Council, as revised and amended, was adopted, as a whole, by 19 votes to none, with 2 abstentions.

276. The six-Power amendment to delete the last operative paragraph of the Polish proposal (see para. 229 above) was adopted by 16 votes to none, with 5 abstentions.

277. The draft resolution as a whole, as amended, was adopted by 19 votes to none, with 1 abstention.

278. The text of the resolution, as adopted at the 878th meeting on 28 March 1966, read as follows:

3 (XXII). Question of punishment of war criminals and of persons who have committed crimes against humanity

The Commission on Human Rights

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

"The Economic and Social Council,

Noting the report of the Commission on Human Rights on the question of the punishment of war criminals and of persons who have committed crimes against humanity,

Recalling General Assembly resolutions 3 (I) of 13 February 1946 and 170 (II) of 31 October 1947 on extradition and punishment of war criminals and General Assembly resolution 95 (I) of 11 December 1946 on affirmation of the principles of international law recognized by the Charter of the Nürnberg Tribunal,

Recalling resolution 3 (XXI) of the Commission on Human Rights which expresses conviction that the prosecution of and punishment for war crimes and crimes against humanity would prevent others from the commission of

similar crimes, protect human rights and fundamental freedoms, promote confidence among peoples, and contribute to international peace and security,

Recalling resolution 1074 D (XXXIX) of the Economic and Social Council which urges all States to continue their efforts to ensure that, in accordance with international law and national laws, the criminals responsible for war crimes and crimes against humanity are traced, apprehended and equitably punished by the competent courts,

Expressing its appreciation to the Secretary-General for the study "Question of the non-applicability of statutory limitation to war crimes and crimes against humanity" (E/CN.4/906),

Considering that this study lends further support to the desirability of affirming, in international law, the principle that there is no period of limitation for war crimes and crimes against humanity,

Considering that the United Nations should take all possible action to affirm and implement such a principle of international law and secure its universal application,

1. Urges all States to take any measures necessary to prevent the application of statutory limitation to war crimes and crimes against humanity, and to continue their efforts to ensure the arrest, extradition and punishment of persons responsible for war crimes and crimes against humanity, and to make available to other States any documents in their possession relating to such crimes;

2. Invites all Governments to inform the Secretary-General of the measures they have adopted in pursuance of paragraph 1 of this resolution, so that he might submit the report on these measures at the twenty-third session of the Commission on Human Rights;

3. Invites the Commission on Human Rights to prepare at its twenty-third session as a matter of priority a draft Convention to the effect that no statutory limitation shall apply to war crimes and crimes against humanity, irrespective of the date of their commission, for consideration by the Economic and Social Council at its forty-third session and for adoption by the General Assembly at its twenty-second session and to consider and make any further recommendations it believes desirable with a view to developing international co-operation in the prosecution and punishment of those responsible for war crimes and crimes against humanity;

4. Requests the Secretary-General to prepare a preliminary draft for such a Convention to assist the Human Rights Commission in its task and also to carry out a study as regards ensuring the arrest, extradition and punishment of persons responsible for war crimes and crimes against humanity and the exchange of documentation relating thereto."

Reconsideration of operative paragraph 2 of the draft  
resolution for the Economic and Social Council  
contained in Commission resolution 3 (XXII)

279. The Commission considered this question at its 889th and 890th meetings.

280. At the 889th meeting, the representative of the United States, explaining that, in his view, the Commission had overlooked an important matter of form, proposed that the Commission reconsider operative paragraph 2 of the draft resolution recommended for adoption by the Economic and Social Council contained in the resolution adopted by the Commission at its 878th meeting. Some other representatives stated that, on that matter, no error had been made by them and they had knowingly voted for the resolution.

281. This motion, which after prolonged discussion was voted on by roll-call at the request of the representative of Poland, was adopted by 12 votes to 3, with 4 abstentions. The voting was as follows:

In favour: Austria, Chile, Costa Rica, France, Israel, Italy,  
Netherlands, New Zealand, Philippines, Sweden,  
United Kingdom, United States of America.

Against: Poland, Ukrainian SSR, USSR.

Abstaining: Dahomey, India, Iraq, Jamaica.

282. The representative of the United States submitted an amendment (E/CN.4/L.859) to insert, after the words "all Governments" in operative paragraph 2 of the draft resolution for the Economic and Social Council, the words "of States Members of the United Nations or of the specialized agencies". He explained that the amendment would bring the draft resolution in harmony with the practice of the United Nations, which was to address requests for reports and information only to Members of the United Nations or of the specialized agencies.

283. Some representatives stressed that, in their opinion, the United States amendment tended to introduce a fundamental change in the substance and meaning of resolution 3 (XXII). According to those representatives, one very important feature of that resolution was that it aimed at securing the universal and effective punishment of war criminals, and the universal application of the principle that no period of limitation was applicable to war crimes and crimes against humanity. It was essentially for that reason that those representatives had voted for that resolution. The United States amendment would tend to restrict the scope of the resolution to certain States. In the view of those representatives, this amendment could find absolutely no basis in the Charter of the United Nations. The Charter in no way limited the power of the Organization to address itself to all States, whether or not they were Members of the United Nations or of the specialized agencies. Furthermore, the Charter of the United Nations, in several Articles, emphasized the need for protecting human rights and fundamental freedoms for "everyone". These representatives were of the view that the several resolutions of the General Assembly and of other organs, in the field of human rights as well as in the political and other fields, confirmed their interpretation, as these resolutions addressed appeals to all States or all Governments. They mentioned that there was such a General Assembly resolution dealing with Human Rights Day. They also cited, in particular, General Assembly resolutions 1378 (XIV)

and 1884 (XVIII) on general and complete disarmament, General Assembly resolution 1779 (XVII) concerning manifestations of racial prejudice and national and religious intolerance, General Assembly resolution 1910 (XVIII) on the prohibition of nuclear weapon tests, General Assembly resolution 2028 (XX) on the non-proliferation of nuclear weapons, as well as certain resolutions inviting all States to increase their contributions to UNICEF. Many resolutions called on all Governments to transmit information to the Secretary-General. Operative paragraph 2 of Commission resolution 3 (XXII), as amended by the United States proposal, would contradict operative paragraph 1 which, in harmony with the practice of the above-mentioned resolutions, urged "all States" to take certain measures. It would be highly paradoxical for the United Nations to invite all States to take action and not to call on certain States to inform the Secretary-General of the measures they were taking to respond to such a call. These representatives urged the Commission to deal with questions regarding human rights on a universal basis and not to be inhibited by any political considerations in that respect.

284. Some other representatives expressed the view that the Commission should not deviate from the regular United Nations practice of addressing requests for information and reports to "States Members of the United Nations or of the specialized agencies" and should introduce the clarification proposed by the United States amendment. The text of operative paragraph 2 of resolution 3 (XXII), if it remained as it stood, would create great difficulties for the Secretary-General who might have to seek the guidance of the competent organs of the United Nations as to the precise meaning of the words "all Governments". The Commission might then have to enter into difficult political discussions, which was highly undesirable. It was in no way intended to suggest that the prosecution and punishment of war criminals, and particularly the prohibition of statutory limitations, should not be universally secured, and the words "all States" contained in operative paragraph 1 should therefore remain unqualified. This would not create any special difficulties for the Secretary-General, since he would not be bound under this paragraph to communicate with any Government. It was pointed out that operative paragraph 1 was different from operative paragraph 2 since the latter requested the Secretary-General to communicate with Governments and to obtain from them information with a view to preparing a report.

285. Certain representatives were in favour of the United States amendment essentially or exclusively because it seemed technically impossible to them that the United Nations could invite States not Members of the Organization or of the specialized agencies to submit reports to the United Nations.

286. The representatives who opposed the proposal for reconsideration and the United States amendment reiterated their support for resolution 3 (XXII) as adopted. Even if it were now amended in the sense proposed by the United States, they would vote for the resolution as a whole, because, in spite of its restricted scope, this resolution would still represent a step forward in the matter of punishment of war criminals as compared to resolution 3 (XXI). They stressed, however, that, in their view, the reconsideration of resolution 3 (XXII) violated several rules of procedure of the functional commissions of the Economic and Social Council. This was tantamount to an amendment of these rules by the Commission itself, an action which only the Economic and Social Council was entitled to take. The only correct procedure would have been to raise the matter in the Economic and Social Council or in the General Assembly. Adoption of the proposal for reconsideration made by the United States constituted a very undesirable precedent, as it would open the door for the reconsideration of many decisions of the Commission. In the opinion of these representatives, this would create extremely difficult working conditions in the Commission on Human Rights.

287. At the 890th meeting, the Commission adopted the United States amendment (see para. 282 above) by 14 votes to 4, with 3 abstentions. The results of the vote, which was by roll-call upon the request of the representative of the USSR, were as follows:

In favour: Austria, Chile, Costa Rica, Dahomey, France, Israel, Italy, Netherlands, New Zealand, Philippines, Senegal, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

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

Abstaining: Argentina, India, Iraq.

288. The Commission adopted resolution 3 (XXII) as a whole, as amended, by 19 votes to none, with 2 abstentions.

289. The revised resolution adopted by the Commission at its 890th meeting on 4 April 1966 reads as follows:

3 (XXII). Question of punishment of war criminals and of persons who have committed crimes against humanity

The Commission on Human Rights

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

/For the text of the draft resolution, see chapter XVIII, draft resolution II./

V. QUESTION CONCERNING THE IMPLEMENTATION OF HUMAN RIGHTS THROUGH A UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS OR SOME OTHER APPROPRIATE INTERNATIONAL MACHINERY

290. In its resolution 2062 (XX), of 16 December 1965, the General Assembly requested the Economic and Social Council to transmit to the Commission on Human Rights a proposal concerning the creation of the post of United Nations High Commissioner for Human Rights submitted by Costa Rica, 6/ so that the Commission might study all aspects of the matter and report on it, through the Council, to the General Assembly at its twenty-first session. In view of a decision taken by the Commission at its twenty-first session (E/4024, paras. 13-24), the item placed on the Commission's agenda pursuant to resolution 2062 (XX) was entitled: "Question concerning the implementation of human rights through a United Nations High Commissioner for Human Rights or some other appropriate international machinery".

291. The Commission had before it a note by the Secretary-General (E/CN.4/895) and statements (E/CN.4/NGO/136 and 139) submitted by the following non-governmental organizations: World Veterans Federation, Amnesty International, Coordinating Board of Jewish Organizations, Friends World Committee for Consultation, International Association of Penal Law, International Commission of Jurists, International Confederation of Free Trade Unions, International Council of Jewish Women, The International Federation for the Rights of Man, International Federation of Women Lawyers, The International League for the Rights of Man, International Movement for Fraternal Union Among Races and Peoples, The Pan-Pacific and South-East Asia Women's Association, World Jewish Congress, The World Union for Progressive Judaism, and International Humanist and Ethical Union.

292. The Commission considered this agenda item at its 876th and 879th to 883rd meetings.

293. The draft resolution submitted by Costa Rica (E/CN.4/L.831) read as follows:

"The Commission on Human Rights

"Recommends to the Economic and Social Council that it invite the General Assembly to adopt the following resolution:

"The General Assembly,

"Considering that one of the purposes of the United Nations as enunciated in Article 1 of the Charter is to achieve international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all,

"Considering that under Articles 55 and 56 of the Charter all Members of the United Nations have pledged themselves to take joint and separate

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6/ See Official Records of the General Assembly, Twentieth Session, Annexes, agenda item 98, document A/5963.

action in co-operation with the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion,

"Recalling that under Article 13 of the Charter the General Assembly is specifically empowered to initiate studies and make recommendations for the purpose of assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion,

"Recalling its proclamation of the Universal Declaration of Human Rights in 1948 as a common standard of achievement for all peoples and all nations,

"Recalling further resolution 926 (X) establishing the programme of advisory services in the field of human rights, and Economic and Social Council resolution 624 B (XXII) relating to periodic reports on human rights, and

"Bearing in mind its resolution 1776 (XVII) of 7 December 1962 on the further promotion and encouragement of respect for human rights and fundamental freedoms, and its resolution 1961 (XVIII) of 12 December 1963 designating the year 1968 as International Year for Human Rights,

"Convinced of the urgent need for the United Nations to take more effective action to discharge its obligations in the matter of human rights,

"1. Decides to elect a United Nations High Commissioner for Human Rights (hereinafter referred to as the 'High Commissioner') for a term of five years from ... to perform the following functions under the authority of the General Assembly:

"(a) he shall assist in the furthering of the realization of human rights and shall seek to secure the observance of the Universal Declaration of Human Rights;

"(b) he shall advise and assist the Commission on Human Rights and other organs of the United Nations on the periodic and other reports, and submissions made by Governments relating to human rights and such other matters as these bodies may request;

"(c) he shall report annually to the General Assembly through the Economic and Social Council and his report shall be considered as a separate item on the agenda of both bodies; at the request of the General Assembly, the Secretary-General, or any other organ of the United Nations, the High Commissioner shall make special reports to the General Assembly; he may also make special reports in cases of urgency;

"(d) he may, at the request of any Government, render assistance and services, and shall report on such assistance and service if so agreed with the Government or Governments concerned;

"2. Decides that

"(a) the office of the High Commissioner shall be so organized within the framework of the United Nations as to possess the degree of independence and the prestige required for the effective performance of the High Commissioner's functions;

"(b) the terms of appointment of the High Commissioner shall be proposed by the Secretary-General and approved by the General Assembly, but his emoluments shall not be less favourable than those of a member of the International Court of Justice;

"(c) the office of the High Commissioner shall be financed under the budget of the United Nations;

"(d) within the limits of the budgetary appropriation provided, the staff of the office of the High Commissioner shall be appointed by the High Commissioner and such staff shall:

"(i) be chosen from persons devoted to the purposes of the office of the High Commissioner;

"(ii) be subject to the conditions of employment provided under the Staff Regulations adopted by the General Assembly and the rules promulgated thereunder by the Secretary-General;

"(e) provisions may also be made to permit the employment of personnel without compensation or on a fee basis for special assignments;

"(f) the administration of the office of the High Commissioner shall be subject to the Financial Regulations of the United Nations and to the financial rules promulgated thereunder by the Secretary-General and the accounts relating to the office of the High Commissioner shall be subject to audit by the United Nations Board of Auditors;

"3. Requests the Secretary-General to provide the High Commissioner with all necessary facilities."

294. Many representatives, supporting the establishment of an office of High Commissioner, recalled that a proposal for the establishment of an office of a United Nations High Commissioner or Attorney-General for Human Rights had originally been made to the Commission's seventh session by Uruguay. <sup>7/</sup> The continued failure of the world community to ensure the full protection of the rights enunciated in the Universal Declaration of Human Rights had shown that, in the intervening years, the need to provide adequate machinery for such protection had not diminished. In the opinion of these speakers, the Costa Rican proposal represented a modest, safe preliminary step towards the establishment of an institution designed to remedy the situation. The aim should be to safeguard whatever advance had already been made in the protection of human rights; to seize

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<sup>7/</sup> See Official Records of the Economic and Social Council, Thirteenth Session, Supplement No. 9 (E/1992), annex VII.

every opportunity for further improvement; and to resist all temptation to go too fast. It was stressed, in particular, that the proposed new institution should provide that moral force which alone could transcend State borders without giving rise to charges of interference in the domestic affairs of States.

295. Several representatives contended that the measures of implementation available in the human rights field, within the United Nations system, were still imperfect; for the instruments relating to human rights adopted by the General Assembly covered a limited field and only occasionally contained provisions relating to implementation; while the system of periodic reports was not producing the desired results because of a reluctance on the part of some Member States to admit faults in their social order. Some representatives also felt that the need for establishing an institution along the lines proposed by Costa Rica had been demonstrated by the futility of the manner in which the Secretariat was forced to handle communications from private individuals or groups, under resolution 728 F (XXVIII) of the Economic and Social Council, and by the clear inadequacy, even in the most flagrant of cases, of appeals and enjoiners emanating from purely political bodies. A new independent institution was thus the only remedial measure which might prove effective, and, in view of the greater readiness to discuss implementation recently shown by certain States, the Costa Rican initiative should be welcomed as timely.

296. One representative opposed the establishment of an office of High Commissioner on grounds of principle. In the opinion of other representatives, the Costa Rican proposal answered no need whatever. Many United Nations instruments contained fully adequate provision for their implementation, in particular the International Convention on the Elimination of All Forms of Racial Discrimination and the draft International Covenants on Human Rights. The only proper means of making progress in the United Nations towards encouraging greater respect for, and observance of, human rights was through the elaboration of conventions in that sphere. It was then up to States, as the basic defenders of such rights, to assume the obligations set forth therein and to abide by the provisions. It was significant that some delegations most strongly supporting the establishment of a High Commission for Human Rights represented Governments which had a very poor record in the matter of ratifying such instruments. In reply, one representative said that, without belittling the importance of ratifying such instruments which were given very careful consideration in his own country, a more important test was the degree in which the principles of such instruments were observed.

297. The representatives opposing the establishment of an office of High Commissioner also felt that the Costa Rican proposal was vague, that many of the functions envisaged in the proposal were already performed by existing United Nations bodies and that the new institution would, in effect, require a revision of the Charter. In particular, the suggestion that the High Commissioner should be responsible directly to the General Assembly would divest the Economic and Social Council of the competence given to it by the Charter in human rights matters.

298. Other speakers, in reply, pointed out that the new institution could hardly be inconsistent with the Charter, since the Commission had been asked to consider it by the General Assembly. One representative felt that a review of the Charter, if necessary, would not be an insurmountable obstacle.

299. The Costa Rican proposal drew further criticism on the grounds that it concentrated on the establishment of a High Commissioner and wholly ignored the "other appropriate international machinery" mentioned in the title of the agenda

item under discussion. Some representatives, though not all of those opposing the Costa Rican proposal, said that, in view of the unsatisfactory nature of the proposal and of its needless financial implications (E/CN.4/L.831/Add.1), they would not participate in the work of any such institution, or in any work preparatory to its creation, and would refuse to contribute in any way to its financing.

300. Other speakers expressed their regret at this attitude.

301. Some speakers, while admitting the shortcomings of existing implementation machinery, drew attention to the need for preliminary study before the office of High Commissioner could be established. Where instruments already provided for measures of implementation, there would be a risk of conflict of competence; moreover, since the Costa Rican proposal apparently gave the High Commissioner no power to act motu proprio, his assignment would presumably be selected by political organs which might over-emphasize the gravity of situations in given areas or circumstances.

302. One representative felt that, before any new institution was set up, it should be ascertained whether full use had been made of the Secretary-General and his staff. If the High Commissioner's functions were to be purely advisory, the Secretary-General's experience in negotiation and conciliation might prove amply sufficient. Another representative, however, thought that a necessarily symbolic office should remain as detached as possible from the administrative machinery of the Secretariat. The view was also expressed that it would be premature to approve the idea of setting up an office of High Commissioner and of defining its functions before the subject had been studied in the light of General Assembly resolution 2062 (XX) and before considering other appropriate machinery in this field.

303. As regards the powers and functions of the proposed new institution, several representatives pointed out that the functions envisaged in the Costa Rican proposal were very wide and required some delimitation. The High Commissioner clearly could not be an instrument of constraint, making recommendations to States in areas where they had not assumed contractual obligations. He should therefore confine himself, in the opinion of some speakers, to matters such as assisting Governments in establishing their own institutions, to conciliation, to giving advice when requested and to focusing attention on problems. Some representatives expressed the hope that provision would also be made for fact-finding and for the screening and investigation of petitions from groups and individuals alleging breaches of specific conventions. One speaker stressed that the desirable aim was to give the High Commissioner a promotional function in the matter of human rights, reserving the protective function to the machinery envisaged in the draft Covenants and other instruments. The supporters of the general idea of a new institution agreed, in this connexion, that its functions would become fully developed and defined only in the light of practical experience.

304. Representatives opposing the establishment of an office of High Commissioner contended that its functions would inevitably involve interference in the domestic affairs of States, in breach of Article 2 (7) of the Charter. A question ceased to be within the exclusive jurisdiction of a State only when its repercussions threatened international peace; and, in view of the emphatic terms of Article 2 (1) of the Charter, State sovereignty could never be waived. Other representatives, however, pointed to the general tendency towards acceptance of the principle that Article 2 (7) did not apply in human rights matters which were themselves the

subject of other provisions of the Charter; and said that, in any event, a primary moral authority could not, if the right man were selected, become an instrument of intervention. One speaker pointed out that ratification of an international convention precluded the ratifying State from invoking Article 2 (7) in any matter to which the convention applied. This fact, in his opinion, might be an argument for placing the proposed new institution on a conventional basis. Another stated that there was already in existence the office of the High Commissioner for Refugees which was not contrary to the Charter; and that there was no reason why a further office which was similar, though conceived on different lines, should not be envisaged.

305. Some representatives thought that one of the principal functions of the new institution would be to affirm the right of individuals to seek international protection as subjects of international law. Other representatives felt that the principle whereby a State alone could be the subject of international law had not been disturbed.

306. Attention was drawn to the relevance of the powers entrusted in various countries to the originally Scandinavian office of Ombudsman, or Parliamentary Commissioner, who was given access to all official files and was authorized, inter alia, to investigate all complaints against government departments, agencies and officials, and to make certain recommendations. Some representatives, while expressing their admiration for this institution, felt that its application on an international scale was, at best, a remote objective. One speaker thought that entrusting such powers to an official within the United Nations system was wholly out of the question: for the Ombudsman reported to Parliament on complaints against government bodies; and the relationship between the General Assembly and Member States was hardly the same as that between a national Parliament and domestic public organs.

