

INTERNATIONAL COURT OF JUSTICE

**INTERPRETATION AND APPLICATION OF
THE INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION**

(THE STATE OF QATAR *v.* THE UNITED ARAB EMIRATES)

MEMORIAL OF THE STATE OF QATAR

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25 APRIL 2019**

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United Nations
GENERAL
ASSEMBLY

EIGHTEENTH SESSION

Official Records

THIRD COMMITTEE, 1214th
MEETING

Friday, 27 September 1963,
at 10.35 a.m.



NEW YORK

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Chairman: Mr. Humberto DIAZ CASANUEVA (Chile).

AGENDA ITEM 43

Draft Declaration on the Elimination of All Forms of Racial Discrimination (A/5459, A/5503, chap. X, sect. II; E/3743, paras. 89-145, A/C.3/L.1064-1071) (continued)

1. Mrs. VILLGRATTNER (Austria) said she would like to make some comments of a general nature on the draft Declaration now being considered by the Third Committee. Her comments were dictated by an unreserved adherence to the principles of the Universal Declaration of Human Rights; the same principles had been incorporated in Austrian law for more than a century and were embodied in various international instruments to which Austria was a party.

2. Her delegation was prompted primarily by the desire to see that the scope of those principles was not weakened by the new instrument under consideration. It would be extremely regrettable if the Universal Declaration of Human Rights, fifteen years after its adoption, was to be deprived of any of its effectiveness by the new draft Declaration, the more so as the latter was later to provide the basis for a convention which would probably have an even more limited scope.

3. In her delegation's view, the text drafted by the Commission on Human Rights (see E/3743, chap. XIII, draft resolution VI, annex) had three serious defects: its scope was too restricted; it was drafted in far too moderate terms; and it might restrict the possibilities of action by the organizations responsible for its implementation.

4. To begin with, article 2 limited the sphere of application of the principle of non-discrimination to the field of human rights and fundamental freedoms. That principle should apply, however, to all matters regulated by law or by custom in the political, economic, social or educational fields. In addition, article 2 protected only individuals and did not offer any safeguards against discrimination to groups or institutions.

5. Furthermore, her delegation was disturbed not to find among the articles of the draft Declaration any firm and categorical affirmation of the existence of the rights in question. The use of the future tense—"shall"—further weakened the text. In that connexion

she believed that article 8 might have a doubly restrictive effect, and she felt that clauses of that kind would be more appropriate to a convention than to a declaration. In any case, it would be a step backward to transfer the principles of the Universal Declaration to the draft Declaration while giving them a more restrictive form. That comment applied particularly to article 2, paragraph 2 and to article 8 of the draft.

6. Again, her delegation believed it was not enough to say that the United Nations should do all in its power to ensure the abolition of all forms of discrimination based on race; logic required the definition of the Organization's role and the assignment of specific tasks to it.

7. As regards the preamble, her delegation was prepared to accept the amendments submitted by Nigeria, Paraguay and Peru (A/C.3/L.1065) and by Australia (A/C.3/L.1066).

8. In conclusion, her delegation did not underestimate the value of the work done by the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. It was convinced, however, that before taking any decisions the Third Committee should examine very carefully a document in which all the nations of the world placed such high hopes.

9. Mrs. PESIC GOLUBOVIC (Yugoslavia) expressed satisfaction that the Committee had assigned priority to the draft Declaration on the Elimination of All Forms of Racial Discrimination, thus demonstrating its conviction that the problem of racial discrimination was one of the most serious of the day and was closely linked with the struggle for the preservation of world peace.

10. Although the adoption of a declaration on that vital question was a matter of urgency, the Committee should not be too hasty in its consideration of the draft before it. Indeed, the final declaration would be of paramount importance owing to its effect on the efforts being made to secure the universal implementation of fundamental rights and freedoms, and consequently on the world peace.

11. Yugoslavia attached great importance to the question of racial discrimination and to all measures directed towards its elimination. Its attitude was a result of the long struggle for national and social liberation which the country had waged in order to establish the principle of freedom and equality of all human beings; it was also dictated by the conviction that social relations between nations must today be based on the conception that the above-mentioned principles alone could and should be the basis of social relationships in the contemporary world.