307. One representative expressed the view that the relationship between the High Commissioner and the General Assembly envisaged in the Costa Rican proposal would lay the High Commissioner open to undesirable political pressures. He should, instead, be a judicial or quasi-judicial officer heading an establishment on the lines of a ministère public, with some link between him and the International Court of Justice. Other representatives felt that greater emphasis might perhaps be placed on the practical aspect of the High Commissioner's duties.

308. Several speakers, while agreeing that the High Commissioner should be given the greatest independence and prestige, noted that the Costa Rican proposal placed him in direct relationship only with the General Assembly. They hoped that the institution finally agreed upon would have a close relationship also with other organs of the United Nations, particularly with the Commission on Human Rights to which the Costa Rican proposal made only a passing reference. They agreed, however, that the modalities of this relationship could not be clearly perceived until the preliminary question of functions had been settled.

309. Some representatives questioned the advisability of entrusting the functions envisaged in the Costa Rican proposal, or mentioned in the course of the debate, to a single person. In their opinion, the idea was Utopian and, in current circumstances, dangerous. For, since no man was able to represent every known civilization and legal system, a single figure of the type envisaged would be influenced by his own background and consequently prevented from acting with absolute objectivity in all circumstances. The only organs which could be truly

objective were the ones in which every political and legal system had an equal voice; and, moreover, these organs were better able to secure the co-operation of States. Better results might be obtained, for example, by the simple expedient of giving greater authority to the Commission on Human Rights. They also pointed out that the United Nations Charter proceeded from the premise that only representative bodies could deal with human rights questions. In view of the increased membership of the United Nations, the establishment of the post of a commissioner acting individually would run counter to the principle that the organs of the United Nations should reflect its membership. It would also mean the creation of new obstacles to participation by the scores of newly independent countries of Asia and Africa, namely, those countries which even at that juncture were still not adequately represented in the bodies concerned with human rights, in the consideration and solution of human rights questions. Certain speakers pointed out, in this connexion, that even in the regional systems of Europe and the Americas, where there was a homogeneity of tradition and a common conception of freedom and the rule of law, the protection of human rights was entrusted to collegiate bodies. The majority emphasized, however, that the High Commissioner would have moral rather than supervisory authority, and nothing in the Charter prevented the establishment of an institution or organ endowed with moral authority. The High Commissioner would not be "above" States and Governments; on the contrary, his purpose would be to co-operate with Governments and with United Nations bodies at their request. With regard to objections expressed by certain representatives because the post would be occupied by a single individual, these objections appeared to reflect concern lest the person selected come from an ideological system other than their own. Those who had served as United Nations Secretary-General had already shown that a man could be above ideological differences and act in the best interests of all mankind. The proposal was surely deserving of close study since it offered the possibility of making concrete improvements in the human rights situation throughout the world.

310. Other representatives recalled that the original proposal of Uruguay <sup>8/</sup> had provided not only for a conventional basis to the office of High Commissioner but also for an effective link with the Human Rights Committee envisaged in the draft Covenant on Civil and Political Rights. In their opinion, provision might be made for the High Commissioner to be advised by experts from the different areas of the world, appointed either as experts stricto sensu or as members of his staff. One representative, while favouring the proposal for a one-man high authority, thought that the High Commissioner should exercise the bulk of his functions through regional representatives.

311. Other speakers thought that in fields of action where the existing machinery for protecting human rights had proved inadequate a single individual could exert his influence more effectively than a committee. This was particularly true with regard to fact-finding, where action must often be prompt to be of value. It was true also where negotiations were required between individual Member States and the United Nations agencies concerned in the human rights field, and in their view the next stage of the effort to fill the gaps in the United Nations human rights programme called for such negotiations. One example was the effort to see to it that States made effective the rights they had voluntarily guaranteed for their

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<sup>8/</sup> Official Records of the General Assembly, Sixth Session, Annexes, agenda item 29, document A/C.3/564.

citizens in their own constitutions. Another example was that of communications on human rights, where screening machinery appropriate to each country's particular circumstance would have to be worked out by individual negotiations. While it would not be easy to find a person qualified to serve as High Commissioner, the task was not likely to be more difficult than that of choosing a United Nations Secretary-General. The General Assembly had elected three persons to the latter post since 1946, and all three of them had shown that one man serving as an international official could be above all systems. Again, an example of wide authority being vested in one man could be found in the office of the United Nations High Commissioner for Refugees. As regards the fact that regional organizations had apparently favoured collegiate bodies for promoting and protecting human rights, it was pointed out that the European Court for Human Rights, for one, was composed of judges from the Member States precisely because of the power of the Court to intervene directly in the affairs of the participating States and to make orders binding on them. The vesting of any such power in the High Commissioner in the foreseeable future formed no part of any proposal before the Commission.

312. Several representatives drew attention to the system of implementation elaborated by the ILO, which, by reason of its tripartite character at every level, guaranteed objectivity throughout the consideration of any grievance relating to a violation of an undertaking. Whatever form the new institution might take, the ILO system could provide useful guidance.

313. The majority of speakers, though expressing a wide range of views on the issues mentioned above, were convinced that the question should be approached in a constructive spirit and required further study. Other representatives, however, considered that such further study was unnecessary.

314. At the 880th meeting, on 29 March 1966, a draft resolution was submitted by Argentina, Austria, Costa Rica, Dahomey, Philippines, Senegal and Sweden. This draft resolution (E/CN.4/L.838) read as follows:

"The Commission on Human Rights,

"Considering that one of the purposes of the United Nations as enunciated in Article 1 of the Charter is to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all,

"Recalling that the General Assembly, in its resolution 2062 (XX) requested the Economic and Social Council to transmit the proposal to create the post of United Nations High Commissioner for Human Rights to the Commission for study in all its aspects,

"Having given preliminary consideration to that proposal and believing that further study is necessary by the Commission,

"Convinced of the urgent need for the United Nations to take more effective action to discharge its obligations in this matter of human rights,

"1. Endorses the proposal to create the institution of United Nations High Commissioner for Human Rights, which would enable the United Nations to carry out its responsibilities for the protection of human rights and

fundamental freedoms under the Charter and under international instruments already in existence or which may be adopted in the future for the purpose;

"2. Decides to establish a working group, composed of the following nine States members of the Commission: ... to meet at Headquarters to study all relevant questions concerning such institution and to report to the Commission at its twenty-third session;

"3. Requests the Secretary-General to prepare an analytical and technical study with the purpose of assisting the working group to carry out its mandate as provided in paragraph 2;

"4. Decides to consider the report of the working group as a high priority matter at its twenty-third session;

"5. Requests the Economic and Social Council to draw the attention of the General Assembly to this resolution."

315. Amendments to the seven-Power draft resolution were submitted by the Netherlands (E/CN.4/L.840), Italy (E/CN.4/L.843) and Iraq (E/CN.4/L.844).

316. The Netherlands amendment sought, in operative paragraph 1, the replacement of the word "protection" by "promotion of universal respect for, and observance", the insertion of a semi-colon after the word "freedoms" and the deletion of the remainder of the paragraph.

317. In addition, the Netherlands amendment proposed the insertion of a new operative paragraph 2, with a consequential renumbering of the remaining operative paragraphs. The proposed new paragraph read as follows:

"Takes the view that this proposal should be studied in relation to the desirability of creating as well in the framework of the United Nations a comprehensive and integrated system for the protection of human rights and fundamental freedoms;"

318. The amendment proposed by Italy called for the deletion, at the beginning of operative paragraph 1, of the word "Endorses", and its replacement by the words "Recognizes the importance in this respect of".

319. The amendment proposed by Iraq asked for the deletion, in the first line of operative paragraph 1, of the word "the" between "create" and "institution", and its replacement by the words "an appropriate"; and for the deletion, in the same paragraph, of the words "of United Nations High Commissioner for Human Rights". It was explained that the purpose of this amendment was to bring the draft resolution into line with the title of the agenda item under consideration.

320. Several representatives who commented on the seven-Power draft resolution (E/CN.4/L.838) felt that the word "Endorses", in operative paragraph 1, was somewhat premature and that a less approbatory term might be used until it was clear what the functions and powers of the new authority would be.

321. With reference to operative paragraph 2, representatives who agreed with the establishment of the working group hoped that it would study, in particular, the terms of reference of the proposed authority, the method of its appointment and

possible removal, the procedures which it would follow, its relationship with other United Nations bodies and the financial implications of its establishment. Above all, care must be exercised to ensure that it did not duplicate or clash with existing machinery and that it would co-ordinate its functions with those of the ILO, the body envisaged in the International Convention on the Elimination of All Forms of Racial Discrimination and the Committee proposed for the implementation of the draft Covenant on Civil and Political Rights. Moreover, it should consult with the specialized agencies, non-governmental organizations and regional structures with a view to concerted action.

322. In the opinion of other representatives, however, the draft resolution prejudged the issue of the desirability of a new institution and of its form, and gave its blessing to a notion before attempting to clarify the manifold questions which that notion raised. In the circumstances, these representatives stated that, if the draft resolution were approved, their Governments would not participate in the work of the proposed working group and would strive for a remedy in some more widely representative organs of the United Nations.

323. At the 883rd meeting, on 30 March 1966, the seven Powers which had sponsored the joint draft resolution (E/CN.4/L.838) submitted a revised draft resolution (E/CN.4/L.838/Rev.1) which read as follows:

"The Commission on Human Rights,

"Considering that one of the purposes of the United Nations as enunciated in Article 1 of the Charter is to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all,

"Recalling that the General Assembly, in its resolution 2062 (XX), requested the Economic and Social Council to transmit the proposal to create the post of United Nations High Commissioner for Human Rights to the Commission, for study in all its aspects,

"Having given preliminary consideration to that proposal and believing that further study is necessary by the Commission,

"Welcoming the proposal to create the institution of United Nations High Commissioner for Human Rights, which would enable the United Nations to carry out its responsibilities for the protection of human rights and fundamental freedoms under the Charter and under international instruments already in existence or which may be adopted in the future for the purpose,

"Convinced of the urgent need for the United Nations to take more effective action to discharge its obligations in this matter of human rights,

"1. Recognizes the importance of the above-mentioned proposal;

"2. Decides to establish a working group, composed of the following nine States members of the Commission: ... to meet at Headquarters to study all relevant questions concerning such institution, taking into

consideration the debate of the Commission on Human Rights on this item and all the questions raised therein and to report to the Commission at its twenty-third session;

"3. Requests the Secretary-General to prepare an analytical and technical study with the purpose of assisting the working group to carry out its mandate as provided in paragraph 2;

"4. Decides to consider the report of the working group as a high priority matter at its twenty-third session;

"5. Requests the Economic and Social Council to draw the attention of the General Assembly to this resolution."

324. The sponsors of the revised text pointed out that the fourth preambular paragraph contained the idea of the earlier operative paragraph 1 (E/CN.4/L.838) while deferring to the majority view in the matter of wording; that operative paragraph 1 was designed to accommodate the view of the representative of Italy, as expressed in his amendment (E/CN.4/L.843); and that operative paragraph 2 should satisfy the wishes of the Netherlands delegation, as well as those who complained of no reference to "other appropriate machinery" (see para. 299 above), since it implicitly called for the transmission to the working group of the Commission's records with all suggestions duly reflected.

325. The representatives of the Netherlands and Italy withdrew their amendments (E/CN.4/L.840; L.843) to the original draft resolution (E/CN.4/L.838), accepting the assurances of the sponsors of the revised text (E/CN.4/L.838/Rev.1).

326. The representative of Iraq resubmitted her amendment (E/CN.4/L.844, see para. 319 above) to operative paragraph 1 of the first seven-Power draft resolution (E/CN.4/L.838) as an amendment to the fourth preambular paragraph of the revised draft resolution (E/CN.4/L.838/Rev.1).

327. At the 883rd meeting, on 30 March 1966, the Commission voted on the revised seven-Power draft resolution (E/CN.4/L.838/Rev.1). The voting was paragraph by paragraph, with the following results:

The first preambular paragraph was approved unanimously.

The second preambular paragraph was approved by 17 votes to none, with 1 abstention.

The third preambular paragraph was approved by 18 votes to none, with 2 abstentions.

The first part of the amendment of Iraq (E/CN.4/L.844, see paras. 319 and 326 above) was rejected by 15 votes to 3, with 3 abstentions.

The second part of the amendment of Iraq (E/CN.4/L.844, see paras. 319 and 326 above) was rejected by 16 votes to 5.

The fourth preambular paragraph was approved by 13 votes to 5, with 3 abstentions.

The fifth preambular paragraph and an oral proposal by the representative of Jamaica that it appear as the second preambular paragraph, with a consequential rearrangement of the other preambular paragraphs, were approved by 18 votes to 2.

Operative paragraph 1 was approved by 16 votes to 4, with 1 abstention.

Operative paragraph 2 was approved by 16 votes to 3, with 2 abstentions.

Operative paragraph 3 was approved by 16 votes to 3, with 2 abstentions.

Operative paragraph 4 was approved by 16 votes to 4, with 1 abstention.

Operative paragraph 5 was approved by 15 votes to 3, with 3 abstentions.

#### Adoption of the draft resolution

328. At its 883rd meeting, on 30 March 1966, the revised seven-Power draft resolution (E/CN.4/L.838/Rev.1) as a whole was adopted by 16 votes to 5. The text of the resolution reads as follows:

- 4 (XXII). Question concerning the implementation of human rights through a United Nations High Commissioner for Human Rights or some other appropriate international machinery 9/

#### The Commission on Human Rights,

Considering that one of the purposes of the United Nations as enunciated in Article 1 of the Charter is to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all,

Convinced of the urgent need for the United Nations to take more effective action to discharge its obligations in this matter of human rights,

Recalling that the General Assembly, in its resolution 2062 (XX), requested the Economic and Social Council to transmit the proposal to create the post of United Nations High Commissioner for Human Rights to the Commission, for study in all its aspects,

Having given preliminary consideration to that proposal and believing that further study is necessary by the Commission,

Welcoming the proposal to create the institution of United Nations High Commissioner for Human Rights, which would enable the United Nations to carry out its responsibilities for the protection of human rights and fundamental freedoms under the Charter and under international instruments already in existence or which may be adopted in the future for that purpose,

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9/ See the statement of financial implications in annex II.

1. Recognizes the importance of the above-mentioned proposal;
2. Decides to establish a working group, composed of the following nine States members of the Commission: ... to meet at Headquarters to study all relevant questions concerning such institution, taking into consideration the debate of the Commission on Human Rights on this item and all the questions raised therein and to report to the Commission at its twenty-third session;
3. Requests the Secretary-General to prepare an analytical and technical study for the purpose of assisting the working group to carry out its mandate as provided in paragraph 2;
4. Decides to consider the report of the working group as a high priority matter at its twenty-third session;
5. Requests the Economic and Social Council to draw the attention of the General Assembly to this resolution.

329. The Commission decided that the membership of the working group, established by resolution 4 (XXII), should be left to the discretion of the Chairman. At the 885th meeting, on 31 March 1966, the Chairman announced that the working group would be composed of representatives from the following States: Austria, Costa Rica, Dahomey, France, Jamaica, Philippines, Senegal, United Kingdom and United States.

VI. MEASURES FOR THE SPEEDY IMPLEMENTATION OF THE UNITED  
NATIONS DECLARATION ON THE ELIMINATION OF ALL FORMS  
OF RACIAL DISCRIMINATION

330. In resolution 1076 (XXXIX), of 20 July 1965, the Economic and Social Council requested the Commission on Human Rights to include this item on the agenda of its twenty-second session. The General Assembly, in resolution 2017 (XX), of 1 November 1965, requested the Economic and Social Council to invite the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities to recommend, in the light of the special study of racial discrimination in the political, social and cultural fields envisaged in Council resolution 1076 (XXXIX), any further measures which could be undertaken by the appropriate United Nations bodies with a view to eliminating all forms of racial discrimination, and to submit these recommendations to the General Assembly. At its resumed thirty-ninth session, the Council transmitted the Assembly's request to the Commission.

331. At its 883rd to 887th meetings held from 30 March to 1 April 1966, the Commission considered item 10 of its agenda, "Measures for the speedy implementation of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination".

332. The representative of the Ukrainian SSR submitted a draft resolution (E/CN.4/L.847) which read as follows:

"The Commission on Human Rights,

"Recalling General Assembly resolution 2017 (XX), of 1 November 1965, on measures to implement the United Nations Declaration on the Elimination of All Forms of Racial Discrimination,

"Considering that in its resolution 1103 (XL) on measures for the speedy implementation of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the Economic and Social Council:

"(a) Invited the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, pursuant to paragraph 5 of General Assembly resolution 2017 (XX), to recommend, in the light of the special study of racial discrimination in the political, economic, social and cultural fields envisaged in Council resolution 1076 (XXXIX), of 28 July 1965, any further measures which could be undertaken by the appropriate United Nations bodies with a view to eliminating all forms of racial discrimination, and to submit those recommendations to the General Assembly,

"(b) Requested the Commission on Human Rights to submit to the Council at its forty-first session its views concerning the speediest possible accomplishment of the said task designated by the General Assembly,

"1. Calls for the immediate, complete elimination of racial discrimination, which, as is noted in General Assembly resolution 2017 (XX), 'continues to exist in some countries in spite of the decisive condemnation of it by the United Nations';

"2. Requests the Economic and Social Council at its forty-first session:

"(a) Once again to call upon all States in which racial discrimination is practised to comply strictly and unswervingly with the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and with General Assembly resolutions 1905 (XVIII) and 2017 (XX) concerning measures to implement the Declaration;

"(b) To recommend that the General Assembly should declare that the continued failure of some countries to comply with United Nations decisions concerning the elimination of racial discrimination is incompatible with the obligations imposed on Members of the United Nations by the Charter;

"(c) To recommend that the General Assembly, at its twenty-first session, should consider the question which of the measures taken by the United Nations for the purpose of eliminating the policies of apartheid could also be applied with a view to eliminating racial discrimination as rapidly as possible in the countries referred to in paragraph 1 of this resolution;

"3. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to take appropriate steps to carry out, as rapidly as possible, the special study of racial discrimination in the political, economic, social and cultural fields, the preparations for the said study to be made in accordance with an accelerated procedure on the basis of the information already available to the United Nations concerning questions of racial discrimination;

"4. Requests the Secretary-General to take steps to ensure that the report of the seminar on apartheid to be held in August 1966 is made available to the General Assembly when it considers, at its twenty-first session, questions relating to apartheid and measures to implement the United Nations Declaration on the Elimination of All Forms of Racial Discrimination;

"5. Requests the Secretary-General to take steps to ensure that the documentation of the seminar on the elimination of all forms of racial discrimination to be held during the International Year for Human Rights is distributed as widely as possible;

"6. Decides to discuss at its forthcoming sessions, as a matter of priority, the practical conclusions and recommendations of the two aforementioned seminars."

333. Amendments were submitted by the representatives of the Philippines (E/CN.4/L.849), Dahomey (E/CN.4/L.851), and the United Kingdom (E/CN.4/L.852).

Amendments to the preamble

334. The amendment of Dahomey (E/CN.4/L.851, para. 1) called for the insertion as the first preambular paragraph of the following:

"Taking into account Economic and Social Council resolution 1076 (XXXIX) in which the Council requests the Commission on Human Rights to include on the agenda of its twenty-second session the question 'Measures for the speedy implementation of the Declaration on the Elimination of All Forms of Racial Discrimination',".

335. The author of the draft resolution accepted this amendment.

336. The amendment of the Philippines (E/CN.4/L.849, para. 1) proposed the insertion of two new paragraphs after the second preambular paragraph which would read as follows:

"Noting that the Sub-Commission has not yet completed this special study and that the Commission is, in consequence, unable at present to submit recommendations to the Council in the light of that study as requested in sub-paragraph a above,

"Regretting that the time available to it at its present session has been insufficient to enable it to consider and formulate its views as requested in sub-paragraph b above".

337. The representative of Dahomey submitted an amendment (E/CN.4/L.851, para. 2) whereby, instead of the insertion proposed by the Philippines (E/CN.4/L.849, para. 1), the following paragraph would be added at the end of the preamble:

"Noting that the Sub-Commission has not yet concluded the special study mentioned in sub-paragraph a above,".

Amendments to operative paragraph 1

338. The Philippine amendment (E/CN.4/L.849, para. 2) would delete operative paragraph 1. This amendment was withdrawn at the 886th meeting.

339. At the same meeting, on 1 April 1966, the representatives of Dahomey, Israel and the Philippines orally proposed to replace the text of this paragraph by the following:

"Condemns racial discrimination in all its forms wherever it exists and appeals to Member States to take urgent and effective measures for its complete elimination;".

340. This proposal was accepted by the author of the draft resolution.

Amendments to operative paragraph 2

341. The Philippine amendment (E/CN.4/L.849, para. 2) proposed to delete operative paragraph 2. This amendment was withdrawn at the 886th meeting.

Paragraph 2 a

342. At the 886th meeting, the representatives of Dahomey, Israel and the Philippines proposed orally to replace the text of paragraph 2 a by the following:

"Once again to call upon all States in which racial discrimination is practised to comply speedily and in good faith with the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the Universal Declaration of Human Rights and General Assembly resolutions 1905 (XVIII) and 2017 (XX) concerning measures to implement these declarations;"

343. The author of the draft resolution proposed to replace the words "these declarations" at the end of the text by "the Declaration on the Elimination of All Forms of Racial Discrimination". The sponsors of the proposed amendment agreed to that change and their text, as thus revised, was then accepted by the author of the draft resolution.

Paragraph 2 b

344. The representative of Dahomey suggested orally at the 885th meeting the replacement of paragraph 2 b by the following:

"To recommend to the General Assembly that it should declare that the continued refusal of some States to eliminate racial discrimination, in disregard of the relevant decisions and recommendations of the United Nations Organization, is incompatible with the obligations assumed by them under the United Nations Charter;"

345. The author of the draft resolution accepted the suggestion and revised the text of paragraph 2 b accordingly.

346. At the 886th meeting, however, the representatives of Dahomey, Israel and the Philippines proposed orally to replace the text of paragraph 2 b by the following:

"To recommend that the General Assembly reiterate that the pursuit of policies of racial discrimination by any Member State is incompatible with the obligations assumed by it under the Charter of the United Nations."

347. The author of the draft resolution accepted this text.

Amendments to operative paragraph 3

348. The amendment of the United Kingdom (E/CN.4/L.852) proposed to replace, in operative paragraph 3, the whole phrase after the words "on the basis of" by the following words: "paragraph 4 of resolution 1103 (XL) of the Economic and Social Council".

Amendments to operative paragraph 5

349. The representative of Jamaica proposed orally to replace the word "during" by the words "in the context of the programme of". The sponsor of the draft resolution agreed to the proposal.

## Amendments to operative paragraph 6

350. The Philippine amendment (E/CN.4/L.849, para. 3) called for the deletion of the words "as a matter of priority".

## Addition of a new paragraph at the end of the draft resolution

351. The Philippine amendment (E/CN.4/L.849, para. 4) proposed to add the following as the final operative paragraph:

"Decides further to retain this item on the agenda of the Commission's twenty-third session."

352. The Dahomey amendment (E/CN.4/L.851, para. 3) called for the addition of the following as the final operative paragraph:

"Decides to retain on the agenda of the Commission's twenty-third session the item entitled 'Measures for the speedy implementation of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination' for more thorough study."

353. At the 885th meeting, the Philippine amendment was withdrawn in favour of the Dahomey amendment.

354. At the same meeting, the representative of Italy orally proposed that, if the Philippine amendment to paragraph 6 of the draft resolution (see para. 350 above) were adopted, the words "as a matter of priority" should be added after the words "twenty-third session" in the Dahomey amendment.

355. The sponsor of the draft resolution accepted the addition of the proposed new paragraph, including the Italian amendment, at the end of his draft.

## Issues discussed

356. All members recognized the importance of the item under consideration. There was, however, a marked difference of opinion concerning the advisability of adopting a substantive resolution during the Commission's present session. Some representatives considered that the Commission did not have at its disposal enough time or enough information to deal adequately with the request made by the General Assembly in its resolution 2017 (XX). In their opinion, it would be in keeping with the General Assembly's request for the Commission to postpone further action on this subject until the Sub-Commission on Prevention of Discrimination and Protection of Minorities had completed its special study of racial discrimination in the political, economic, social and cultural fields, as was envisaged in resolution 1076 (XXXIX) of the Economic and Social Council.

357. Other representatives considered that the Commission had not been asked to wait until the Sub-Commission's special study was complete. They agreed that the Commission could not at the present session deal fully with such a large subject, but, in their view, it was essential for the Commission to make an immediate response to the General Assembly's request. There was positive value in a call to States, and world opinion would not understand the position if the Commission remained silent.

358. This general difference of view was reflected in the discussion of the draft resolution tabled by the Ukrainian SSR (see para. 332 above). Those who supported the draft resolution held that it would meet a major need. They emphasized that even the entry into force of the Convention on the Elimination of All Forms of Racial Discrimination would not detract in any way from the importance of the Declaration on the same subject. The adoption of the Ukrainian draft resolution would provide broader methods of implementation, and would thus lead to the realization of a declared United Nations objective.

359. On the other hand, those opposed to the Ukrainian draft resolution maintained that it was not responsive to the General Assembly's mandate. The main operative provisions recalled decisions taken by higher organs of the United Nations, and were therefore superficial and redundant. The real need was for a study in depth, leading to practical proposals which could conscientiously be recommended to the Economic and Social Council and to the General Assembly. Meanwhile, the Commission should confine its action to adopting a procedural resolution which would, inter alia, record the reasons for the delay in making positive recommendations. This was the intent of the Philippine amendments (see paras. 336, 341, 350 and 351 above) to the Ukrainian draft resolution.

360. One representative, who described the draft resolution as unrealistic, suggested that apartheid - the worst form of racial discrimination - could not be eliminated by measures of the kind contemplated in the second operative paragraph. It would, he thought, be more pertinent to include in the draft resolution some reference to the relationship between the establishment of genuinely democratic institutions and the elimination of discrimination. Other speakers, although conceding that certain political conditions favoured racial discrimination, noted that this evil was sometimes found in democratic States and was sometimes absent in totalitarian States. It was pointed out in reply that, while democratic countries might suffer from this evil, they had within their own reach the remedies afforded by the ballot box and by the impartial administration of justice.

361. One member referred in this context to the part played by colonialism, which would long be regarded as the major evil, because it had been responsible for subjecting many African and Asian peoples both to racial discrimination and to other violations of political, economic, social and cultural rights. Another speaker suggested that it was up to those who criticized the Ukrainian draft resolution to submit constructive alternative proposals. He wondered whether representatives who spoke of the need for more concrete measures aimed at the elimination of racial discrimination would be ready to admit the Commission's competence to take such measures. Steps of this kind were often opposed even when put forward in higher organs with undoubted competence.

362. The first and second operative paragraphs of the Ukrainian draft resolution were subjected to various criticisms. Several speakers considered that it was inappropriate for the Commission to call upon Member States to take any kind of action: in their view it was more the Commission's function to consider ways and means, leaving it to the higher organs to decide what appeals should be made to Member States. Similar doubts were expressed about paragraph 2 c of the draft resolution. One speaker observed that there was in any case no valid basis for comparison between measures needed to eliminate apartheid and those appropriate to other instances of racial discrimination, for apartheid was an official state policy backed by domestic law. Another speaker asked whether paragraph 2 c did not merely refer back to the General Assembly a task which the latter body had,

in paragraph 5 of resolution 2017 (XX), already entrusted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

363. In deference to various doubts and criticisms expressed during the debate, the representative of the Ukrainian SSR later said that he would not press to a vote paragraph 2 c of his delegation's draft resolution. He insisted, however, upon the fundamental importance of the remaining provisions of the first two operative paragraphs. He pointed out that the first operative paragraph followed the wording of General Assembly resolution 2017 (XX) and he asked what objection there could be to reiterating this appeal. Paragraph 2 a was a counterpart provision which requested the Economic and Social Council to make a similar appeal. A number of delegations stressed the special importance of paragraph 2 b, the inclusion of which they considered to be amply justified by reference to various provisions of the United Nations Charter, but especially to Articles 55 and 56. Furthermore, they thought it entirely appropriate that the Commission should request its parent body to make such a recommendation to the General Assembly.

364. There was much debate on paragraph 2 b. A number of speakers contended that this provision of the Ukrainian draft resolution was based upon a doubtful interpretation of the United Nations Charter. They pointed out that the resolutions of the General Assembly should not be described as "decisions". They also objected to any implication that the United Nations Charter imposed on Member States a legal obligation to comply with recommendations of the General Assembly. One speaker observed that most Member States must, at one time or another, have failed to comply with a General Assembly resolution. In an effort to meet such criticisms, the representative of Dahomey proposed, and the representative of the Ukrainian SSR accepted, a revised wording of paragraph 2 b (see para. 344 above).

365. Throughout the discussion there was a recurring emphasis upon the possibilities of compromise. One speaker who urged this theme commented that the differences within the Commission were mainly over questions of competence or form. Several other speakers insisted that the Commission's resolution should have more than a procedural character, even though they were not entirely satisfied with the text of the Ukrainian draft resolution. Before the debate ended, the author of the draft resolution and the authors of the amendments to the first two operative paragraphs reached agreement upon compromise texts (see paras. 339, 342 and 346 above).

366. It was explained by the Ukrainian representative that paragraph 3 of his draft resolution, requesting the Sub-Commission on Prevention of Discrimination and Protection of Minorities to accelerate its study on racial discrimination, was intended to reflect the importance of the subject. One representative criticized the paragraph on the ground that resolution 8 (XVIII) of the Sub-Commission contemplated a thorough and fairly long-term operation.

367. The representative of the United Kingdom explained, in support of his amendment to operative paragraph 3 (see para. 348 above), that, in its original form, this paragraph tended to interfere with the freedom of the Special Rapporteur of the Sub-Commission to proceed in regard to the range of the information he would use in drafting his study and his working methods; but some reference should be made, as he proposed, to resolution 1103 (XL) of the Economic and Social Council in which that body had referred to the speedy completion of the study.

368. In connexion with operative paragraph 5 of the draft resolution, one representative queried the reference to the "documentation" of the seminar on the elimination of all forms of racial discrimination. The documentation for such a seminar, as distinguished from its printed reports, could be formidable. It was said in reply that although seminar documents were not usually widely distributed, it was necessary in this case so that all States could profit.

369. In support of his amendment (see para. 350 above) to paragraph 6 of the draft resolution, the representative of the Philippines explained that he sought to delete any mention of priority in the reference to further consideration by the Commission of the conclusions and recommendations of the two seminars mentioned. Such a reference was suggested to be inappropriate when one seminar was to be held in 1966 and another in 1968. The Ukrainian representative said that he could not accept this view.

#### Adoption of the resolution

370. At its 886th and 887th meetings, on 1 April 1966, the Commission voted on the draft resolution by the Ukrainian SSR, as orally revised, and on the amendments thereto, after a motion by the representative of Poland for the closure of the debate had been adopted by 20 votes to none, with 1 abstention.

#### Preamble

371. The first Dahomey amendment, accepted by the author of the draft resolution (see paras. 334 and 335 above), was adopted unanimously.

372. The original first preambular paragraph of the draft resolution (see para. 332 above) was adopted by 17 votes to none, with 1 abstention.

373. The original second preambular paragraph of the draft resolution was adopted unanimously.

374. The second Dahomey amendment (see para. 337 above) was rejected by 6 votes to 9, with 3 abstentions.

375. The first amendment of the Philippines, to insert an additional preambular paragraph beginning with "Noting" (see para. 336 above) was adopted by 16 votes to none, with 2 abstentions.

376. The second amendment of the Philippines, to insert an additional preambular paragraph beginning with "Regretting" (see para. 336 above) was adopted by 16 votes to none, with 3 abstentions.

#### Operative paragraph 1

377. The new text, proposed orally by the representatives of Dahomey, Israel and the Philippines (see para. 339 above), and accepted by the sponsor of the draft resolution, was adopted by 17 votes to none, with 2 abstentions.

Operative paragraph 2 a

378. The new text, orally proposed by the representatives of Dahomey, Israel and the Philippines (see paras. 342 and 343 above), and accepted by the sponsor of the draft resolution, was adopted by 17 votes to none, with 2 abstentions.

Operative paragraph 2 b

379. The new text orally proposed by the representatives of Dahomey, Israel and the Philippines (see para. 346 above) and accepted by the sponsor of the draft resolution was adopted by 15 votes to none, with 3 abstentions.

Operative paragraph 3

380. The United Kingdom amendment (see para. 348 above) was adopted by 15 votes to 3, with 1 abstention.

381. Paragraph 3 of the draft resolution, as amended, was adopted by 18 votes to none, with 1 abstention.

Operative paragraph 4

382. Paragraph 4 of the draft resolution was adopted by 18 votes to none, with 1 abstention.

Operative paragraph 5

383. Paragraph 5 of the draft resolution, as revised to include the Jamaican oral amendment (see para. 349 above), was adopted by 18 votes to none, with 1 abstention.

Operative paragraph 6

384. The third amendment of the Philippines (see para. 350 above) was adopted by 9 votes to 3, with 6 abstentions.

385. Paragraph 6 of the draft resolution, as amended, was adopted by 18 votes to none, with 1 abstention.

New final operative paragraph

386. The third amendment of Dahomey (see para. 352 above), including the Italian oral amendment (see para. 354 above), which was accepted by the Philippines and by the author of the draft resolution, was adopted by 15 votes to none, with 4 abstentions.

Draft resolution as a whole, as amended

387. A roll-call vote was requested by the representative of Poland.

388. At its 387th meeting on 1 April 1966, the draft resolution as a whole, as amended, was adopted unanimously.

389. The resolution as adopted by the Commission on Human Rights reads as follows:

5 (XXII). Measures for the speedy implementation of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination 10/

The Commission on Human Rights,

Taking into account Economic and Social Council resolution 1076 (XXXIX) in which the Council requested the Commission on Human Rights to include on the agenda of its twenty-second session the question "Measures for the speedy implementation of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination",

Recalling General Assembly resolution 2017 (XX), of 1 November 1965, on measures to implement the United Nations Declaration on the Elimination of All Forms of Racial Discrimination,

Considering that in its resolution 1103 (XL) on measures for the speedy implementation of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the Economic and Social Council:

(a) Invited the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, pursuant to paragraph 5 of General Assembly resolution 2017 (XX), to recommend, in the light of the special study of racial discrimination in the political, economic, social and cultural fields envisaged in Council resolution 1076 (XXXIX) of 28 July 1965, any further measures which could be undertaken by the appropriate United Nations bodies with a view to eliminating all forms of racial discrimination, and to submit those recommendations to the General Assembly,

(b) Requested the Commission on Human Rights to submit to the Council at its forty-first session its views concerning the speediest possible accomplishment of the said task designated by the General Assembly,

Noting that the Sub-Commission has not yet completed this special study, and that the Commission is, in consequence, unable at present to submit recommendations to the Council in the light of that study as requested in sub-paragraph a above,

Regretting that the time available to it at its present session has been insufficient to enable it to consider and formulate its views as requested in sub-paragraph b above,

1. Condemns racial discrimination in all its forms wherever it exists and appeals to Member States to take urgent and effective measures for its complete elimination;

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10/ See the statement of financial implications in annex II.

2. Requests the Economic and Social Council at its forty-first session:

(a) Once again to call upon all States in which racial discrimination is practised to comply speedily and in good faith with the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the Universal Declaration of Human Rights and General Assembly resolutions 1905 (XVIII) and 2017 (XX) concerning measures to implement the Declaration on the Elimination of All Forms of Racial Discrimination;

(b) To recommend that the General Assembly reiterate that the pursuance of policies of racial discrimination by any Member State is incompatible with the obligations assumed by it under the Charter of the United Nations;

3. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to take appropriate steps to carry out, as rapidly as possible, the special study of racial discrimination in the political, economic, social and cultural fields, the preparations for the said study to be made in accordance with an accelerated procedure on the basis of paragraph 4 of resolution 1103 (XL) of the Economic and Social Council;

4. Requests the Secretary-General to take steps to ensure that the report of the seminar on apartheid to be held in August 1966 is made available to the General Assembly when it considers, at its twenty-first session, questions relating to apartheid and measures to implement the United Nations Declaration on the Elimination of All Forms of Racial Discrimination;

5. Requests the Secretary-General to take steps to ensure that the documentation of the seminar on the elimination of all forms of racial discrimination to be held in the context of the programme of the International Year for Human Rights is distributed as widely as possible;

6. Decides to discuss at its forthcoming sessions the practical conclusions and recommendations of the two aforementioned seminars;

7. Decides to retain on the agenda of the Commission's twenty-third session, as a matter of priority, the item entitled "Measures for the speedy implementation of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination" for more thorough study.

## VII. INTERNATIONAL YEAR FOR HUMAN RIGHTS

390. In resolution 1961 (XVIII), of 12 December 1963, the General Assembly designated the year 1968 as International Year for Human Rights and requested the Economic and Social Council to invite the Commission on Human Rights at its forthcoming sessions, with the assistance of the Secretary-General, to prepare, for consideration by the Assembly (a) a programme of measures and activities representing a lasting contribution to the cause of human rights, to be undertaken in celebration of the twentieth anniversary of the adoption of the Universal Declaration of Human Rights; and (b) suggestions for a list of goals in the field of human rights to be achieved by the United Nations not later than the end of 1968. The Assembly requested that the programme and suggestions be submitted in time for its consideration at its twentieth session. The Economic and Social Council at its resumed thirty-sixth session transmitted the resolution of the General Assembly to the Commission.

391. At its twentieth session, the Commission on Human Rights, by resolution 6 (XX) decided, inter alia, to establish a committee of thirty-four members to prepare a programme of measures and activities in celebration of the twentieth anniversary of the Universal Declaration of Human Rights. The Commission also requested the Economic and Social Council to recommend to the General Assembly, for consideration at its nineteenth session, a draft resolution listing goals to be achieved by the United Nations not later than the end of 1968. By resolution 1015 E (XVII) the Council forwarded the Commission's draft resolution to the General Assembly.

392. At its twenty-first session, the Commission on Human Rights, after having considered the report of the Committee on the International Year for Human Rights (E/CN.4/336), proposed, by resolution 5 A (XXI), that the Economic and Social Council should recommend to the General Assembly the adoption of a draft resolution containing recommendations concerning an interim programme of measures and activities to be undertaken in connexion with the International Year for Human Rights. The Commission, in resolution 5 B (XXI), also appointed a working party consisting of all States represented on the Commission to complete the examination of the report of the Committee on the International Year for Human Rights, to elaborate, in co-operation with the Secretary-General, the further observances, measures and activities which the Commission on Human Rights should recommend to the Assembly to be undertaken by the United Nations in celebration of the twentieth anniversary of the Universal Declaration of Human Rights, including the proposed International Conference on Human Rights.

393. The Economic and Social Council, at its thirty-ninth session, by its resolution 1074 E (XXXIX), recommended to the General Assembly the adoption of the interim programme of measures and activities to be undertaken in connexion with the International Year for Human Rights.

394. At its twentieth session, the General Assembly, on the recommendation of the Council, adopted resolution 2081 (XX) entitled "International Year for Human Rights". In the resolution, the General Assembly, inter alia, after having noted that the Commission on Human Rights was continuing the preparation of a programme of observances, measures and activities to be undertaken in 1968, approved the interim

programme of measures and activities recommended by the Commission, commended it to the States Members of the United Nations and of the specialized agencies, and decided to convene an international conference in 1968, in order to: (a) review the progress which has been made in the field of human rights since the adoption of the Universal Declaration of Human Rights; (b) evaluate the effectiveness of the methods used by the United Nations in the field of human rights, especially with respect to the elimination of all forms of racial discrimination and the practice of the policy of apartheid; (c) formulate and prepare a programme of further measures to be taken subsequent to the celebration of the International Year for Human Rights. The Assembly also decided to establish, in consultation with the Commission on Human Rights, a preparatory committee for the International Conference on Human Rights, consisting of seventeen members, to complete the preparations for the Conference in 1968 and, in particular, to make proposals for the consideration of the General Assembly regarding the agenda, duration and venue of the Conference, and the means of defraying the expenses of the Conference, and to organize and direct the preparation of the necessary evaluation studies and other documentation. The Preparatory Committee was requested to report on the progress of the preparations for the Conference to the General Assembly at its twenty-first and twenty-second sessions. The Assembly also requested the Secretary-General to appoint an Executive Secretary for the Conference from within the Secretariat and to provide the Preparatory Committee with all necessary assistance. The members of the Preparatory Committee are as follows: Canada, France, India, Iran, Italy, Jamaica, New Zealand, Nigeria, the Philippines, Poland, Somalia, Tunisia, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Yugoslavia.

395. By resolution 2017 (XX), adopted on 1 November 1965, and entitled "Measures to implement the United Nations Declaration on the Elimination of All Forms of Racial Discrimination", the General Assembly, inter alia, recommended that a seminar on the question of the elimination of all forms of racial discrimination should be held under the programme of advisory services in the field of human rights and in the context of the programme for the International Year for Human Rights.

396. The Commission on Human Rights considered this item of its agenda at its 883rd, 886th and 887th meetings, held on 30 March and 1 April 1966.

397. The Commission had before it a note by the Secretary-General (E/CN.4/904) and the report of the Working Party on the International Year for Human Rights (E/CN.4/905) containing a series of recommendations on further measures and activities to be undertaken in connexion with the International Year for Human Rights. A written statement (E/CN.4/NGO/131) was submitted by the Consultative Council of Jewish Organizations.

398. At the 886th meeting, held on 1 April 1966, the Chairman of the Commission on the Status of Women made a statement.

399. Costa Rica, the Philippines, Sweden, the United Kingdom and the United States submitted the following draft resolution (E/CN.4/L.834):

"The Commission on Human Rights,

"Noting that the General Assembly, in its resolution 2081 (XX), invited the co-operation of competent regional inter-governmental organizations in

observing 1968 as International Human Rights Year and particularly invited them to provide the international conference envisaged for 1968 with full information on their accomplishments, programmes and other measures to realize protection of human rights,

"Believing that the experience of these bodies, and of any further regional inter-governmental Commissions on Human Rights which may be established would be helpful to the Commission at its regular sessions,

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

'The Economic and Social Council,

'Desiring to make use of all possible information and experience to advance the realization of human rights and fundamental freedoms for all without distinction as to race, sex, colour or religion,

'Recalling its resolution 48 (IV), which provides for co-operation between the Commission on the Status of Women and regional inter-governmental bodies in the field of women's rights,

'Invites the Secretary-General to make arrangements for the presence of observers, as appropriate, from the Council of Europe, the Inter-American Commission on Human Rights, and from other regional inter-governmental bodies particularly concerned for human rights at sessions of the Commission on Human Rights and of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, to act in an informative and advisory capacity, and to arrange for the exchange of information between the Commission and these bodies on matters relating to human rights.'

The co-sponsors of the five-Power draft resolution subsequently proposed (E/CN.4/L.834/Add.1) to insert the following as the first operative paragraph of the draft resolution for the Economic and Social Council:

"Invites the Secretary-General to make any necessary arrangements to facilitate the co-operation of competent regional inter-governmental organizations in observing 1968 as International Human Rights Year, as provided in General Assembly resolution 2081 (XX)."