12. Although the ideas of equality and liberty were receiving wider and wider recognition and were assuming the force of norms, and although racist and

fascist theories of racial superiority were being more and more widely condemned, the problem of racial discrimination continued to exist. The reason for this was that the roots underlying the practise of racial discrimination had not yet, by far, been destroyed. In a large part of the African continent, and elsewhere as well, the forces endeavouring to maintain inequality, exploitation and domination were still very active. Colonialism, too, was directly or indirectly linked with the practice of racial discrimination which was to be found in some of its most abhorrent contemporary forms. To be sure, that system was on the way to disappearing, and many African and Asian countries had freed themselves from colonial domination. Unfortunately, although racial discrimination had become narrower in scope, its ferocity and subtlety had grown all the greater. It had now been elevated to the level of official policy in South Africa while, on the other hand, as part of general colonial policy, particularly Portugal's, it had become increasingly brutal. The fact that the General Assembly and the Security Council had recently decided to consider the problem of South Africa's racial policies proved the gravity of the question and imposed on all nations a duty to strive systematically and resolutely to eliminate discrimination and prevent any later resurgence of that hateful practice.

13. The responsibility which the Committee bore in preparing a declaration on the elimination of racial discrimination was the greater inasmuch as that document was to be followed by a convention—an international legal document which would outlaw the policy and practice of racial discrimination. In that regard her delegation did not find the draft submitted by the Commission on Human Rights fully satisfactory. It did not adequately define the place and the impact of racial discrimination on the development of the contemporary world, and in that regard it was less satisfactory than certain resolutions of the General Assembly and Security Council which condemned the practice of racial discrimination in far more definite and vigorous terms.

14. It would improve the draft to have it mention the close causal link between colonialism and racial discrimination. In that regard the Committee should replace the fourth preambular paragraph by the corresponding text proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (see E/3743, para. 93). It might also consider including article 11 as proposed by the Working Group set up by the Commission on Human Rights (*ibid.*, para. 104).

15. Her delegation also believed that greater emphasis should be placed on the danger which racial discrimination presented to world peace and co-operation among nations. For that reason it hoped that the Committee would reintroduce the eighth preambular paragraph as proposed by the Sub-Commission.

16. Lastly, the operative part of the draft Declaration should define more clearly the role of States in the struggle against racial discrimination and should stress their obligations in that sphere.

17. Mrs. KISOSONKOLE (Uganda) stated that the delegation of Uganda desired the immediate and utter elimination of all forms of racial discrimination. Coming from a continent where discrimination had long prevailed and still occurred in some parts, she unreservedly condemned that odious practice. Her

delegation hoped that all countries which signed the Declaration on the Elimination of All Forms of Racial Discrimination would feel themselves bound to act in accordance with the principles set forth therein.

18. It was essential, therefore, that the declaration should be worded as strongly as possible. For that reason, the delegation of Uganda could not agree to the amendments submitted by the United Kingdom (A/C.3/L.1064), which weakened the text of the draft Declaration. However, her delegation supported the amendments submitted by Nigeria, Paraguay and Peru and by Australia.

19. Mr. MOLINA SALAS (Argentina) found it intolerable that, in an age when science and technology were taking giant strides, such a relic of the past as racial discrimination should continue to exist. In its very first years of independence, Argentina had proclaimed in its constitution and laws the principle of the equality of all its nationals. It was proud to serve as an example of a society in which groups of very varied origins coexisted in perfect harmony.