At the 887th meeting, the co-sponsors of the five-Power draft resolution agreed to delete the words "to act in an informative and advisory capacity" contained in the operative paragraph of that resolution and withdrew the proposal contained in E/CN.4/L.834/Add.1.

400. The representative of Jamaica submitted two draft resolutions. One draft resolution (E/CN.4/L.841) read as follows:

"The Commission on Human Rights,

"Noting with satisfaction General Assembly resolution 2081 (XX) approving the interim programme on the observances, measures and activities for International Year for Human Rights 1968 and establishing a Preparatory Committee consisting of seventeen members to complete the preparations for

the International Conference on Human Rights in 1968, and the appointment by the President of the General Assembly of seventeen States to the Preparatory Committee,

"1. Expresses its willingness to co-operate with the General Assembly and the Preparatory Committee in completing the preparations for the International Conference on Human Rights in 1968 with a view to enhancing the usefulness and lasting value of the Conference;

"2. Requests the Preparatory Committee to keep the Commission informed of developments relating to the International Conference on Human Rights."

At the 887th meeting, the representative of Jamaica agreed with the suggestion made by the representative of Dahomey to delete, in operative paragraph 1, the words "with a view to enhancing the usefulness and lasting value of the Conference", and with the suggestion made by the representative of the Union of Soviet Socialist Republics to replace, in operative paragraph 2, the word "Requests" by the word "Invites". He further proposed, in the light of the suggestion made by the Chairman of the Commission on the Status of Women, to replace the word "the" at the beginning of operative paragraph 2 of his draft resolution by the word "this" and to insert the words "and the Commission on the Status of Women" after the word "Commission".

401. The other draft resolution by Jamaica (E/CN.4/L.842 and Add.1) read as follows:

"The Commission on Human Rights

"Recommends that the Economic and Social Council adopt the following draft resolution:

'The Economic and Social Council,

'Noting the report of the Commission on Human Rights on the International Year for Human Rights,

'Recommends the following draft resolution to the General Assembly for consideration at its twenty-first session:

"The General Assembly,

"Recalling its resolutions 1961 (XVIII) and 2081 (XX) on the International Year for Human Rights,

"1. Approves the further programme of measures and activities envisaged for the United Nations, Member States, the specialized agencies, national and other international organizations, which has been recommended by the Commission on Human Rights and is set out in the annex to this resolution (see E/CN.4/905, chapter V);

"2. Invites Member States and the specialized agencies, regional inter-governmental organizations, and national and international organizations concerned, to devote the year 1968 to intensified efforts and undertakings in the field of human rights, including the measures set out in the above-mentioned programme; and to keep the Secretary-General informed of their plans and preparations;

"3. Invites the Secretary-General to make any necessary arrangements to facilitate the co-operation of competent regional inter-governmental organizations in observing 1968 as International Human Rights Year, as provided in General Assembly resolution 2081 (XX);

"4. Requests the Secretary-General to co-ordinate measures and activities undertaken by Member States, the United Nations, and the specialized agencies, regional organizations and national and international organizations concerned, and, in particular, to collect and disseminate at regular intervals information on activities contemplated or undertaken by them in connexion with the International Year for Human Rights."'"

402. The representative of Jamaica, in introducing the second draft resolution, drew attention to the fact that in order to carry out the task of co-ordination stressed in operative paragraph 4 of that draft, the Secretary-General would need additional staff up to 1968, and expressed the view that the Secretariat estimate of the financial implications of this proposal (E/CN.4/905, paras. 95-103) was inadequate. During the discussion, several representatives expressed their appreciation for the work done by the working party and endorsed the recommendations contained in its report. Certain representatives, however, objected to some of the recommendations of the working party, especially those relating to a human rights prize. They also stated that the United Nations should not defray any expenses connected with the recommendation regarding the invitation to be extended to persons who participated in the drafting of the Universal Declaration of Human Rights to attend a special meeting of the General Assembly on 10 December 1968.

403. A number of representatives objected to the five-Power draft resolution (see para. 399 above), stating that the invitation to be extended to regional inter-governmental bodies to act as observers "in an informative and advisory capacity" at sessions of the Commission on Human Rights and of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was contrary to the Charter and the practice of the United Nations. They maintained that the relations between the United Nations and other inter-governmental bodies were regulated by precise and specific agreements, as in the case of the specialized agencies. The Commission on Human Rights was not empowered to establish, on behalf of the United Nations, new agreements or new relations with regional inter-governmental bodies. It was noted that the item under consideration by the Commission was that of the International Year for Human Rights and not that of the nature and position of inter-governmental bodies and their relations with the organs of the United Nations. The invitation to inter-governmental bodies contemplated in the five-Power draft resolution differed both in its nature and its legal implications from the invitations envisaged by Assembly resolution 2081 (XX) and it was not a matter for the Commission to determine the legal status of inter-governmental bodies and their position vis-à-vis the United Nations. Moreover, in the view of some representatives, the five-Power draft resolution was objectionable in that it singled out two regional inter-governmental bodies representing only certain parts of the world.

404. In support of the five-Power draft resolution, it was argued that to secure the co-operation of regional and inter-governmental bodies interested and active in the field of work of the United Nations and in particular in the field of human rights it was in accordance with the principles and the spirit of the Charter and

that this co-operation, which had been secured before, had proved to be very practical and most useful. It was stated that there were no legal obstacles in the Charter or in the practice of the United Nations in the way of entering into relations with those agencies and that, in the protection and promotion of human rights, the United Nations should act in co-operation with all interested bodies and organizations. Moreover, the General Assembly, by resolution 2081 (XX), had clearly and openly sought the co-operation of the competent regional inter-governmental organizations in connexion with the International Year for Human Rights and therefore no limitation of a legal nature for the United Nations existed in this respect. It was stated that the two inter-governmental bodies mentioned in the five-Power draft resolution had been very active in the protection and promotion of human rights within their sphere and therefore their co-operation in the celebration of the International Year for Human Rights and in the work of the Commission on Human Rights could be very useful.

405. At its 887th meeting, on 1 April 1966, the Commission voted on the draft resolutions submitted.

Five-Power draft resolution, as orally revised (see para. 399 above)

406. The representative of Iraq asked for a separate vote on the words "as appropriate from the Council of Europe, the Inter-American Commission on Human Rights, and" and the word "other" contained in the operative paragraph of the five-Power draft resolution. The Commission, by 13 votes to 4, with 3 abstentions, decided to retain those words.

407. The five-Power draft resolution, as orally revised, was adopted by 14 votes to 3, with 3 abstentions.

First draft resolution by Jamaica, as orally revised (see para. 400 above)

408. At the request of the representative of the USSR, a separate vote was taken on the words "and the Commission on the Status of Women". The Commission decided, by 11 votes to 1, with 4 abstentions, to retain these words.

409. The Jamaican draft resolution, as orally revised (see para. 400 above), was adopted unanimously.

Second draft resolution by Jamaica (see para. 401 above)

410. The draft resolution was adopted by 15 votes to none, with 2 abstentions.

411. The text of the resolutions adopted by the Commission at its 887th meeting on 1 April 1966 reads as follows:

6 (XXII). International Year for Human Rights

The Commission on Human Rights,

Noting that the General Assembly, in its resolution 2081 (XX), invited the co-operation of competent regional inter-governmental organizations in observing 1968 as International Human Rights Year and particularly invited

them to provide the international conference envisaged for 1968 with full information on their accomplishments, programmes and other measures to realize protection of human rights,

Believing that the experience of these bodies, and of any further regional inter-governmental Commissions on Human Rights which may be established would be helpful to the Commission at its regular sessions,

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

/For the text of the draft resolution, see chapter XVIII, draft resolution III/

7 (XXII). International Year for Human Rights

The Commission on Human Rights,

Noting with satisfaction General Assembly resolution 2081 (XX) approving the interim programme on the observances, measures and activities for International Year for Human Rights 1968 and establishing a Preparatory Committee consisting of seventeen members to complete the preparations for the International Conference on Human Rights in 1968, and the appointment by the President of the General Assembly of seventeen States to the Preparatory Committee,

1. Expresses its willingness to co-operate with the General Assembly and the Preparatory Committee in completing the preparations for the International Conference on Human Rights in 1968;

2. Invites the Preparatory Committee to keep this Commission and the Commission on the Status of Women informed of developments relating to the International Conference on Human Rights.

8 (XXII). International Year for Human Rights

The Commission on Human Rights

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

/For the text of the draft resolution, see chapter XVIII, draft resolution IV/

## VIII. ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

412. The Commission considered item 8 of its agenda at its 864th, 871st and 888th meetings held on 16 and 22 March and 2 April 1966. The Commission had before it a report by the Secretary-General (E/CN.4/896 and Add.1 and 2) dealing with the relevant decisions of the thirty-ninth and fortieth sessions of the Economic and Social Council and of the twentieth session of the General Assembly, and with the 1965 advisory services programme and the programme plans for 1966, 1967 and 1968. The Commission also considered an evaluation of the human rights fellowship programme (E/CN.4/897) prepared by the Secretary-General in pursuance of Economic and Social Council resolution 1062 III (XXXIX); it had before it reports of recent seminars held under the advisory services programme (ST/TAO/HR/20-24).

413. The 1966 advisory services programme included, in accordance with General Assembly resolution 2060 (XX), an international seminar on apartheid, which the Secretary-General was requested to organize in consultation with the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa and with the Commission on Human Rights.

414. At its 864th meeting, the Commission authorized its Chairman to consult with the Chairman of the Special Committee and the Permanent Representative of Brazil, the host Government for this seminar, on the organization of the seminar. Subsequently, at its 871st meeting, the Chairman appointed the representatives of the Philippines, Poland and Sweden to assist him in these consultations.

415. At its 888th meeting, the representative of the Philippines introduced the report outlining the arrangements agreed upon by the Chairman of the Commission on Human Rights, the Chairman of the Special Committee, and the Permanent Representative of Brazil regarding participation in the seminar and its agenda (E/CN.4/L.850). One representative expressed the hope that the seminar discussions would expand understanding of the impact and horror of apartheid and would mobilize the full force of public opinion and conscience against the policy of apartheid.

416. At its 892nd meeting, the Commission took note of the receipt by the Acting Chairman of a letter dated 4 April 1966 from the alternate representative of Israel, referring to paragraph 11 of document E/CN.4/L.850. The Commission agreed that this letter had not been received in time to be considered under item 8 of the agenda.

417. In connexion with the 1967 programme, Jamaica proposed a draft resolution (E/CN.4/L.835), reading as follows:

"The Commission on Human Rights

"Recommends that the Economic and Social Council adopt the following draft resolution:

'The Economic and Social Council,

'Noting that a regional seminar on "The effective realization of human rights at the national level" is being organized in Jamaica in 1967 for countries and territories within the western hemisphere,

'Believing that the discussion of this subject will be significantly assisted by the personal attendance and participation of expert representatives from a few countries having distinctive institutions for the guarantee of human rights and fundamental freedoms,

'Requests the Secretary-General to make arrangements, in consultation with the host Government, for the attendance of not more than four such participants from outside of the countries and territories of the western hemisphere.'"

A statement of the financial implications of this draft resolution was submitted by the Secretary-General (E/CN.4/L.835/Add.1).

418. The sponsor of the draft resolution drew attention to the similarity of his proposal to the request of the Commission on the Status of Women, as set forth in its resolution 8 (XIX), for participation from outside the region at the 1966 seminar for countries in the Economic Commission for Asia and the Far East (ECAFE) region; he also noted that, in view of the topic for the 1967 seminar to be organized in Jamaica, it would be appropriate to consider inviting participants with experience in such distinctive institutions for the guarantee of human rights and fundamental freedoms as, for example, those of Japan, of countries using the French system, and of countries in Eastern Europe. This question was under consideration by his Government in consultation with the Secretariat, but no final decision on the matter had been taken.

419. The draft resolution as a whole was adopted by 19 votes to none, with 2 abstentions.

420. The text of the resolution, as adopted by the Commission at its 888th meeting, on 2 April 1966, reads as follows:

9 (XXII). Advisory Services in the Field of Human Rights

The Commission on Human Rights

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

For the text of the draft resolution, see chapter XVIII, draft resolution V/

421. Satisfaction was expressed with the over-all development of the advisory services programme and mention was made of the successful completion of the seminar on human rights in developing countries, held in Dakar, in February 1966, in co-operation with the Government of Senegal. The value of human rights seminars in advancing the status of women was emphasized, and particular appreciation was expressed for the Secretary-General's report on the evaluation of the human rights fellowship programme. In this connexion, one representative drew attention to the potential value of utilizing fellowships to increase participation from outside the region at human rights seminars organized on a regional basis, while expressing a general preference that seminars under this programme be organized primarily on an international basis.

422. Also in connexion with the 1966 programme, the Commission, at its 888th meeting, heard a statement by the Chairman of the Commission on the Status of Women, who drew attention to resolution 8 (XIX), adopted by the Commission on the Status of Women on 7 March 1966, concerning the regional seminar on measures required for the advancement of women, with special reference to the establishment of a long-term programme, to be held in the Philippines in December 1966; in this resolution the Commission requested the Secretary-General to examine the possibility of making arrangements for the attendance of regional participants, preferably one participant from each of the four countries outside the ECAFE region which had acted as host to regional seminars relating to the status of women. The Chairman of the Commission on the Status of Women emphasized the importance of arranging for such wider participation in this seminar, which she hoped would initiate a cycle of regional seminars on this topic. At the same time, she drew attention to resolution 7 (XIX), adopted by the Commission on the Status of Women on 7 March 1966, relating to a new type of seminar on civic and political education of women, authorized by the Economic and Social Council by resolutions 1062 (XXXIX) and 1067 A (XXXIX); by this resolution the Commission had decided that one seminar among this new series of seminars should be organized on a world-wide basis.

423. Commenting on the plans for the 1966 regional seminar on participation in local administration as a means of promoting human rights, one representative expressed the hope that the seminar's agenda item on electoral systems would be expanded to discuss the right to a choice of candidates.

424. The Commission's attention was drawn to General Assembly resolution 2017 (XX) and to Economic and Social Council resolution 1103 (XL) concerning measures to implement the United Nations Declaration on the Elimination of All Forms of Racial Discrimination. By its resolution, the Council requested the Secretary-General to proceed to organize a seminar on the question of the elimination of all forms of racial discrimination under the programme of advisory services in the field of human rights and in the context of the programme for the International Year for Human Rights, as recommended by the General Assembly in its resolution 2017 (XX). It had been pointed out to the Council prior to the adoption of resolution 1103 (XL) that the holding of such a seminar would be dependent upon an offer by a Government to act as host, as required by General Assembly resolution 926 (X). One representative expressed the view that this seminar should be organized on an international basis.

425. With reference to the advisory services programme as a whole, the United States submitted a draft resolution which, as revised (E/CN.4/L.848/Rev.1), read as follows:

"The Commission on Human Rights,

"Noting the Secretary-General's report on advisory services in the field of human rights (E/CN.4/896 and Add.1 and 2) and also his evaluation of the human rights fellowship programme (E/CN.4/897),

"Appreciating the growing demand for seminars and fellowships under this programme and the willingness of Member States to act as hosts,

"Believing that the reports of the seminars can contribute to considerations of the advisory services programme, as well as to the substantive discussion of related items on the Commission's agenda,

"Recalling Economic and Social Council resolution 1008 (XXXVII), on United Nations programmes on technical assistance, in which the Council decided that proposals emanating from the functional commissions and committees of the Council which could affect the technical assistance resources of the United Nations should be transmitted to the Council through the Technical Assistance Committee,

"1. Welcomes the Secretary-General's plans for future programmes;

"2. Expresses its satisfaction that plans have been completed for an international seminar in 1966 on apartheid, in accordance with General Assembly resolution 2060 (XX);

"3. Requests the Secretary-General to make the reports of recent seminars available to the Commission at its regular sessions;

"4. Approves the plans for future programmes as set forth by the Secretary-General in his report to the Commission;

"5. Requests the Secretary-General to draw the attention of the Governing Council of the United Nations Development Programme to this resolution, and invites the Governing Council to bear this resolution in mind in formulating its recommendations to the Economic and Social Council."

426. The representative of the USSR, at the 888th meeting, proposed an oral amendment to insert a new operative paragraph 3, following paragraph 2 of the revised draft resolution, to read as follows:

"Expresses its satisfaction that the General Assembly and the Economic and Social Council have decided to organize a seminar on the question of the elimination of all forms of racial discrimination under the programme of advisory services in the field of human rights and in the context of the programme for the International Year for Human Rights;"

The sponsor of the revised draft resolution accepted this amendment subject to replacement of the words "have decided" by the words "have requested the Secretary-General"; this was accepted by the representative of the USSR.

427. The sponsor of the revised draft resolution also accepted two oral amendments proposed by the representative of the Philippines. The first amendment consisted of the addition of a preambular paragraph, following the first preambular paragraph in the revised draft resolution and reading as follows:

"Noting further document E/CN.4/L.850 on the organization of the international seminar on apartheid,"

The second oral amendment concerned the replacement of the phrase in operative paragraph 2 of the revised draft resolution, which read "that plans have been completed for an international seminar in 1966 on apartheid", by the phrase "with the plans for an international seminar in 1966 on apartheid as set forth in document E/CN.4/L.850,"

428. The revised draft resolution, with the modifications accepted by the sponsor, was unanimously adopted by the Commission at its 888th meeting.

429. The text of the resolution as adopted on 2 April 1966 reads as follows:

10 (XXII). Advisory Services in the Field of Human Rights

The Commission on Human Rights,

Noting the Secretary-General's report on advisory services in the field of human rights (E/CN.4/896 and Add.1-2) and also his evaluation of the human rights fellowship programme (E/CN.4/897),

Noting further document E/CN.4/L.850 on the organization of the international seminar on apartheid, 11/

Appreciating the growing demand for seminars and fellowships under this programme and the willingness of Member States to act as hosts,

Believing that the reports of the seminars can contribute to considerations of the advisory services programme, as well as to the substantive discussion of related items on the Commission's agenda,

Recalling Economic and Social Council resolution 1008 (XXXVII), on United Nations programmes on technical assistance, in which the Council decided that proposals emanating from the functional commissions and committees of the Council which could affect the technical assistance resources of the United Nations should be transmitted to the Council through the Technical Assistance Committee,

1. Welcomes the Secretary-General's plans for future programmes;
2. Expresses its satisfaction with the plans for an international seminar in 1966 on apartheid, as set forth in document E/CN.4/L.850, 11/ in accordance with General Assembly resolution 2060 (XX);
3. Expresses its satisfaction that the General Assembly and the Economic and Social Council have requested the Secretary-General to organize a seminar on the question of the elimination of all forms of racial discrimination under the programme of advisory services in the field of human rights and in the context of the programme for the International Year for Human Rights;
4. Requests the Secretary-General to make the reports of recent seminars available to the Commission at its regular sessions;
5. Approves the plans for future programmes as set forth by the Secretary-General in his report to the Commission;
6. Requests the Secretary-General to draw the attention of the Governing Council of the United Nations Development Programme to this resolution, and invites the Governing Council to bear this resolution in mind in formulating its recommendations to the Economic and Social Council.

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11/ See annex I.

## IX. PERIODIC REPORTS ON HUMAN RIGHTS

430. In its resolution 1074 C (XXXIX) of 28 July 1965, the Economic and Social Council, inter alia, invited States Members of the United Nations and members of the specialized agencies to supply information regularly on human rights and fundamental freedoms in territories subject to their jurisdiction, within a continuing three-year cycle scheduled as follows: (a) in the first year, on civil and political rights, the first such reports to cover the period ending 30 June 1965; (b) in the second year, on economic, social and cultural rights, the first such reports to cover the period ending 30 June 1966; (c) in the third year, on freedom of information, the first such reports to cover the period ending 30 June 1967. The Council also invited the specialized agencies to continue their contributions to the periodic reports on human rights in accordance with the above schedule and with Council resolution 624 B (XXII). Non-governmental organizations in consultative status were invited to continue to submit objective information in accordance with Council resolution 888 B (XXXIV) and in accordance with the above schedule. The Council requested the Secretary-General to forward the information received from Member States and specialized agencies under the terms of the resolution in full, together with a subject and country index, to the Commission on Human Rights, the Commission on the Status of Women and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The comments received from non-governmental organizations in consultative status, as well as any comments which might be made on them by the Member States concerned, were also to be made available by the Secretary-General to these bodies.

431. The Council requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake the initial study of the materials received, to report thereon to the Commission on Human Rights, and to submit comments and recommendations for consideration by the Commission. It also invited the Commission on the Status of Women to inform the Commission on Human Rights of its comments on the material received and of any recommendations it might wish to make.

432. In operative paragraph 18 of resolution 1074 C (XXXIX), the Council requested the Commission on Human Rights:

"... to establish an ad hoc committee composed of persons chosen from its members, having as its mandate the study and evaluation of the periodic reports and other information received under the terms of this resolution, and, in the light of the comments, observations and recommendations of the Commission on the Status of Women and of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, to submit to the Commission comments, conclusions and recommendations of an objective character; the ad hoc committee will meet before the session of the Commission and must report its findings to the Commission no later than one week prior to the end of the Commission's session; it shall ensure all necessary co-ordination with any specialized agency in considering any question or matter dealt with in that agency's report."

433. The Commission on Human Rights, at its twenty-first session, had agreed to the following States members of the Commission being appointed to the ad hoc

Committee on Periodic Reports: Costa Rica, Dahomey, France, the Philippines, Poland, the USSR, the United Kingdom, and the United States (E/4024, para. 408).

Documentation before the Commission

434. The Commission had before it reports on civil and political rights for the period 1 January 1963 to 30 June 1965 received under the terms of Council resolution 1074 C (XXXIX) from the following twenty-five States Members of the United Nations or of the specialized agencies: Argentina, Canada, Central African Republic, China, Costa Rica, Cuba, Denmark, El Salvador, Finland, France, Italy, Jamaica, Laos, Liberia, Maldives Islands, Nigeria, Norway, Pakistan, Poland, San Marino, United Arab Republic, United Kingdom, United States, Upper Volta and Zambia (E/CN.4/392 and Add.1-7, 9-15).

435. The Commission further had before it a report from the ILO (E/CN.4/893).

436. The Commission also had before it a subject and country index (E/CN.4/912) to the reports, prepared by the Secretary-General in accordance with paragraph 14 of resolution 1074 C (XXXIX), and a memorandum by the Secretary-General on the status of multilateral conventions in the field of human rights (E/CN.4/907).

437. In accordance with paragraph 14 of resolution 1074 C (XXXIX), the comments received from the non-governmental organizations listed below, as well as comments made on them by the States concerned, were made available to the Commission by the Secretary-General: Category A: International Chamber of Commerce, International Confederation of Free Trade Unions, International Federation of Christian Trade Unions, and International Organization of Employers; Category B: Amnesty International, Friends World Committee for Consultation (together with comments thereon by Australia, the Federal Republic of Germany, Switzerland and the United States), International Abolitionist Federation, International Catholic Migration Commission, International Council of Jewish Women, International Council of Women (together with comments thereon by the United Kingdom and the United States), International Federation of University Women, International Prisoners' Aid Association, League of Red Cross Societies, Society of Comparative Legislation (France), World Confederation of Organizations of the Teaching Professions, and World Young Women's Christian Association; Register: Catholic International Education Office, International Federation of Senior Police Officers, International Youth Hostel Federation, Open Door International (together with comments thereon by Australia, Norway, Sweden and the United States), and the World Association of Girl Guides and Girl Scouts.

438. The Commission had before it chapter IV of the report of the eighteenth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/903, paras. 73-102) dealing with the Sub-Commission's consideration of the item "Periodic reports on human rights and reports on freedom of information", and chapter III of the report of the nineteenth session of the Commission on the Status of Women relating to periodic reports on human rights (E/CN.4/914).

439. Chapter IV of the report of the eighteenth session of the Sub-Commission included a resolution (resolution 3 (XVIII)) in which the Sub-Commission, inter alia, noted that although reports and information received revealed some progress in the realization of certain human rights and fundamental freedoms, particularly in the matter of race relations, it was nevertheless not possible for the

Sub-Commission, because of the limited documentation, to prepare precise comments or recommendations as requested by the Council. The Sub-Commission decided to give thorough consideration to reports on civil and political rights at its next session. It also requested the Commission to indicate more precisely how the Sub-Commission could more usefully discharge its functions in relation to periodic reports.

440. Chapter III of the report of the Commission on the Status of Women (E/CN.4/914) included a resolution (resolution 2 (XIX)) in which that Commission, among other things, noted with particular satisfaction that, during the period in question, several Governments had taken positive steps to promote and ensure the political and civil rights of women, including general legislative provisions granting equal civil and political rights and specific provisions granting equal rights with respect to private and public law, voting, holding public office, membership of professions, juror service, inheriting and possessing property, marriage, equal pay, nationality and official assistance for employment; suggested that in their reports, in addition to describing provisions specifically related to women, Governments should give more information as to whether the other legislative and administrative provisions described applied without discrimination on grounds of sex; emphasized the value of comments on women's civil and political rights submitted on the above subject by certain non-governmental organizations in consultative status; suggested further that, as well as providing information under the terms of paragraph 12 of Council resolution 1074 C (XXXIX), non-governmental organizations in consultative status be given an opportunity to submit additional comments after having studied reports provided by Governments in accordance with the same resolution; and requested the Commission on Human Rights to give full weight in considering reports from Governments, specialized agencies and non-governmental organizations in consultative status to measures already taken to improve the status of women and to the pressing need for Governments to take further measures in this field.

441. The Commission had before it the report of the ad hoc Committee on Periodic Reports (E/CN.4/915). In this report the ad hoc Committee recommended to the Commission the adoption of two draft resolutions (para. 447 below).

442. It also had before it a statement submitted by the International Federation of Christian Trade Unions (E/CN.4/NGO/137).

443. The Commission considered this item at its 887th, 888th and 889th meetings held on 1 and 2 April 1966.

444. At its 887th meeting, the Commission heard a statement by the observer for Romania.

445. At the same meeting, it heard a statement by the Chairman of the Commission on the Status of Women.

446. At the 888th meeting it heard a statement by the representative of UNESCO.

#### Draft resolutions submitted

447. The Commission had before it two draft resolutions recommended for adoption by the ad hoc Committee on Periodic Reports on Human Rights (E/CN.4/915, para. 51), reading as follows:

I

"The Commission on Human Rights,

"Recalling Economic and Social Council resolution 1074 C (XXXIX), which established a revised system of periodic reports on human rights,

"Recalling resolution 3 (XVIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in which the Sub-Commission requested the Commission to indicate more precisely how the Sub-Commission could more usefully discharge its functions in relation to periodic reports,

"1. Suggests to the Sub-Commission that its initial study of the information received under the periodic reporting system include:

"(a) Examination and discussion of all the information received under Economic and Social Council resolution 1074 C (XXXIX) in relation to all aspects of the particular rights covered in the period under review, especially, when appropriate, the problem of racial discrimination;

"(b) Preparation of a report covering in so far as possible salient developments and trends during the period under review;

"(c) Submission of comments and recommendations for the consideration of the Commission;

"2. Requests the Secretary-General in the future to make the information received from non-governmental organizations, as well as comments which might be made on them by Member States concerned, available to the Sub-Commission, the ad hoc Committee on Periodic Reports and the Commission itself one week before the beginning of the session of each body."

II

"The Commission on Human Rights,

"Having given preliminary consideration to the reports, information and comments on civil and political rights for the period from 1 January 1963 to 30 June 1965 received under Economic and Social Council resolution 1074 C (XXXIX),

"Noting that since the Sub-Commission on Prevention of Discrimination and Protection of Minorities began its initial study of the material, a number of additional reports have been received,

"Bearing in mind that the Commission on the Status of Women found it possible to make certain comments in its area of concern despite the relatively small amount of information available to it,

"Taking into account the resolution concerning periodic reports on human rights adopted by the Commission on the Status of Women at its 444th meeting, on 24 February 1966, in which the Commission, inter alia, suggested that in their reports, in addition to describing provisions

specifically related to women, Governments should give more information as to whether the other legislative and administrative provisions described apply without discrimination on the grounds of sex, urged those Governments which had not yet submitted full reports on civil and political rights to do so as soon as possible; and requested the Commission on Human Rights to give full weight, in considering reports from Governments and specialized agencies, and information from non-governmental organizations in consultative status, to measures already taken to improve the status of women and to the pressing need for Governments to take further measures in this field,

"Noting that the comments, observations and recommendations of the Commission on the Status of Women were not available at the time the ad hoc Committee on Periodic Reports began its consideration of the matter,

"Considering that, upon preliminary consideration of the materials received, certain features, including those noted in the resolutions adopted by the Sub-Commission and the Commission on the Status of Women, of developments in civil and political rights may be tentatively discerned,

"Expressing the hope that further reports on civil and political rights from Governments and specialized agencies, as well as other relevant documentation, may be received by the next session of the Commission,

"1. Expresses its gratitude to those Governments which have submitted reports on civil and political rights covering the period from 1 January 1963 to 30 June 1965, in accordance with Economic and Social Council resolution 1074 C (XXXIX);

"2. Urges those Governments which have not yet submitted full reports on civil and political rights for the period under review to do so as soon as possible;

"3. Encourages Governments to include in their reports material relating to difficulties encountered in achieving the standards proclaimed in the Universal Declaration of Human Rights;

"4. Considers that the information received covering the period under review indicates limited but significant progress in some countries in the field of civil and political rights, especially in dealing with racial discrimination and religious intolerance, in the enjoyment of the right to vote, in the administration of justice and in equal rights for men and women;

"5. Emphasizes the value of objective information received from non-governmental organizations in consultative status;

"6. Decides that, in addition to considering information on economic, social and cultural rights, it will continue the study and evaluation of information received in the field of civil and political rights, and prepare further recommendations, at its next session;

"7. Requests the Secretary-General to draw the attention of Governments, specialized agencies and non-governmental organizations to the various elements of the reports received this year, as set out by the Rapporteur of

the ad hoc Committee on Periodic Reports in paragraph 14 of his study (E/CN.4/AC.20/L.1 and Corr.1), as a possible guideline for future reports;

"8. Requests the Secretary-General to make available to the ad hoc Committee on Periodic Reports in 1967:

"(a) An up-to-date supplement to the presently available memorandum on the status of multilateral international agreements in the field of human rights (E/CN.4/907);

"(b) The documents containing the texts (or extracts from) decisions taken by United Nations bodies, on human rights questions, prepared in accordance with Economic and Social Council resolution 1102 (XL)."

448. At the 888th meeting, the representative of Israel moved for closure of the debate, on the understanding that this would not prevent the submission of draft resolutions by Jamaica and the Ukrainian SSR. The motion to close debate was adopted by 12 votes to 7, with 2 abstentions.

449. At the same meeting, Jamaica and the Ukrainian SSR introduced two joint draft resolutions intended to replace draft resolution II submitted by the ad hoc Committee.

450. The first of these (E/CN.4/L.857) read as follows:

"The Commission on Human Rights,

"Having given preliminary consideration to the reports, information and comments on civil and political rights for the period from 1 January 1963 to 30 June 1965 received under Economic and Social Council resolution 1074 C (XXXIX),

"Noting that since the Sub-Commission on Prevention of Discrimination and Protection of Minorities began its initial study of the material a number of additional reports have been received,

"Taking into account the limited number of reports which were available to the Committee on Periodic Reports when its report in document E/CN.4/915 was prepared,

"Expressing the hope that further replies on civil and political rights from Governments and specialized agencies as well as other relevant documentation may be received by the next session,

"1. Expresses its gratitude to those Governments which have already submitted reports on civil and political rights, for the period 1 January 1963 to 30 June 1965;

"2. Urges those Governments which have not yet submitted full reports on civil and political rights for the period under review to do so as soon as possible;

"3. Requests the ad hoc Committee on Periodic Reports to consider such additional reports and to make further recommendations for consideration at the twenty-third session of the Commission."

451. The second draft resolution submitted by Jamaica and the Ukrainian SSR (E/CN.4/L.858) read as follows:

"The Commission on Human Rights,

"Having given preliminary consideration to the reports, information and comments on civil and political rights for the period 1 January 1963 to 30 June 1965 received under Economic and Social Council resolution 1074 C (XXXIX),

"Noting the limited number of reports which were received and were available for consideration by the ad hoc Committee on Periodic Reports,

"Having decided to consider at its twenty-third session such additional reports covering the period 1 January 1963 to 30 June 1965 as may be received by that time,

"1. Recommends to the Economic and Social Council approval of the following draft resolution:

'The Economic and Social Council,

'Recalling its resolution 1074 C (XXXIX) which established a revised system of periodic reports on human rights, particularly paragraph 6 of that resolution,

'Having considered the report of the Commission on Human Rights at its twenty-second session,

'Decides that the periods to be covered by the reports in the three-year cycle mentioned in paragraph 6 of resolution 1074 C (XXXIX) should be amended as under:

'The first report on economic, social and cultural rights should cover the period ending on 30 June 1967;

'The first report on freedom of information should cover the period ending 30 June 1968.'"

#### Issues discussed

452. Many representatives commended the ad hoc Committee on Periodic Reports for its work and expressed appreciation for its report, including the study made by the ad hoc Committee's Rapporteur of the periodic reports and other information received (E/CN.4/915 and annex). Attention was drawn to the fact that this was the first series of reports on civil and political rights received under the reorganized system of periodic reporting established by Council resolution 1074 C (XXXIX). While it was regrettable that only some twenty-five reports had been received, the reporting system was nevertheless beginning to work. It was pointed out that these reports afforded a basis for the Commission to deal with the item in the manner proposed in the draft resolutions submitted by the ad hoc Committee. The usefulness of the reporting system lay, among other things, in providing Governments with an occasion for self-examination. Attention was also

drawn to the fact that a number of the reports contained references to standards of human rights set in international instruments. It was urged that the Commission take action at its current session so as to provide a stimulus to the reporting system.

453. One delegation, while commending the ad hoc Committee's work and supporting the draft resolutions submitted by it as being the best that was available, considered that the whole system of periodic reports served no useful purpose. The appeals for reports were being ignored by the vast majority of Member States; and such reports as were being received created a misleading picture of almost exclusively positive developments in the human rights field since few Governments were likely to provide much information on difficulties encountered. One representative, on the other hand, considered that the system of periodic reporting on human rights should ultimately be expanded to include a "dialogue" between the Commission and reporting Governments.

454. Some delegations maintained that the number of reports received was too small to allow any conclusions to be drawn or recommendations made. They recalled that the Sub-Commission on Prevention of Discrimination and Protection of Minorities had deferred consideration of the reports on civil and political rights until its next session. They considered that certain delegations both in the Committee and in the Commission were proceeding in a way that could only discourage Governments from submitting reports in the future. In their statements, especially sharp criticism was directed against attempts to place information received from non-governmental organizations on an equal footing with reports submitted by Governments and against attempts to embellish the human rights situation in the Western countries and to gloss over the arbitrary actions of the colonial Powers with regard to human rights in the colonies. In particular, they charged that the study made by the ad hoc Committee's Rapporteur was based on insufficient information and presented in an unobjective manner. They strongly objected to any of the statements contained in that study being used for the guidance of Governments. It was suggested that the ad hoc Committee's report be returned to that Committee with the request that it prepare a more comprehensive report next year, based on periodic reports from at least a majority of Member States. One delegation suggested, in this connexion, that the membership of the ad hoc Committee be expanded to make it more representative. They also stated that the Committee's work should be conducted in an atmosphere conducive to reaching decisions by agreement and not according to the method of imposing recommendations by a majority of two or three votes.

455. A number of representatives expressed the view that the Rapporteur's study had been prepared in a satisfactory manner and provided an example of how significant trends could be identified and that there was no need to return the report to the ad hoc Committee. The consideration of reports submitted by non-governmental organizations did not imply that they should be put on the same level as those received from Governments. These representatives reiterated that if no action of substance was taken at this session the considerable work of the ad hoc Committee and the value of the Commission's own debate on the matter would be to a large extent wasted.

456. There was some discussion about the usefulness of considering civil and political rights again at the Commission's next session when, under the cycle established by Council resolution 1074 C (XXXIX), the Commission was due to consider reports on economic, social and cultural rights. One representative referred in this connexion to paragraph 6 of draft resolution II in the report of

the ad hoc Committee (see above, para. 447), which proposed that, in addition to considering information on economic, social and cultural rights, the Commission should continue the study and evaluation of information received in the field of civil and political rights, and prepare further recommendations, at its next session. It was suggested, in this connexion, that, in order to avoid an overlap, the submission of the reports on economic, social and cultural rights and on freedom of information be postponed by one year in each case. This suggestion was reflected in a draft resolution submitted by Jamaica and the Ukrainian SSR (see above, para. 451).

457. Members of the Commission also exchanged views regarding the value and significance of information submitted by non-governmental organizations in consultative status with the Council. Some delegations considered that information presented by such organizations in a responsible manner was necessary to complete the picture of the state of human rights in the world gained from the reports submitted by Governments which might otherwise give an unrealistically rosy picture of the human rights situation. Others held that the material submitted by the non-governmental organizations was being used to slander certain countries. They objected, in particular, to the utilization of such material in the Rapporteur's study referred to in paragraphs 452 and 454 above, and to the references to non-governmental organizations contained in operative paragraphs 5 and 7 of draft resolution II submitted by the ad hoc Committee (see para. 447 above). It was also suggested that non-governmental organizations should not submit information relating to countries in which they had no affiliates; and that they should limit their comments to matters which were specifically within their field of competence.

#### Adoption of draft resolutions

458. At the 888th meeting, the representative of Jamaica, referring to rule 61 of the rules of procedure of the functional commissions of the Economic and Social Council, proposed that the draft resolutions be voted on in the following order: draft resolution I submitted by the ad hoc Committee; the first joint draft resolution by Jamaica and the Ukrainian SSR; the second joint draft resolution by Jamaica and the Ukrainian SSR; draft resolution II submitted by the ad hoc Committee.

459. The Commission rejected the Jamaican proposal on the order of voting, by 5 votes to 10, with 5 abstentions.

460. In accordance with rule 61 of the rules of procedure, the Chairman put to the vote draft resolutions I and II submitted by the ad hoc Committee (see para. 447 above).

461. Draft resolution I was adopted unanimously.

462. The text of the resolution, adopted at the 888th meeting, on 2 April 1966, reads as follows:

#### 11 (XXII). Periodic Reports on Human Rights

##### The Commission on Human Rights,

Recalling Economic and Social Council resolution 1074 C (XXXIX), which established a revised system of periodic reports on human rights,

Recalling resolution 3 (XVIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in which the Sub-Commission requested the Commission to indicate more precisely how the Sub-Commission could more usefully discharge its functions in relation to periodic reports,

1. Suggests to the Sub-Commission that its initial study of the information received under the periodic reporting system include:

(a) Examination and discussion of all the information received under Economic and Social Council resolution 1074 C (XXXIX) in relation to all aspects of the particular rights covered in the period under review, especially, when appropriate, the problem of racial discrimination;

(b) Preparation of a report covering in so far as possible salient developments and trends during the period under review;

(c) Submission of comments and recommendations for the consideration of the Commission;

2. Requests the Secretary-General in the future to make the information received from non-governmental organizations, as well as comments which might be made on them by Member States concerned, available to the Sub-Commission, the ad hoc Committee on Periodic Reports and the Commission itself one week before the beginning of the session of each body.

463. Draft resolution II was adopted by 15 votes to 4.

464. The text of the resolution adopted at the 888th meeting on 2 April 1966 reads as follows:

12 (XXII). Periodic Reports on Human Rights

The Commission on Human Rights,

Having given preliminary consideration to the reports, information and comments on civil and political rights for the period from 1 January 1963 to 30 June 1965 received under Economic and Social Council resolution 1074 C (XXXIX),

Noting that since the Sub-Commission on Prevention of Discrimination and Protection of Minorities began its initial study of the material, a number of additional reports have been received,

Bearing in mind that the Commission on the Status of Women found it possible to make certain comments in its area of concern despite the relatively small amount of information available to it,

Taking into account the resolution concerning periodic reports on human rights adopted by the Commission on the Status of Women at its 444th meeting, on 24 February 1966, in which the Commission, inter alia, suggested that in their reports, in addition to describing provisions specifically related to women, Governments should give more information as to whether the other legislative and administrative provisions

described apply without discrimination on the grounds of sex, urged those Governments which had not yet submitted full reports on civil and political rights to do so as soon as possible; and requested the Commission on Human Rights to give full weight, in considering reports from Governments and specialized agencies, and information from non-governmental organizations in consultative status, to measures already taken to improve the status of women and to the pressing need for Governments to take further measures in this field,

Noting that the comments, observations and recommendations of the Commission on the Status of Women were not available at the time the ad hoc Committee on Periodic Reports began its consideration of the matter,

Considering that, upon preliminary consideration of the materials received, certain features, including those noted in the resolutions adopted by the Sub-Commission and the Commission on the Status of Women, of developments in civil and political rights may be tentatively discerned,

Expressing the hope that further reports on civil and political rights from Governments and specialized agencies, as well as other relevant documentation, may be received by the next session of the Commission,

1. Expresses its gratitude to those Governments which have submitted reports on civil and political rights covering the period from 1 January 1963 to 30 June 1965, in accordance with Economic and Social Council resolution 1074 C (XXXIX);

2. Urges those Governments which have not yet submitted full reports on civil and political rights for the period under review to do so as soon as possible;

3. Encourages Governments to include in their reports material relating to difficulties encountered in achieving the standards proclaimed in the Universal Declaration of Human Rights;

4. Considers that the information received covering the period under review indicates limited but significant progress in some countries in the field of civil and political rights, especially in dealing with racial discrimination and religious intolerance, in the enjoyment of the right to vote, in the administration of justice and in equal rights for men and women;

5. Emphasizes the value of objective information received from non-governmental organizations in consultative status;

6. Decides that, in addition to considering information on economic, social and cultural rights, it will continue the study and evaluation of information received in the field of civil and political rights, and prepare further recommendations, at its next session;

7. Requests the Secretary-General to draw the attention of Governments, specialized agencies and non-governmental organizations to the various elements of the reports received this year, as set out by the Rapporteur of the ad hoc Committee on Periodic Reports in paragraph 14 of his study (E/CN.4/AC.20/L.1 and Corr.1), as a possible guideline for future reports;

8. Requests the Secretary-General to make available to the ad hoc Committee on Periodic Reports in 1967:

(a) An up-to-date supplement to the presently available memorandum on the status of multilateral international agreements in the field of human rights (E/CN.4/907);

(b) The documents containing the texts (or extracts from) decisions taken by United Nations bodies, on human rights questions, prepared in accordance with Economic and Social Council resolution 1102 (XL).

465. Following the votes taken on the draft resolutions submitted by the ad hoc Committee, the joint draft resolutions submitted by Jamaica and the Ukrainian SSR (see paras. 450 and 451 above) were not put to the vote.

#### Membership of the ad hoc Committee on Periodic Reports

466. At the 889th meeting the Chairman pointed out that, in 1966, the terms on the Commission of two States that were also members of the ad hoc Committee on Periodic Reports were due to expire.