20. The Argentine delegation could accept the draft Declaration as a whole. It felt, however, that the text did not give education and the dissemination of principles calculated to promote friendship and understanding among persons of different races the importance they should have. In order to supply that deficiency, his delegation, in concert with the delegations of Bolivia, Brazil, Ecuador, Mexico, Paraguay, Peru and Venezuela, intended to prepare some amendments which they would submit to the Committee.^{1/}

21. He whole-heartedly endorsed the amendment of Nigeria, Paraguay and Peru.

22. Mr. UNG MUNG (Cambodia) stated that the Government and people of Cambodia had enthusiastically welcomed the idea of preparing the draft Declaration which the Third Committee was considering. Action of that kind was in keeping not only with the liberal traditions and institutions of Cambodia but with the civilization of the present century. There was no place for discrimination in the world of today, and it would be shameful for mankind to remain unmoved by the consequences of the policy of apartheid pursued in particular in South Africa, and the current policy of religious discrimination in the Republic of Vietnam.

23. With regard to the amendments that had been submitted to the preamble of the draft Declaration, the Cambodian delegation wished to emphasize that it was in favour of maintaining the clauses of the preamble as drafted by the Commission on Human Rights, since they embodied fundamental concepts which were set forth in the United Nations Charter and the Universal Declaration of Human Rights and which could not be modified without distorting their meaning.

24. Miss TABBARA (Lebanon) recalled that her country had always taken an active part in the work of the Commission on Human Rights and had been among the pioneers of the Universal Declaration. She was gratified that the Committee had decided to begin its work by considering the draft Declaration on the Elimination of All Forms of Racial Discrimination, thus once again expressing the indignation which almost all the States of the world felt in the face of that practice.

^{1/} Subsequently circulated as A/C.3/L.1073.

25. Lebanon, which had submitted proposals regarding the draft Declaration to the Commission on Human Rights and had participated in the Working Group set up by the Commission, supported the text before the Committee in its present form. Nevertheless, the Lebanese delegation was prepared to accept amendments calculated to improve the text, and in particular the amendment proposed by Nigeria, Paraguay and Peru, which involved the insertion of a reference to human dignity in the first preambular paragraph. She would also support the Australian amendment, which gave the text greater accuracy. The amendment proposed by the United Kingdom, however, appeared irrelevant, for although the equality of all human beings was not expressly mentioned in the Charter, that phrase perfectly reflected the thought underlying the Charter, and the United Kingdom amendment weakened the text, since racial discrimination, which was the subject of the draft Declaration, was not the same thing as discrimination between men and women or between nations large and small.

26. Mr. LEVI RUFFINELLI (Paraguay) said he was glad to note that the debate appeared to indicate general agreement on the principles which should be enunciated in the declaration. Although racial discrimination was unknown in Paraguay, where the population had been completely homogeneous for several hundred years, the people of Paraguay were deeply shocked by all the discriminatory practices still existing in the world.

27. The text which the Committee would adopt should be a declaration of principle against any assault on the dignity of human beings, without distinction. It should, therefore, be not only clear and categorical, but sufficiently broad to cover all forms of racial discrimination. The Working Group appointed by the Commission on Human Rights had submitted an excellent draft, on which it should be complimented, but he believed that the draft could still be improved and strengthened, particularly in the Spanish text which at several points appeared less categorical than the English text. Apart from the amendment submitted by his own delegation, together with the delegations of Nigeria and Peru, he would support the amendment proposed by Australia, which made the wording of the second paragraph more precise, as was always desirable in a legal text. After hearing statements by more delegations, he might have some suggestions to put forward for strengthening the other preambular paragraphs also.

28. Mrs. BULENGO (Tanganyika) pointed out that it was clearly the coloured man who was the victim of racial discrimination. She would not even attempt to express her indignation at such a practice, but she wished to emphasize, on behalf of her delegation, the singular hypocrisy of States which, after signing the United Nations Charter, based on the principle of the dignity and equality of human beings, continued to practise racial discrimination, the very negation of that principle. Those States which loudly proclaimed their respect for the ideals of the Charter and at the same time flirted with a country like South Africa also displayed a form of hypocrisy which was an insult to the whole of mankind, and the delegation of Tanganyika earnestly hoped that they would desist. Racial discrimination was a survival from the dark past, which marred the scientific progress made in the present century and could only perpetuate mistrust and hinder the development of the international

co-operation and understanding—the goals of the United Nations.