467. The Commission decided to authorize its Chairman, following the election by the Economic and Social Council of members of the Commission, to appoint, if necessary, two members of the ad hoc Committee so as to fill any vacancies which might arise as a result of the elections.

## X. PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

### (i) MEMBERSHIP OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

468. At its 884th meeting, held on 31 March 1966, the Commission considered item 9 (d) of its agenda, "Membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities".

469. The Chairman recalled that in resolution 1074 G (XXXIX), the Economic and Social Council, upon the recommendation of the Commission, approved an increase in the membership of the Sub-Commission from fourteen to eighteen in order to ensure adequate representation to different regions, legal systems and cultures. Accordingly, the Commission should elect four additional members of the Sub-Commission. He drew attention to the list of candidates in documents E/CN.4/901 and Corr.1, E/CN.4/901/Add.1-5, and E/CN.4/901/Add.6/Rev.1.

470. The Chairman suggested that the new members should hold office for two years, as from 1 January 1967, so that the term of office of all members of the Sub-Commission may expire at the same date, and all eighteen members be elected at the same time. After a brief discussion it was so decided by the Commission without objection.

471. The representative of the USSR, supported by others, reaffirmed the views already expressed by his and other delegations at meetings of the Sub-Commission, the Commission on Human Rights and the Economic and Social Council, that the increase in the membership of the Sub-Commission was linked to the necessity to ensure, in the first place, adequate representation of countries of Africa and Asia, so that all important legal systems and cultures be represented on that body. He appealed to all members to vote for candidates from Africa and Asia.

472. By secret ballot, the Commission elected the following persons as members of the Sub-Commission:

Mrs. Phoebe Asiyo (Kenya), who received 17 votes;

Mr. Ilhan Unat (Turkey), who received 16 votes;

Mr. John P. Humphrey (Canada), who received 14 votes.

473. In accordance with rule 64 of the rules of procedure, a second ballot was held to fill the remaining seat. The candidates were Mr. Mohammed Awad (United Arab Republic) and Mr. Carlos Eusebio Cisneros (Argentina) who, in the first ballot, had obtained the highest number of votes short of the required majority of 11 votes. Mr. Mohammed Awad (United Arab Republic), who received 14 votes, was elected as the fourth new member.

(ii) NAME AND TERMS OF REFERENCE OF THE SUB-COMMISSION ON PREVENTION  
OF DISCRIMINATION AND PROTECTION OF MINORITIES

474. At its 884th meeting, the Commission considered item 9 (e) of its agenda, "Name and terms of reference of the Sub-Commission on Prevention of Discrimination and Protection of Minorities".

475. At its twenty-first session the Commission, in resolution 4 (XXI), had decided to give further consideration at its twenty-second session to the proposals contained in document E/CN.4/L.768 concerning the name and terms of reference of the Sub-Commission.

476. The representative of the United Kingdom stated that various members of the Sub-Commission did not favour a change of its name and, furthermore, that there was no need to enlarge the terms of reference of the Sub-Commission since the Commission on Human Rights had the authority to entrust such body with any task it deemed appropriate. Therefore, in his view, it was preferable to postpone the consideration of this item until next year.

477. The representative of the Philippines agreed with the views of the representative of the United Kingdom on similar grounds.

478. The Commission decided without objection not to take action at the present session on the proposal made at the last session (E/CN.4/L.768) concerning the name and terms of reference of the Sub-Commission and to postpone the consideration of the item.

(iii) REPORTS OF THE SEVENTEENTH AND EIGHTEENTH SESSIONS  
OF THE SUB-COMMISSION ON PREVENTION OF  
DISCRIMINATION AND PROTECTION OF MINORITIES

479. At its 889th meeting, held on 2 April 1966, the Commission considered items 9 (f) and 9 (g) of its agenda.

480. The Commission had before it the report of the seventeenth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/882 and Corr.1) and the report of the eighteenth session of the Sub-Commission (E/CN.4/903). At its twenty-first session, in resolution 6 (XXI), the Commission had taken note of the report of the seventeenth session of the Sub-Commission and decided to postpone discussion of recommendations made in that report for consideration of the Commission together with other proposals (E/CN.4/L.767 and E/CN.4/L.776) moved in connexion therewith.

481. A draft resolution was submitted by Austria, Costa Rica, Jamaica and Sweden (E/CN.4/L.822 and Add.2 and 3) by which the Commission would recommend that the Economic and Social Council decide to authorize the Secretary-General to take appropriate steps, within the budgetary resources available to him, for printing, circulating and making available for sale to the public the memorandum by the Secretary-General listing and classifying special protective measures of an international character for ethnic, religious or linguistic groups (E/CN.4/Sub.2/221) and the compilation of texts of 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). A statement of the financial implications of the draft resolution was submitted by the Secretary-General (E/CN.4/L.822/Add.1).

482. The United States orally proposed a draft resolution in which the Commission would request the Sub-Commission to submit at its nineteenth session draft resolutions on those matters in the reports (E/CN.4/882 and Corr.1 and E/CN.4/903) on which it desired that the Commission should take action.

483. One representative considered that one of the draft resolutions did not cover sufficiently the request of the Sub-Commission in its resolution 3 (XVIII) for the Commission to indicate more precisely how the Sub-Commission could more usefully discharge its functions in relation to periodic reports. Another representative observed, however, that the point had been covered - adequately if not expressly - by one of the resolutions adopted by the Commission under item 7, "Periodic reports on human rights".

484. In introducing the joint draft resolution (see para. 481 above), the representative of Austria stated that the proposal was substantially the same as that contained in resolutions 7 (XVII) and 6 (XVIII) adopted by the Sub-Commission at its seventeenth and eighteenth sessions respectively. He felt that it was desirable to have the memorandum and the compilation printed and circulated as one publication, and that the cost involved could be recovered from sales to the public. One representative, on the other hand, expressed his doubts about the usefulness of printing the documents mentioned in the draft resolution as a single publication; it was sufficient to reproduce the document, if stocks were exhausted, but this was a matter for the competent organs to decide.

485. The Commission voted on the draft resolutions as follows:

486. The joint draft resolution submitted by Austria, Costa Rica, Jamaica and Sweden was adopted by 8 votes to 2, with 7 abstentions. The text of the resolution, as adopted at the 889th meeting on 2 April 1966, reads as follows:

13 (XXII). Reports of the Seventeenth and Eighteenth Sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Commission on Human Rights,

Considering resolution 7 (XVII) and resolution 6 (XVIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Considering resolution 6 (XXI) of the Commission on Human Rights,

Considering that the Economic and Social Council, at its 1392nd meeting, on 28 July 1965, decided to draw the attention of the Commission on Human Rights to the draft resolution E/CN.4/L.767 which was before the Commission at its twenty-first session,

Recommends that the Economic and Social Council adopt the following draft resolution: For the text of the draft resolution, see chapter XVIII, draft resolution VI/

487. The United States draft resolution (see para. 482 above) was adopted by 18 votes to none, with 1 abstention. The text of the resolution, as adopted at the 889th meeting on 2 April 1966, reads as follows:

14 (XXII). Reports of the Seventeenth and Eighteenth Sessions  
of the Sub-Commission on Prevention of  
Discrimination and Protection of Minorities

The Commission on Human Rights,

Regretting that it has been unable at the present session to undertake the examination of the reports of the seventeenth and eighteenth sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Requests the Sub-Commission to submit at its nineteenth session draft resolutions on those matters in the above-mentioned reports on which it desires that the Commission take action.

## XI. CAPITAL PUNISHMENT

488. At its 883rd meeting, held on 30 March 1966, the Commission considered item 14 of its agenda, "Capital punishment".

489. By resolution 1918 (XVIII) the General Assembly requested the Economic and Social Council to ask the Commission on Human Rights to study the report entitled Capital Punishment 12/ and the comments thereon of the Ad Hoc Advisory Committee of Experts on the Prevention of Crime and the Treatment of Offenders (E/3724) and to make such recommendations on the matter as it deemed appropriate. The Commission on Human Rights was unable to discuss this item at its twentieth and twenty-first sessions and decided to postpone its consideration to the twenty-second session.

490. A draft resolution (E/CN.4/L.837) was submitted jointly by Austria and Sweden, which read as follows:

"The Commission on Human Rights,

"Recalling General Assembly resolution 1918 (XVIII) of 5 December 1963, in which the Economic and Social Council was asked to invite the Commission on Human Rights to study the report entitled Capital Punishment and the comments thereon of the Ad Hoc Advisory Committee of Experts on the Prevention of Crime and the Treatment of Offenders (E/3724) and to make such recommendations on the matter as it deemed appropriate,

"Bearing in mind that in the same resolution the Secretary-General was requested, after examining the report of the Commission and with the co-operation of the Consultative Group on the Prevention of Crime and the Treatment of Offenders, to present, through the Economic and Social Council, to the General Assembly, not later than at its twenty-second session, a report on new developments with respect to the law and practice concerning the death penalty and new contributions of the criminal sciences in the matter,

"Decides to consider this item at its twenty-third session as a matter of priority."

491. In introducing the draft resolution the representative of Sweden stressed that this item had been on the agenda of the Commission for two sessions already and had not been discussed for lack of time. He explained that it was a procedural resolution aimed at deciding that the item should be considered at the next session of the Commission as a matter of priority. Only if the item was considered then would the Secretary-General be able to report at the 1968 session of the General Assembly, because the next meeting of the Consultative Group was scheduled for July 1967 and it was uncertain when it would meet thereafter. Otherwise the matter would be postponed indefinitely.

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12/ United Nations publication, Sales No.: 62.IV.2.

492. The representative of the USSR expressed the view that various other items had priority for the next session of the Commission, and that it would be preferable therefore to delete the words "as a matter of priority" at the end of the operative paragraph. He proposed an oral amendment to that effect.

493. The sponsors of the draft resolution expressed the wish to keep the text as submitted.

494. At its 883rd meeting, on 30 March 1966, the Commission voted on the text of the draft resolution (see para. 490 above) and on the oral amendment thereto.

495. The first preambular paragraph was adopted unanimously.

496. The second preambular paragraph was adopted unanimously.

497. The oral amendment to the operative paragraph of the draft resolution to delete the words "as a matter of priority", proposed by the representative of the USSR, was rejected by 4 votes to 10, with 6 abstentions.

498. The operative paragraph of the draft resolution was adopted by 16 votes to none, with 4 abstentions.

499. The draft resolution as a whole was adopted by 17 votes to none, with 3 abstentions.

500. The text of the resolution as adopted at the 883rd meeting on 30 March 1966 reads as follows:

#### 15 (XXII). Capital Punishment

##### The Commission on Human Rights,

Recalling General Assembly resolution 1918 (XVIII) of 5 December 1963, in which the Economic and Social Council was asked to invite the Commission on Human Rights to study the report entitled Capital Punishment and the comments thereon of the ad hoc Advisory Committee of Experts on the Prevention of Crime and the Treatment of Offenders (E/3724) and to make such recommendations on the matter as it deemed appropriate,

Bearing in mind that in the same resolution the Secretary-General was requested, after examining the report of the Commission and with the co-operation of the Consultative Group on the Prevention of Crime and the Treatment of Offenders, to present a report, through the Economic and Social Council, to the General Assembly, not later than at its twenty-second session, on new developments with respect to the law and practice concerning the death penalty and new contributions of the criminal sciences in the matter,

Decides to consider this item at its twenty-third session as a matter of priority.

XII. FURTHER PROMOTION AND ENCOURAGEMENT OF RESPECT  
FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

501. This item was first considered by the Commission on Human Rights at its nineteenth session (see E/3743, para. 88) in response to General Assembly resolution 1776 (XVII) of 7 December 1962. In its resolution, the Assembly had proposed, in view of the unsatisfactory situation with regard to human rights in many parts of the world, that the Economic and Social Council should instruct the Commission on Human Rights to study and encourage the adoption of measures designed to accelerate the promotion of respect for human rights and fundamental freedoms, and to devote special attention to this matter during the United Nations Development Decade.

502. The Commission had, at that session, adopted resolution 8 (XIX) submitting to the Council for transmission to the General Assembly its first report and recommendations on the question. The Commission decided to continue the study of measures directed towards the acceleration of the development of respect for, and observance of, human rights and fundamental freedoms, and to review the whole question of the future direction of the work of the Commission and of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, taking as a basis the rights enumerated in the Universal Declaration of Human Rights.

503. At its twentieth and twenty-first sessions, however, the Commission was unable to consider the item and decided to postpone its consideration to the twenty-second session.

504. The General Assembly, at its twentieth session, adopted resolution 2027 (XX), entitled "Measures to accelerate the promotion of respect for human rights and fundamental freedoms". In this resolution the General Assembly, inter alia, reaffirmed its desire to contribute to respect for and observance of human rights and fundamental freedoms in accordance with the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and the Declaration on the Granting of Independence to Colonial Countries and Peoples. The Assembly urged all Governments to make special efforts during the United Nations Development Decade to promote respect for, and observance of, human rights and fundamental freedoms, and invited them to include in their plans for economic and social development measures directed towards the achievement of further progress in the implementation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and in subsequent declarations and instruments in the field of human rights. The Assembly resolution invited the Economic and Social Council to request the Commission on Human Rights to continue its consideration of the question of the further promotion and encouragement of respect for human rights and fundamental freedoms.

505. The Economic and Social Council, at its resumed thirty-ninth session, transmitted this request to the Commission on Human Rights.

506. The Commission considered this item at its 888th meeting on 2 April 1966.

507. The representative of the Ukrainian SSR introduced the following draft resolution (E/CN.4/856):

"The Commission on Human Rights,

"Bearing in mind General Assembly resolution 2027 (XX) of 18 November 1965, transmitted to the Commission by the Economic and Social Council,

"Bearing in mind the fact that the Commission was instructed to continue its consideration of the question of the further promotion and encouragement of respect for human rights and fundamental freedoms,

"Recalling its resolution 8 (XIX), in which the Commission decided to continue the study of measures directed towards the promotion of respect for and observance of human rights and fundamental freedoms,

"Expressing regret that, owing to lack of time, the Commission was unable to consider this item of its agenda exhaustively and in detail,

"Resolves to consider this item at its twenty-third session as a matter of priority."

508. At the request of the representative of the United States, a separate vote was taken on the words "as a matter of priority" in the operative paragraph. The vote was 3 in favour of the retention of those words, 6 against and 10 abstentions, and the phrase was consequently deleted.

509. The draft resolution as a whole, as amended, was adopted unanimously at the 888th meeting. The text of the resolution, as adopted on 2 April 1966, reads as follows:

16 (XXII). Further Promotion and Encouragement of Respect for Human Rights and Fundamental Freedoms

The Commission on Human Rights,

Bearing in mind General Assembly resolution 2027 (XX) of 18 November 1965, transmitted to the Commission by the Economic and Social Council,

Bearing in mind the fact that the Commission was instructed to continue its consideration of the question of the further promotion and encouragement of respect for human rights and fundamental freedoms,

Recalling its resolution 8 (XIX), in which the Commission decided to continue the study of measures directed towards the promotion of respect for and observance of human rights and fundamental freedoms,

Expressing regret that owing to lack of time the Commission was unable to consider this item of its agenda exhaustively and in detail,

Resolves to consider this item at its twenty-third session.

### XIII. COMMUNICATIONS CONCERNING HUMAN RIGHTS

510. On 8 March 1966, the Secretary-General distributed to the members of the Commission a confidential list of communications (H.R. Communications List No. 16), replies of Governments (H.R. Communication Nos. 437-492) and a confidential document of a statistical nature (H.R. Communications/Stat.7). A non-confidential list of communications (E/CN.4/CR.35) was also distributed to the members of the Commission.

511. The Commission also had before it a note by the Secretary-General (E/CN.4/819) which indicated certain difficulties arising in the application of Economic and Social Council resolution 728 F (XXVIII). The note had been considered by the Commission at its eighteenth (see E/3616/Rev.1, paras. 286-291), nineteenth (see E/3743, paras. 56-59) and twentieth (see E/3873, paras. 372-374) sessions, but no decision had been reached.

512. The Secretary-General also presented a note concerning a resolution adopted on 18 June 1965 by the Committee of Twenty-four of the General Assembly drawing the Commission's attention "to the evidence submitted by the petitioners respecting the violations of human rights committed in the Territories under Portuguese administration, in South West Africa and in Southern Rhodesia" (E/CN.4/898), 13/ and a note transmitting the text of a communication received from the Government of South Africa (E/CN.4/913). 13/

513. The Commission took no action on this item of its agenda.

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13/ See also chapter III, para. 164.

#### XIV. REVIEW OF THE HUMAN RIGHTS PROGRAMME

514. At its 889th meeting, on 2 April 1966, the Commission had before it a draft resolution submitted jointly by Austria, Costa Rica, Dahomey, Italy, Philippines, Senegal and Sweden. The text of the draft resolution, of which Jamaica later became a co-sponsor (E/CN.4/L.853), reads as follows:

"The Commission on Human Rights

"Noting that, owing to lack of time, the Commission has not been able to complete consideration of several important and urgent questions referred to it by the General Assembly and the Economic and Social Council,

"Noting further that the Commission has not been able to discuss a number of other important items on its agenda, the consideration of which has been deferred from year to year,

"Noting that the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in resolution 4 (XVIII), has reiterated the hope that the Commission will be able to initiate or pursue to a conclusion consideration of the reports prepared by Mr. Krishnaswami on discrimination in the matter of religious rights and practices, by Mr. Santa Cruz on discrimination in regard to political rights and Mr. Ingles on discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, and the draft principles approved by the Sub-Commission and appended to these reports,

"Believing that the Commission would need more than a four-week session each year to be able to cope with its heavy agenda and dispose in particular of the accumulated items on its agenda,

"1. Draws the attention of the Economic and Social Council to the problem;

"2. Expresses the hope that the Commission will be afforded the necessary time for a more effective discharge of its tasks and responsibilities."

515. The joint draft resolution had originally been proposed under agenda item 9, "Prevention of Discrimination and Protection of Minorities". The sponsors decided, however, that it belonged more properly under item 19, "Review of the Human Rights Programme", and submitted a corrigendum to that effect (E/CN.4/L.853/Corr.1).

516. The sponsors of the joint draft resolution drew attention to the backlog of items carried over from one session of the Commission to another, caused largely by the fact that the Commission had been entrusted by the General Assembly and the Economic and Social Council with new and complex questions requiring priority attention. Many of the unconsidered items involved reports painstakingly prepared by learned special rapporteurs at the request of the Sub-Commission on Prevention

of Discrimination and Protection of Minorities. These reports might remain on the shelf indefinitely unless the Commission was authorized to hold either a longer session or preferably, in the opinion of some speakers, two annual sessions. The problem would become more acute in 1967 as a result of the proposed expansion of the Commission, which would involve longer debates. In the opinion of the supporters of the draft resolution, the proposal did not prejudge the solution which the Economic and Social Council might decide upon, confining itself to a statement of fact and drawing the Council's attention to the difficulties.

517. Other speakers, however, felt that they could not support the draft resolution without reservations. The accumulating backlog of unconsidered items was indeed deplorable, but the first step the Commission should take was to reconsider its procedures and working methods, particularly the possibility of exercising greater self-discipline in the disposal of its business. Time might be saved, in the opinion of one representative, by referring various agenda items, at the beginning of a session, to working groups which could dispose of much contentious matter before those items were discussed in plenary.

518. In the opinion of some speakers, several items on the Commission's agenda, including a number of items of secondary importance, could be usefully deferred sine die. Moreover, the financial implications of an extended session, or of two annual sessions, had to be borne in mind.

519. As the discussion progressed, a number of speakers touched on the question whether the Commission should itself examine its procedures and working methods.

520. The representative of Jamaica then proposed orally, for the benefit of representatives who had misgivings regarding the draft resolution, the addition of a third operative paragraph reading as follows:

"Decides to establish a Committee of three members, to be appointed by the First Vice-Chairman, to consider, in consultation with the Secretary-General, what improvements might be effected in the Commission's working methods and procedure, and to make recommendations for consideration at the Commission's twenty-third session."

521. Several representatives pointed out that the Jamaican proposal, which referred to a question within the Commission's own competence, would be out of place in a resolution addressed to the Council. Other speakers thought that the proposed committee of three members would be too unrepresentative to reflect all views and, in addition, might also involve added expenditure. In the light of these objections, the representative of Jamaica withdrew his amendment.

522. The voting on the draft resolution was as follows:

The first preambular paragraph was approved by 17 votes to none, with 2 abstentions.

The second preambular paragraph was approved by 17 votes to none, with 2 abstentions.

The third preambular paragraph was approved by 17 votes to 2.

The fourth preambular paragraph was approved by 9 votes to none, with 10 abstentions.

Operative paragraph 1 was approved by 14 votes to none, with 5 abstentions.

Operative paragraph 2 was approved by 9 votes to none, with 10 abstentions.

The draft resolution as a whole was adopted by 12 votes to none, with 7 abstentions.

523. The text of the resolution adopted by the Commission at its 889th meeting, on 2 April 1966, reads as follows:

17 (XXII). Review of the Human Rights Programme 14/

The Commission on Human Rights,

Noting that, owing to lack of time, the Commission has not been able to complete consideration of several important and urgent questions referred to it by the General Assembly and the Economic and Social Council,

Noting further that the Commission has not been able to discuss a number of other important items on its agenda, the consideration of which has been deferred from year to year,

Noting that the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in resolution 4 (XVIII), has reiterated the hope that the Commission will be able to initiate or pursue to a conclusion consideration of the reports prepared by Mr. Krishnaswami on discrimination in the matter of religious rights and practices, by Mr. Santa Cruz on discrimination in regard to political rights and Mr. Ingles on discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, and the draft principles approved by the Sub-Commission and appended to these reports,

Believing that the Commission would need more than a four-week session each year to be able to cope with its heavy agenda and dispose in particular of the accumulated items on its agenda,

1. Draws the attention of the Economic and Social Council to the problem;

2. Expresses the hope that the Commission will be afforded the necessary time for a more effective discharge of its tasks and responsibilities.

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14/ See the statement of financial implications in annex II.

#### XV. POSTPONEMENT OF AGENDA ITEMS TO NEXT SESSION

524. At its 889th meeting the Commission on Human Rights decided to postpone until its next session all the items on its agenda which it had not been able to consider at its current session as well as all items the consideration of which it had not been able to complete.

#### XVI. PLACE OF MEETING OF THE NEXT SESSION

525. At its 892nd meeting, the Commission considered the question of the place at which its next session would be held. The Commission unanimously agreed to recommend that the Economic and Social Council decide that the twenty-third session of the Commission on Human Rights should be held at Geneva.

#### XVII. ADOPTION OF THE REPORT

526. At its 890th, 891st and 892nd meetings on 4 and 5 April 1966, the Commission examined the draft report on the work of its twenty-second session (E/CN.4/L.845 and Add.1 to 10 and Add.1/Corr.1). After some discussion, the reference to the Organization of American States in paragraph 3 of the draft report (E/CN.4/L.845) was put to the vote at the 892nd meeting at the request of the representative of the USSR. By 9 votes to 3, with 3 abstentions, the Commission decided to retain the reference. The report as a whole was adopted unanimously.

XVIII. DRAFT RESOLUTIONS FOR ACTION BY THE ECONOMIC  
AND SOCIAL COUNCIL 15/

I

Draft international convention on the elimination  
of all forms of religious intolerance 16/

The Economic and Social Council,

Having taken note of resolution 1 (XXII) of the Commission on Human Rights concerning the draft international convention on the elimination of all forms of religious intolerance,

Draws the attention of the General Assembly to this resolution.

II

Question of punishment of war criminals and of persons  
who have committed crimes against humanity 17/

The Economic and Social Council,

Noting the report of the Commission on Human Rights on the question of the punishment of war criminals and of persons who have committed crimes against humanity (E/4184, chapter IV),

Recalling General Assembly resolutions 3 (I) of 13 February 1946 and 170 (II) of 31 October 1947 on extradition and punishment of war criminals and General Assembly resolution 95 (I) of 11 December 1946 on affirmation of the principles of international law recognized by the Charter of the Nürnberg Tribunal,

Recalling resolution 3 (XXI) of the Commission on Human Rights, which expresses conviction that the prosecution of and punishment for war crimes and crimes against humanity would prevent others from the commission of similar crimes, protect human rights and fundamental freedoms, promote confidence among peoples, and contribute to international peace and security,

Recalling its resolution 1074 D (XXXIX), which urges all States to continue their efforts to ensure that, in accordance with international law and national

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15/ See also: chapter III, para. 222, resolution 2 (XXII); chapter V, para. 328, resolution 4 (XXII); and chapter VI, para. 389, resolution 5 (XXIX).

16/ See para. 162 above.

17/ See para. 289 above. See also the statement of financial implications in annex II.

laws, the criminals responsible for war crimes and crimes against humanity are traced, apprehended and equitably punished by the competent courts,

Expressing its appreciation to the Secretary-General for the study "Question of the Non-Applicability of Statutory Limitation to War Crimes and Crimes Against Humanity" (E/CN.4/906),

Considering that this study lends further support to the desirability of affirming, in international law, the principle that there is no period of limitation for war crimes and crimes against humanity,

Considering that the United Nations should take all possible action to affirm and implement such a principle of international law and secure its universal application,

1. Urges all States to take any measures necessary to prevent the application of statutory limitation to war crimes and crimes against humanity, and to continue their efforts to ensure the arrest, extradition and punishment of persons responsible for war crimes and crimes against humanity, and to make available to other States any documents in their possession relating to such crimes;

2. Invites all Governments of States Members of the United Nations or of the specialized agencies to inform the Secretary-General of the measures they have adopted in pursuance of paragraph 1 of this resolution, so that he might submit the report on these measures at the twenty-third session of the Commission on Human Rights;

3. Invites the Commission on Human Rights to prepare, at its twenty-third session, as a matter of priority, a draft Convention to the effect that no statutory limitation shall apply to war crimes and crimes against humanity, irrespective of the date of their commission, for consideration by the Economic and Social Council at its forty-third session and for adoption by the General Assembly at its twenty-second session and to consider and make any further recommendations it believes desirable with a view to developing international co-operation in the prosecution and punishment of those responsible for war crimes and crimes against humanity;

4. Requests the Secretary-General to prepare a preliminary draft for such a Convention to assist the Human Rights Commission in its task and also to carry out a study as regards ensuring the arrest, extradition and punishment of persons responsible for war crimes and crimes against humanity and the exchange of documentation relating thereto.

### III

#### International Year for Human Rights 18/

##### The Economic and Social Council,

Desiring to make use of all possible information and experience to advance the realization of human rights and fundamental freedoms for all without distinction as to race, sex, colour or religion,

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18/ See para. 411 above.

Recalling its resolution 48 (IV), which provides for co-operation between the Commission on the Status of Women and regional inter-governmental bodies in the field of women's rights,

Invites the Secretary-General to make arrangements for the presence of observers as appropriate from the Council of Europe, the Inter-American Commission on Human Rights, and from other regional inter-governmental bodies particularly concerned for human rights at sessions of the Commission on Human Rights and of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, and to arrange for the exchange of information between the Commission and these bodies on matters relating to human rights.

#### IV

#### International Year for Human Rights 19/

The Economic and Social Council,

Noting the report of the Commission on Human Rights on the International Year for Human Rights,

Recommends the following draft resolution to the General Assembly for consideration at its twenty-first session:

"The General Assembly,

"Recalling its resolutions 1961 (XVIII) and 2081 (XX) on the International Year for Human Rights,

"1. Approves the further programme of measures and activities envisaged for the United Nations, Member States, the specialized agencies, national and other international organizations, which has been recommended by the Commission on Human Rights and is set out in the annex to this resolution;

"2. Invites Member States and the specialized agencies, regional inter-governmental organizations, and national and international organizations concerned, to devote the year 1968 to intensified efforts and undertakings in the field of human rights, including the measures set out in the above-mentioned programme; and to keep the Secretary-General informed of their plans and preparations;

"3. Invites the Secretary-General to make any necessary arrangements to facilitate the co-operation of competent regional inter-governmental organizations in observing 1968 as International Human Rights Year, as provided in General Assembly resolution 2081 (XX);

"4. Requests the Secretary-General to co-ordinate measures and activities undertaken by Member States, the United Nations, and the specialized agencies, regional organizations and national and international

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19/ See para. 411 above. See also the statement of financial implications in annex II.

organizations concerned, and in particular to collect and disseminate at regular intervals information on activities contemplated or undertaken by them in connexion with the International Year for Human Rights.

"Annex

"Recommendation A

"It is recommended that in December 1967 the President of the General Assembly should issue a special message on the International Year for Human Rights, to be released on 1 January 1968. It is further recommended that the Secretary-General of the United Nations, the executive heads of the specialized agencies, the Executive Director of UNICEF, and the executive secretaries of the regional economic commissions should issue similar messages during 1968 at the time they deem to be most appropriate, such messages to be widely circulated by all communications media.

"Recommendation B

"1. It is recommended that the Secretary-General should:

"(a) make arrangements for the issuing of human rights stamps and first-day covers on 1 January 1968, and for special cancellations during 1968;

"(b) promote the widest and most intensive dissemination of the Universal Declaration of Human Rights specifically for the International Year;

"(c) prepare and publish a special pamphlet on the Declaration specifically for the International Year;

"(d) prepare a radio documentary script on the Declaration for general distribution and encourage and assist broadcasting and television organizations to produce documental or dramatic programmes relating to human rights;

"(e) make available to Member States and States members of the specialized agencies a special model designed to symbolize the concept of human rights and freedoms, so that posters may be reproduced and distributed nationally during International Year;

"(f) direct United Nations officers at Headquarters and in information centres and regional offices to give lectures and write articles on the Declaration and to co-operate with information media and educational authorities in various countries in organizing the celebration of the International Year;

"(g) request the distributors of United Nations publications to prepare a special display of relevant United Nations documents for exhibition during the months of November and December 1968.

"2. For Human Rights Day, 1968, it is recommended that the United Nations should:

"(a) organize at Headquarters a special meeting of the General Assembly on 10 December 1968, in commemoration of the twentieth anniversary of the

Declaration. Governments are invited, whenever possible, to include in their delegations to the special meeting persons who participated in the drafting of the Universal Declaration;

"(b) organize a concert at United Nations Headquarters on the same day to celebrate the twentieth anniversary, and obtain the widest possible radio and television coverage for the concert.

"Recommendation C

"(a) When a prize or prizes in the field of human rights should be awarded. It is recommended that a prize or prizes should be awarded for the first time on 10 December 1968, on the occasion of the celebration of the twentieth anniversary of the Universal Declaration of Human Rights. Thereafter, prizes should not be awarded more often than at five-year intervals.

"(b) The number of prizes to be awarded. It is recommended that no more than five prizes should be awarded at one time. If one prize is to be awarded, it should be for outstanding achievements in the field of human rights. If two prizes are to be awarded, one should be for outstanding achievements with reference to the promotion and protection of civil and political rights, and the other for outstanding achievements with reference to the promotion and protection of economic, social and cultural rights. If more than one prize is awarded, each prize should be equal in every way.

"(c) The nature of the prizes. It is recommended that a metal plaque, bearing the United Nations seal and an artistic design, and engraved with an appropriate citation, should be presented to each winner of the prize as a concrete and lasting token of the award.

"(d) Procedure to be followed in selecting winners. It is recommended that a special committee, composed of the President of the General Assembly, the President of the Economic and Social Council, the Chairman of the Commission on Human Rights, the Chairman of the Commission on the Status of Women, and the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, should be entrusted with selecting winners of the human rights prize. The committee would establish its own procedure for receiving nominations, it being understood that nominations might be sought from Member States, specialized agencies and non-governmental organizations in consultative status, and from other appropriate sources. The assistance of the Secretary-General would be available to the special committee at every stage of the process of selection.

"(e) Criteria to be applied in the selection of winners. It is recommended that on the occasion of the celebration of the twentieth anniversary of the Universal Declaration of Human Rights in 1968, a maximum of five prizes should be awarded to persons who have made outstanding contributions to the promotion and protection of human rights and fundamental freedoms embodied in the Universal Declaration of Human Rights and in other instruments of the United Nations relating to human rights since the proclamation of the Declaration on 10 December 1948. Thereafter the prize or prizes awarded at five-year intervals would go to individuals who have made outstanding contributions to the promotion and protection of human rights and fundamental freedoms.

#### "Recommendation D

"It is noted that in operative paragraph 4 of resolution 1961 (XVIII), the General Assembly invited all Member States to intensify their domestic efforts in the field of human rights, with the assistance of their appropriate organizations, in order that a fuller and more effective realization of these rights and freedoms might be achieved and might be reported at the proposed international review of such achievement in 1968 and thereafter. This proposed intensification of national domestic effort has been considered, bearing in mind the fact that an intensive programme of activity in this field is now in progress, in which the United Nations, the specialized agencies, national Governments and non-governmental organizations are already involved. It can be assumed that each Member State, within the framework of national legislation and policy, and according to available means, will wish to respond in its own way to the invitation expressed in the fourth operative paragraph of General Assembly resolution 1961 (XVIII).

"In consideration of the fact that a wide variety of measures should not be added by Member States to their existing programmes, it is recommended instead that the Assembly should be asked to invite all Member States to make a special effort during the period within the framework of national legislation and policy and according to available means, in two particular spheres:

"(i) in the sphere of their national legislation;

"(ii) in the sphere of education towards a fuller realization of human rights and fundamental freedoms.

"It is agreed that the intensification of efforts on the national level does not exclude intensification of efforts by States Members on an international scale such as within the United Nations and its agencies.

#### "Recommendation E

"It is recommended that Governments be invited to consider adopting the following programme:

"(a) formally proclaim 1968 to be International Year for Human Rights, and observe it as such;

"(b) issue, during the International Year for Human Rights, in the name of Heads of State or Governments, special messages reaffirming their faith in the dignity and worth of the human person and their dedication to implementation of the Universal Declaration of Human Rights;

"(c) either appoint an ad hoc committee to co-ordinate the national celebrations for the International Year for Human Rights within their countries, or entrust its organization to an existing institution;

"(d) seize the opportunity of the International Year for Human Rights to redouble their efforts to bring about the signature and ratification, or acceptance in another form, of all the existing international conventions or treaties designed to protect human rights and fundamental freedoms in particular spheres;

"(e) consider the possibility of establishing one or more national awards to reward their nationals who have made distinguished contributions to the promotion of human rights, and make these awards during the International Year for Human Rights;

"(f) maintain contact with the specialized agencies of the United Nations and participate in any regional conferences and seminars which the latter may wish to organize;

"(g) issue human rights stamps and first-day covers on 1 January 1968, and arrange for special cancellations during 1968;

"(h) promote the widest and most intensive dissemination of the Universal Declaration of Human Rights, in as many languages and dialects as possible, by means of printed posters, leaflets and pamphlets issued during 1968;

"(i) examine the possibility of holding a special meeting of their Parliament or National Assembly, in order to commemorate the twentieth anniversary of the Universal Declaration of Human Rights, preferably on 10 December 1968.

#### "Recommendation F

"It is recommended that the specialized agencies whose work touches on the promotion of respect for human rights and fundamental freedoms should be invited:

"(a) to proceed with the planning of their individual programmes of celebrations;

"(b) to communicate directly with the Governments of Member States and with private, national, and international organizations, so as to co-operate with them in the organization of national and regional programmes of celebrations for 1968;

"(c) to inform the Secretary-General of the programmes they have formulated as soon as possible before 1 January 1967.

#### "Recommendation G

"It is recommended that other organizations having an interest in the promotion of respect for human rights and fundamental freedoms, including non-governmental organizations in consultative status with the Economic and Social Council, non-governmental organizations in contact with the United Nations Office of Public Information, United Nations associations, research institutions, universities and other institutions of higher learning, and other appropriate organizations, should be invited to participate fully in the celebration of the International Year for Human Rights and to organize special activities of their own during 1968. The invitation to the organizations in consultative status and to those in contact with the Office of Public Information would be issued by the Secretary-General, while the invitation to national organizations would be issued by the Governments of the countries concerned.

"Within the framework of their respective programmes, in order to develop further and guarantee political, civil, economic, social and cultural rights and to end all discrimination and denial of human rights and fundamental freedoms, on grounds of race, colour, sex, language or religion, and in particular to permit the elimination of apartheid, the various organizations mentioned above are invited to consider the following activities for the year 1968:

"(a) to adopt the Universal Declaration of Human Rights, or articles thereof, as appropriate, as the theme of their annual conference for 1968 or of special conferences held during that year;

"(b) to organize commemorative ceremonies on the Declaration during the International Year for Human Rights, and particularly on Human Rights Day, 10 December 1968;

"(c) to print and distribute the text of the Declaration, and prepare public pamphlets, leaflets, and posters on the Declaration;

"(d) to organize community projects, such as panel discussions on local problems of human rights, children's parades, and display of the United Nations flag in school and business buildings;

"(e) to encourage local communities to establish a list of questions with a view to investigating and sounding out public opinion as to the community's effectiveness in promoting the principles of the Declaration;

"(f) to publish, during the International Year for Human Rights, historic declarations, famous bills, and great orations and speeches on human rights, with appropriate commentaries or annotations;

"(g) to encourage radio and television networks to carry special programmes, newspaper editors to publish editorials on the Declaration which could be printed or reprinted in whole or in part, and book-publishing firms to issue special publications, including books and booklets, on human rights problems designed to publicize the Universal Declaration of Human Rights; and to encourage other media of information to organize public debates on great issues of freedom;

"(h) to invite appropriate bodies in Member States to hold special services and observances, of a cultural or traditional nature, in celebration of the twentieth anniversary of the Universal Declaration of Human Rights.

#### "Recommendation H

"It is recommended that the programme of measures and activities contemplate activities by the United Nations, the specialized agencies, Member States, and international and national organizations. For an effective year of observances, some degree of co-ordination of these separate activities will be required. Some of the recommended activities are set out precisely and in reasonably full detail; in others, no more than the broad outlines of the proposal can be given at this stage, and details require to be worked out. When these details have been worked out, it

will be desirable that information about them should be communicated to a central organization or central point. It is likely that individual Member States will have new ideas in regard to activities they may wish to undertake in connexion with the International Year for Human Rights, and that they will wish to communicate some of these ideas to other Member States. It is agreed that all these activities should be co-ordinated and it is recommended that the co-ordinating and clearing-house function should be discharged by the Secretary-General. It would be important that the efficiency of the Secretary-General's present responsibilities in the field of human rights should not be prejudiced by this additional task it is proposed to entrust to him."

V

Advisory Services in the Field of Human Rights 20/

The Economic and Social Council,

Noting that a regional seminar on "The Effective Realization of Human Rights at the National Level" is being organized in Jamaica in 1967 for countries and territories within the western hemisphere,

Believing that the discussion of this subject will be significantly assisted by the personal attendance and participation of expert representatives from a few countries having distinctive institutions for the guarantee of human rights and fundamental freedoms,

Requests the Secretary-General to make arrangements, in consultation with the host Government, for the attendance of not more than four such participants from outside of the countries and territories of the western hemisphere.

VI

Reports of the seventeenth and eighteenth sessions of  
the Sub-Commission on Prevention of Discrimination  
and Protection of Minorities 21/

The Economic and Social Council,

Having considered the report of the Commission on Human Rights,

Noting the memorandum by the Secretary-General, listing and classifying special protective measures of an international character for ethnic, religious or linguistic groups (E/CN.4/Sub.2/221) and the compilation of the texts of those international instruments and similar measures of an international character

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20/ See para. 420 above. See also the statement of financial implications in annex II.

21/ See para. 486 above. See also the statement of financial implications in annex II.

which are of contemporary interest and which provide special protective measures for ethnic, religious or linguistic groups (E/CN.4/Sub.2/214),

Decides to authorize the Secretary-General to take appropriate steps, within the budgetary resources available to him, for printing, circulating and making available for sale to the public this memorandum and the compilation as one publication.

## VII

### Report of the Commission on Human Rights

#### The Economic and Social Council,

Takes note of the report of the Commission on Human Rights on its twenty-second session. 22/

ANNEXES

Annex I

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS a/

Organization of the international seminar on apartheid

1. At its twentieth session, the General Assembly, in resolution 2060 (XX), requested the Secretary-General to organize in 1966, in consultation with the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa and the Commission on Human Rights, an international seminar on apartheid.
2. At its 864th meeting, the Commission on Human Rights authorized its Chairman to consult the Chairman of the Special Committee and the Permanent Representative of Brazil, the host Government for this seminar, on the organization of the international seminar on apartheid. Subsequently, at its 871st meeting, the Chairman appointed the representatives of the Philippines, Poland and Sweden to assist him in these consultations.
3. At its 70th meeting, on 17 March 1966, the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa appointed the representatives of Algeria, Costa Rica and Malaysia to assist its Chairman in his discussions with the Chairman of the Commission on Human Rights and the Permanent Representative of Brazil.
4. As a result of their consultations, the Chairman of the Commission on Human Rights, the Chairman of the Special Committee on the Policies of Apartheid and the Permanent Representative of Brazil have agreed as follows regarding participation in the seminar and its agenda:

A. Participation in the seminar

5. The seminar should include persons from countries which maintain diplomatic, economic and other relations with the Government of the Republic of South Africa, as well as from countries which have broken or refused to entertain such relations. Representation at the seminar should reflect a broad geographical distribution.
6. Provision is made in the seminar budget for thirty-five participants, in addition to the participation of Brazil as the host Government. In order to assist the seminar in its consideration of apartheid it was agreed to invite the following seven experts on apartheid:

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a/ This report was circulated to the Commission as document E/CN.4/L.850.

Canon John Collins  
Mr. P.K. Leballo  
Professor Z.K. Matthews  
Mr. Alan Paton  
Professor Leslie Rubin  
Mr. Ronald Segal  
Mr. Oliver Tambo

7. It was accordingly agreed that invitations be extended to the Governments of the following twenty-eight Member States:

Algeria	Japan
Argentina	Malaysia
Australia	Mexico
Chile	Netherlands
Costa Rica	Nigeria
Dahomey	Philippines
Denmark	Poland
France	Sweden
Guinea	Union of Soviet Socialist Republics
Hungary	United Arab Republic
India	United Kingdom of Great Britain and Northern Ireland
Iraq	United Republic of Tanzania
Italy	United States of America
Jamaica	Zambia

8. It was agreed that an invitation be extended to the Government of the Republic of South Africa.

9. It was further agreed that, if an invited Government did not nominate a participant, the Secretary-General would, in consultation with the Chairman of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa and in consultation with the Chairman of the Commission on Human Rights or, in their absence, in consultation with alternates nominated by them, invite an alternate Government.

10. Special effort should be made to ensure the participation in the seminar of non-governmental groups, especially of trade unions, legal societies, churches, teachers, students, etc., and of anti-apartheid and other movements and individuals particularly concerned with racial discrimination and the problem of racism. This should be drawn to the attention of Governments invited to nominate participants and alternates, specialized agencies invited to send representatives, and non-governmental organizations in consultative status with the Economic and Social Council invited to send observers. These invitations should also emphasize the desirability of the attendance at the seminar of persons directly involved with problems of apartheid.