29. With regard to the draft Declaration, she agreed with the text generally, but would oppose the two amendments proposed by the United Kingdom; in connexion with the first amendment, she thought that the notion of the equality of all human beings was perfectly clear and left no room for discrimination between men and women or between nations. She also pointed out that the draft Declaration was concerned, not with those latter forms of discrimination, but with racial discrimination. The effect of the second amendment also would be to weaken the text. However, she supported the amendment proposed by Nigeria, Paraguay and Peru, which would insert the word "dignity" before the word "equality" in the first preambular paragraph, and she suggested that the same should be done in all the remaining paragraphs. She believed that it would be appropriate, in the fourth preambular paragraph, to express a clear condemnation of colonialism along with all the practices of racial discrimination which, in fact, resulted from it.

30. Mr. ALZOUMA (Niger) said that, in order not to hold up the Committee's work and to avoid heated discussion, he would not dwell at length upon the shameful and intolerable practice of racial discrimination, already stigmatized by previous speakers.

31. The first three preambular paragraphs of the draft set forth two principles: equality, derived from the United Nations Charter, and dignity, derived from the Universal Declaration of Human Rights. Though they were satisfactory in their present form, it would be preferable to emphasize that the equality which the Universal Declaration upheld was that founded on respect for human dignity. Although the latter was mentioned in the second paragraph, he supported the amendment of Nigeria, Paraguay and Peru, which in his view strengthened the first paragraph.

32. Mr. N'DOYE (Senegal) thought that the text before the Committee was on the whole satisfactory. Of the proposed amendments he would support that of Nigeria, Paraguay and Peru, which reinforced the first paragraph, and the Australian amendment, which made the second paragraph clearer. He would not support the United Kingdom amendments, which he thought restrictive, particularly in a text intended to eliminate racial discrimination. He also approved the amendment proposed by the Soviet Union (A/C.3/L.1067), which asked for the insertion of a new article after article 9; but he would like the words "neo-fascist and" to be deleted from the first line.

33. Mr. POLYANICHKO (Ukrainian Soviet Socialist Republic) stressed the importance of the text before the Committee. The struggle against racial discrimination would take more than one day or one year; what was involved was not a mere prejudice but an evil system whose roots were still deep, since in some countries racial discrimination had been made official policy, as in the case of apartheid and the policies adopted in the Portuguese territories and other areas. It was above all essential to combat colonialism, to which racial discrimination was closely linked. The gradual collapse of that system, coupled with the unceasing struggle waged by the new countries, created conditions eminently conducive to the adoption of a declaration on the elimination of racial

discrimination. Together with the convention, which would be added later, such a declaration would constitute a sound juridical basis for elimination of racial attitudes. To have lasting value, the document should be drafted in brief and categorical terms.

34. The text before the Committee was on the whole satisfactory, and his delegation was prepared to support all the provisions of the preamble as they stood; nevertheless it approved the amendment of Nigeria, Paraguay and Peru. The United Kingdom amendments would weaken not only the first preambular paragraph but the whole text of the declaration. In a document of such importance there was a great difference between confirming the principle of the equality of all human beings, and a mere reference to the faith of peoples in the equal rights of men and women and of nations.

35. In the operative part of the declaration it was essential to restore the text of article 11 of the draft submitted by the Working Group of the Commission on Human Rights, providing that all States should observe faithfully and strictly the provisions of the declaration on the elimination of racial discrimination and of the Declaration on the granting of independence to colonial countries and peoples (General Assembly resolution 1514 (XV)). He had submitted an amendment to that effect. Lastly, his delegation would support the USSR amendment, as it had in the Commission on Human Rights.

36. Mr. RAMAHOLIMIHASO (Madagascar) regretted that certain developments still conflicted with the principle, recognized for centuries by the most advanced societies and proclaimed by the United Nations, that all human beings were born free and equal. It was satisfactory that the Committee had decided to begin its work by considering a draft which would very appositely re-affirm that principle by giving effect to the provisions of articles 2 and 7 of the Universal Declaration, under which everyone, without distinction of any kind, was entitled to all the rights and freedoms set forth in the Universal Declaration and to equal protection of the law.