11. It is hoped that Governments other than those invited to send participants to the seminar will send observers. Invitations should also be sent to the Organization of African Unity, the Organization of American States, the Council of Europe and the League of Arab States. Participation by the specialized agencies is most desirable.

B. Agenda

12. It was agreed that the agenda for the seminar be as follows:

1. Examination of apartheid.
2. Effects of apartheid on international relations, such as the danger of race conflict and threat to peace and security.
3. Measures to be taken for the elimination of apartheid and the achievement of a society free from racial discrimination:
  - (a) National measures;
  - (b) International measures:
    - (i) by Governments,
    - (ii) by inter-governmental organizations,
    - (iii) by non-governmental organizations and groups.
4. Measures to promote public awareness of the dangers of apartheid and to promote support for United Nations action in this matter.

## Annex II

### FINANCIAL IMPLICATIONS OF RESOLUTIONS ADOPTED BY THE COMMISSION AT ITS TWENTY-SECOND SESSION

Of the resolutions adopted by the Commission at its twenty-second session, the following carry financial implications for the organization.

#### Resolution 3 (XXII). Question of punishment of war criminals and of persons who have committed crimes against humanity

In this resolution, the Commission recommended to the Economic and Social Council adoption of a resolution which, inter alia, requests the Secretary-General to prepare a preliminary draft for a Convention to the effect that no statutory limitation shall apply to war crimes and crimes against humanity, irrespective of the date of their commission, and also to carry out a study as regards ensuring the arrest, extradition and punishment of persons responsible for war crimes and crimes against humanity and the exchange of documentation relating thereto.

With reference to the requested study, the Secretary-General understands that no time has been set in which it should be completed, and accordingly it is intended that the Division of Human Rights accept the preparation of this study as a project for future action, as and when the necessary staff resources can be assigned to it.

#### Resolution 4 (XXII). Question concerning the implementation of human rights through a United Nations High Commissioner for Human Rights or some other appropriate international machinery

By this resolution, the Commission set up a working group of nine States members of the Commission, to meet at Headquarters to study all relevant questions concerning the creation of the institution of a United Nations High Commissioner for Human Rights, and to report to the Commission at its twenty-third session.

Prior to its adoption of this resolution, the Commission was informed (see E/CN.4/L.838/Add.1) that there were no financial implications. This statement was based on the understanding of the Secretary-General that the members of the working group will be representatives of Governments, and that the working group's meetings will be held at a time convenient from the point of view of the calendar of meetings at Headquarters. The Secretary-General would point out, however, that the total documentation workload of the Secretariat is greater than the capacity of the translation and typing services available, with the result that increasing recourse must be had to contractual arrangements with the attendant increased expenditures. To the extent that the establishment of this new body increases the workload, additional expenditure may be envisaged.

Resolution 5 (XXII). Measures for the speedy implementation of the United Nations Declaration on the Elimination of all Forms of Racial Discrimination

The Commission, in adopting this resolution, requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to take appropriate steps to carry out, as rapidly as possible, the special study of racial discrimination in the political, economic, social and cultural fields, the preparations for the study to be made in accordance with the accelerated procedure on the basis of paragraph 4 of resolution 1103 (XL) of the Economic and Social Council.

Paragraph 4 of the Council's resolution 1103 (XL) requests the Secretary-General to arrange for the speedy conclusion of the study in question. At the time the Council considered the resolution, it was advised of the financial implications which would result from the recruitment of additional professional and secretarial staff in the Division of Human Rights to assist in the preparation of the study on an increased priority basis.

The statement of financial implications then given was the following:

"With reference to paragraph 4 of the draft resolution, it will be recalled that the procedure established by the Sub-Commission for carrying out studies of discrimination, approved by the Commission on Human Rights and the Economic and Social Council, provides, as a first step, for the preparation of country monographs containing all available relevant material for each State Member of the United Nations and of the specialized agencies. A total of at least 117 country monographs must be prepared for each study to serve as a basis for the analytical report to be prepared by the Special Rapporteur. Each country monograph requires the time of one professional officer for at least one month, with the necessary secretarial assistance. At present, four staff members in the Division of Human Rights are assigned to the preparation of the studies of discrimination. Three of them are fully occupied with the study of discrimination against persons born out of wedlock, which is scheduled for completion in January 1967, and one is assigned to the study of equality in the administration of justice, which was initiated by the Sub-Commission several years ago. When the study of discrimination against persons born out of wedlock is completed in 1967, the staff thereby released will be transferred to work on the study of equality in the administration of justice.

"In the course of 1966, the special rapporteur appointed by the Sub-Commission to carry out the study of racial discrimination in the political, economic, social and cultural spheres will prepare a draft outline for the study, which will be considered by the Sub-Commission at its January 1967 session. The work of collecting information for use in the study should begin immediately after the outline has been considered by the Sub-Commission. However, the assignment of staff members to the new study could only be done at the expense of the study of equality in the administration of justice, with the result that the completion of that study would be further delayed. In view of the work-load in other programmes of the Division, it is not feasible to transfer staff from them to this study.

"Under these circumstances, it would seem that the study of racial discrimination could not be completed before 1973. If by 'speedy completion'

of the study, the Council means that it should be completed before that time, it would be necessary to provide additional staff for this purpose. The Secretary-General feels that in order to complete the study within three years, the following additional staff would be required in 1967 and subsequent years.

"With four professional (P-3) officers and two secretaries (G-3), the study could be completed by the end of 1969 at an annual cost of \$82,000. The Secretary-General would, if the Council means that the study should be completed in the next three years, include this additional provision in his initial estimates for 1967". a/

Concerning the request, contained in paragraph 5 of resolution 5 (XXII), that the Secretary-General take steps to ensure the widest possible distribution of the documentation of the seminar on the elimination of all forms of racial discrimination, to be held in the context of the programme of the International Year for Human Rights, the Secretary-General would plan to provide for any additional costs involved within the total appropriations to be sought under Section 14, Part V of the budget for the year in which the seminar will be programmed.

#### Resolution 8 (XXII). International Year for Human Rights

The resolution recommends adoption by the Economic and Social Council of a resolution, which would, in turn, recommend a resolution for consideration by the General Assembly at its twenty-first session, which in paragraph 4 thereof, would request the Secretary-General to co-ordinate measures and activities undertaken by Member States, the United Nations, and the specialized agencies, regional organizations and national and international organizations concerned, and in particular to collect and disseminate at regular intervals information on activities contemplated or undertaken by them in connexion with the International Year for Human Rights.

The Secretary-General intends to request budgetary provision in the amount of \$6,000 for 1967 to meet the costs of additional secretarial assistance, required in carrying out the above, which reflects recommendation H of the Working Party on the International Year for Human Rights, as contained in its report to the Commission (E/CN.4/905). He will also request budgetary provision in 1967 in the amount of \$2,000 for the necessary official travel of staff members of the Division of Human Rights in fulfilling the co-ordination functions required.

Any related requirements for 1968 will be reflected in the initial estimates for that year.

#### Resolution 9 (XXII). Advisory services in the field of human rights

The following financial implications of this resolution were conveyed to the Commission at the time it was considering the proposal that arrangements be made

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a/ Official Records of the Economic and Social Council, Fortieth Session, Annexes, agenda item 10, document E/L.1112/Add.1.

for the attendance of four additional participants, from outside the Western Hemisphere, in the regional seminar on "The effective realization of human rights at the national level" to be held in Jamaica in 1967:

"The Secretary-General understands that the four additional persons required to attend the seminar will be considered as participants in the seminar, and, in this event, the additional costs involved, relating only to travel and subsistence allowances, are estimated to amount to \$5,000. However, if the additional persons concerned would be regarded as experts, additional payments of honoraria would be incurred, estimated to amount to a total of \$2,500." (E/CN.4/L.835/Add.1)

The Secretary-General, on the basis of the eventual wording of resolution 9 (XXII), now understands that the participants would be attending in their personal capacity as experts, in which case the payment of honoraria would indeed be required, and therefore the total additional amount involved in the terms of the resolution would be \$7,500.

The Secretary-General will provide for these additional costs within the total appropriations to be sought from the General Assembly under Section 14, Part V, of the 1967 budget.

Resolution 13 (XXII). Reports of the seventeenth and eighteenth sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The financial implications, as stated below, were conveyed to the Commission at the time it considered the above resolution:

"The draft resolution before the Commission, if adopted, would recommend to the Economic and Social Council that it authorize the Secretary-General 'to take appropriate steps, within the budgetary resources available to him, for printing, circulating and making available for sale to the public' the contents of two documents, E/CN.4/Sub.2/221 and E/CN.4/Sub.2/214, dealing with special protective linguistic groups.

"In view of the fact that the initial 1966 estimates presented by the Secretary-General for contractual printing were reduced by the General Assembly, there appears to be no possibility of accommodating this additional publication within the budgetary resources available to him for the current year.

"Therefore, if the Economic and Social Council at its forty-first session accepts this proposal, the Secretary-General would include the cost involved, estimated at \$2,700 for a publication of seventy-two pages in four languages, in the revised estimates for 1967 arising from actions of the Council." (E/CN.4/L.822/Add.1)

Resolution 17 (XXII). Review of the Human Rights Programme

This resolution draws the attention of the Economic and Social Council to the Commission's belief that it would need more than a four-week session each year to

be able to cope with its heavy agenda, and dispose in particular of the accumulated items of its agenda, and expresses the hope that it will be afforded the necessary time for a more effective discharge of its tasks and responsibilities.

In this connexion, the Secretary-General would advise the Council that, for each week by which a session of the Commission is prolonged, the costs, at Geneva, would be \$6,700, in respect of temporary conference and other staff required to service the meetings of the Commission and costs of extensions of stay of detailed substantive staff from Headquarters.

In the case of Headquarters, the Secretary-General would inform the Council that, while there would be no direct additional costs involved in the extension of a session of the Commission, such an eventuality would have an effect upon the conference services, in such activities as translation, and reproduction of documents. For example, in the case of the former, the provision of the précis-writing services the Commission requires would result in some translation back-logging, which would necessitate recourse to outside contractual services.

Annex III

LIST OF DOCUMENTS BEFORE THE COMMISSION AT ITS TWENTY-SECOND SESSION

Documents issued in the general series

- E/3443 (Official Records of the Economic and Social Council, Thirty-first Session, Annexes, agenda item 10 (part II)) - Report on developments in the field of freedom of information since 1954.
- E/3443/Add.1 and 2 - Comments of Governments and specialized agencies.
- E/3616/Rev.1 (Official Records of the Economic and Social Council, Thirty-fourth Session, Supplement No. 8) - Report of the Commission on Human Rights on its eighteenth session.
- E/3724 (Ibid., Thirty-fifth Session, Annexes, agenda item 11) - Note by the Secretary-General transmitting the observations and recommendations of the ad hoc Advisory Committee of Experts on the Prevention of Crime and the Treatment of Offenders.
- E/3743 (Ibid., Thirty-sixth Session, Supplement No. 8) - Report of the Commission on Human Rights on its nineteenth session.
- E/3873 (Ibid., Thirty-seventh Session, Supplement No. 8) - Report of the Commission on Human Rights on its twentieth session.
- E/3925 and Corr.1 and Add.1-5 - Comments by Governments on the draft declaration on the elimination of all forms of religious intolerance.
- E/4024 (Official Records of the Economic and Social Council, Thirty-ninth Session, Supplement No. 8) - Report of the Commission on Human Rights on its twenty-first session.
- E/CN.4/809 and Add.1-11 - Note by the Secretary-General and comments of Governments on the draft principles on freedom and non-discrimination in the matter of religious rights and practices.
- E/CN.4/819 - Note by the Secretary-General on communications concerning human rights.
- E/CN.4/822 and Add.1-3 - Annual report by the Secretary-General on freedom of information, 1960-1961.
- E/CN.4/826/Rev.1 (United Nations publication, Sales No.: 65.XIV.2) - Study of the Right of Everyone to be Free from Arbitrary Arrest, Detention and Exile.

E/CN.4/835 and Add.1-10 and E/CN.4/835/Add.6/Corr.1 - Note by the Secretary-General and comments of Governments on the study of the right of everyone to be free from arbitrary arrest, detention and exile, and draft principles on freedom from arbitrary arrest and detention.

E/CN.4/837 and Add.1-8 - Note by the Secretary-General and comments of Governments on the draft principles on freedom and non-discrimination in the matter of political rights.

E/CN.4/838 and Add.1-3 - Annual report by the Secretary-General on freedom of information, 1961-1962.

E/CN.4/845 and Add.1 - Comments by non-governmental organizations on the draft principles on freedom and non-discrimination in the matter of political rights.

E/CN.4/852 and Add.1 - Note by the Secretary-General and comments of the specialized agencies on a draft declaration and draft convention on the elimination of all forms of religious intolerance.

E/CN.4/859 - Memorandum by the Secretary-General on the question of an international code of police ethics.

E/CN.4/862 and Add.1-3 - Annual report by the Secretary-General on freedom of information, 1962-1963.

E/CN.4/864 - Note by the Secretary-General on capital punishment.

E/CN.4/868 and Add.1 - Note by the Secretary-General on the review of the human rights programme: control and limitation of documentation.

E/CN.4/869 and Add.1-4 - Comments by Governments and non-governmental organizations 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.

E/CN.4/875 - Note by the Secretary-General 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.

E/CN.4/876 and Corr.1 - Report of the Committee on periodic reports on human rights.

E/CN.4/878 and Add.1 - Annual report by the Secretary-General on freedom of information, 1963-1964.

E/CN.4/880 - Memorandum by the Secretary-General on the study of special problems relating to human rights in developing countries.

E/CN.4/882 and Corr.1 - Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (seventeenth session) to the Commission on Human Rights.

E/CN.4/892 and Add.1-7 and 9-15 - Periodic reports on human rights covering the period 1 January 1963 to 30 June 1965: reports from Governments.

- E/CN.4/893 - Periodic reports on human rights: reports from specialized agencies (ILO).
- E/CN.4/894 and Add.1 - Provisional agenda of the twenty-second session of the Commission on Human Rights.
- E/CN.4/895 - Question concerning implementation of human rights through a United Nations High Commissioner for Human Rights or through some other appropriate international machinery: note by the Secretary-General.
- E/CN.4/896 and Add.1-2 - Advisory Services in the field of human rights: report by the Secretary-General.
- E/CN.4/897 - Advisory services in the field of human rights: evaluation of the fellowship programme - report by the Secretary-General.
- E/CN.4/898 - Communications concerning human rights: note by the Secretary-General.
- E/CN.4/899 - Study of the right of arrested persons to communicate with those whom it is necessary for them to consult in order to ensure their defence or to protect their essential interests: progress report of the Committee on the Right of Everyone to be Free from Arbitrary Arrest, Detention and Exile.
- E/CN.4/900 - Draft declaration and draft international convention on the elimination of all forms of religious intolerance: note by the Secretary-General.
- E/CN.4/901 and Corr.1 and Add.1-6, and Add.6/Rev.1 - Membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities: note by the Secretary-General.
- E/CN.4/902 - Note by the Secretary-General on freedom of information.
- E/CN.4/903 - Report of the eighteenth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights.
- E/CN.4/904 - Note by the Secretary-General on the International Year for Human Rights.
- E/CN.4/905 - Report of the working party on the International Year for Human Rights to the Commission on Human Rights.
- E/CN.4/906 - Question of punishment of war criminals and of persons who have committed crimes against humanity: study submitted by the Secretary-General on the question of the non-applicability of statutory limitation to war crimes and crimes against humanity.
- E/CN.4/907 - Periodic reports on human rights: memorandum by the Secretary-General on the status of multilateral international agreements in the field of human rights.
- E/CN.4/908 - Periodic reports on human rights: list of non-governmental organizations in consultative status which have submitted comments on periodic reports on human rights and reports on freedom of information.

- E/CN.4/909 - Adoption of the agenda: communication dated 1 March 1966 from the Director-General of the International Labour Office - Note by the Secretary-General.
- E/CN.4/909/Add.1 - Adoption of the agenda: communication dated 4 March 1966 from the Director of the International Labour Organisation Liaison Office with the United Nations - Note by the Secretary-General.
- E/CN.4/910 - Adoption of the agenda: Note by the Secretary-General transmitting text of resolution 1101 (XL) of the Economic and Social Council.
- E/CN.4/911 - Adoption of the agenda: Note by the Secretary-General transmitting text of resolution 1102 (XL) of the Economic and Social Council.
- E/CN.4/912 - Periodic reports on human rights: index to reports on civil and political rights, 1 January 1963-30 June 1965.
- E/CN.4/913 - Communications concerning human rights: Note by the Secretary-General transmitting a communication dated 10 March 1966 from the Government of South Africa.
- E/CN.4/914 - Periodic reports on human rights: extract from the Report of the Commission on the Status of Women on its nineteenth session.
- E/CN.4/915 - Report of the Ad Hoc Committee on Periodic Reports.
- E/CN.4/CR.35 - Non-confidential list of communications dealing with principles involved in the promotion of universal respect for, and observance of, human rights received by the United Nations between 16 December 1964 and 31 December 1965.
- E/CN.4/SR.851-892 - Summary records of the meetings of the Commission at its twenty-second session.
- E/CN.4/Sub.2/200/Rev.1 (United Nations publication, Sales No.: 60.XIV.2) - Study of Discrimination in the Matter of Religious Rights and Practices.
- E/CN.4/Sub.2/213/Rev.1 (United Nations publication, Sales No.: 63.XIV.2) - Study of Discrimination in the Matter of Political Rights.
- E/CN.4/Sub.2/229/Rev.1 (United Nations publication, Sales No.: 64.XIV.2) - Study of Discrimination in Respect of the Right of Everyone to Leave any Country, including His Own, and to Return to His Country.
- E/CN.4/Sub.2/235 and Add.1 and Add.1/Rev.1 and E/CN.4/Sub.2/235/Add.2-5 - Note by the Secretary-General and comments by Governments on the draft declaration and draft international convention on the elimination of all forms of religious intolerance.
- E/CN.4/Sub.2/243 - Note by the Secretary-General and comments by Governments on the draft international convention on the elimination of all forms of religious intolerance.

ST/SOA/SD.9 (United Nations publication, Sales No.: 62.IV.2) - Report on Capital Punishment.

ST/TAO/HR/16 - Report of the United Nations seminar on the role of the police in the protection of human rights, Canberra, Australia, 29 April-13 May 1963.

ST/TAO/HR/20 - Report of the United Nations seminar on freedom of information, Rome, Italy, 7-20 April 1964.

ST/TAO/HR/21 - Report of the United Nations seminar on human rights in developing countries, Kabul, Afghanistan, 12-25 May 1964.

ST/TAO/HR/22 - Report of the United Nations seminar on the status of women in family law, Lomé, Togo, 18-31 August 1964.

ST/TAO/HR/23 - Report of the United Nations seminar on the multi-national society, Ljubljana, Yugoslavia, 8-21 June 1965.

ST/TAO/HR/24 - Report of the United Nations seminar on the participation of women in public life, Ulan Bator, Mongolia, 3-17 August 1965.

Documents issued in the limited series

E/CN.4/L.602 - Working paper by the Secretary-General on draft principles on freedom and non-discrimination in the matter of religious rights and practices.

E/CN.4/L.778 - Israel: amendment to article IV of document E/CN.4/900, annex II A.

E/CN.4/L.778/Rev.1 - Israel: revised amendment to article IV of document E/CN.4/900, annex II A.

E/CN.4/L.779 - Poland: amendment to article IV of document E/CN.4/900, annex II A.

E/CN.4/L.780 - Austria: amendment to article IV of document E/CN.4/900, annex II A.

E/CN.4/L.781 - Austria: sub-amendment to the amendment of Israel (E/CN.4/L.778).

E/CN.4/L.782 - Philippines: amendment to article IV of document E/CN.4/900, annex II A.

E/CN.4/L.782/Rev.1 - Chile, Costa Rica and the Philippines: amendment to article IV of document E/CN.4/900, annex II A.

E/CN.4/L.783 - Austria: sub-amendment to the amendment of the Philippines (E/CN.4/L.782).

E/CN.4/L.784 - Ukrainian SSR: sub-amendment to the amendment of the Philippines (E/CN.4/L.782).

- E/CN.4/L.785 - Poland: amendment to article IV of document E/CN.4/900, annex II A and sub-amendment to the amendment of the Philippines (E/CN.4/L.782).
- E/CN.4/L.786 - Dahomey: sub-amendment to the amendment of Chile, Costa Rica and the Philippines (E/CN.4/L.782/Rev.1).
- E/CN.4/L.787 - Proposed text of article IV prepared by the informal working party on the draft international convention on the elimination of all forms of religious intolerance.
- E/CN.4/L.788 - Philippines: amendments to article V of document E/CN.4/900, annex II A.
- E/CN.4/L.789 - Text of article IV, as adopted by the Commission, of the draft international convention on the elimination of all forms of religious intolerance.
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- E/CN.4/L.791 - Israel: amendment to article V of document E/CN.4/900, annex II A.
- E/CN.4/L.792 - USSR: amendment providing for the inclusion of a new article between articles IV and V of the draft convention on the elimination of all forms of religious intolerance.
- E/CN.4/L.793 - Ukrainian SSR: amendment to article V of document E/CN.4/900, annex II A.
- E/CN.4/L.794 - Netherlands: sub-amendment to the amendment of the Philippines (E/CN.4/L.788).
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- E/CN.4/L.798 - Austria: amendment to article V of document E/CN.4/900, annex II A.
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- E/CN.4/L.800 - Poland: draft resolution on the question of the punishment of war criminals and of persons who have committed crimes against humanity.
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E/CN.4/L.858 - Jamaica and the Ukrainian SSR: draft resolution to replace draft resolution II in E/CN.4/915.

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