37. Madagascar disapproved of all forms of discrimination, as was borne out by its constitution, whose preamble proclaimed the equality of all men in rights and duties; quite recently the Malagasy delegation had condemned in the General Assembly all policies founded on racial segregation.

38. The text before the Committee was remarkable for its clarity and harmony. More particularly the first three preambular paragraphs, with sound design, brought together the principles set forth in the Charter of the United Nations and the Universal Declaration of Human Rights. The concept of the equality of all human beings, although not expressly referred to in the Charter, was one of its foundations and should be included in the first preambular paragraph; his delegation could therefore not accept the United Kingdom amendments which would very much weaken the force of the declaration. She would have liked to see in that paragraph a reference to discrimination on the ground of colour; but that idea was implicit in the concept of race and was moreover referred to in the second paragraph. Similarly, in its concern to avoid repetition her delegation regarded the amendment of Nigeria, Paraguay and Peru as superfluous. The Australian amendment judiciously clarified a point in the second paragraph.

39. It should not be forgotten that the declaration would not have the binding force of a convention and should therefore contain above all constructive exhortation; hence it was essential that the text should not be weakened by amendments which might make it vague.

40. Mr. CHA (China) said that he would be brief, since the principle of non-discrimination and the need to eliminate racial discrimination were not denied by anyone; in China discrimination existed neither in law nor in fact. The General Assembly intended to prepare both a declaration and a convention on the elimination of racial discrimination. The document under review was a system of general rules intended to guide nations towards a common end; thus, if it were to win general acceptance and ultimately become effective, it should be neither too long nor too detailed. The draft prepared by the Commission on Human Rights was on the whole acceptable; it was not perfect but achieved a happy compromise between conflicting views. His delegation was prepared to welcome any amendment that would improve the original text without destroying its balance by unnecessary addition or detail. It supported the United Kingdom amendments, which was taken word for word from the Charter, and also the amendment proposed by Australia.

41. Mrs. AISHAH (Malaysia) pointed out that refusal to admit the principle of the equality of all human beings was still widespread, and that people were still victims of discriminatory law based on race or religion, which aroused tension and sometimes serious conflict. Her country strongly condemned discrimination as an immoral and inhuman practice contrary to all the principles of a civilized society. The constitution of Malaysia proclaimed the inalienable rights of persons to equality, and guaranteed to all citizens, whatever their race or religion, respect for the fundamental freedoms and for human rights. Her delegation was therefore bound to support the efforts made by the United Nations to eliminate discrimination without delay.

42. The preamble as it stood was clearly drafted and perfectly acceptable. The principle of equality, the cornerstone of the whole declaration, was better formulated in the draft prepared by the Commission on Human Rights than in the words proposed by the United Kingdom. The Australian amendment seemed superfluous; the amendment of Nigeria, Paraguay and Peru added little to the present text, for the idea of dignity appeared in the second paragraph of the preamble.

43. Mr. FARHANG (Afghanistan) pointed out that the list of grounds for discrimination in the first paragraph of the preamble was not so full as that in article 2 of the Universal Declaration. It seemed better to use either the Universal Declaration's wording unchanged, or some general expression such as "without distinction of any kind". That would make the text stronger. The same comment applied to the second and sixth paragraphs of the preamble and to articles 1, 2, 3, 6, 7 and 10.

44. The second sentence in article 2, paragraph 2, seemed pointless because, as soon as the measures had produced the desired results, they would automatically cease to be applied since they would serve no further purpose.

45. Moreover, the wording of articles 5 and 8 might be assimilated by replacing in article 8 the words

"as soon as possible" by the words "without delay" used in article 5.

46. In article 9, he suggested that the words "of one race or group of persons" be replaced by "of one race, group or persons or individuals".

47. His delegation was in favour of the amendment of Nigeria, Paraguay and Peru and of the Australian amendment. It reserved the right to state its position on the other amendments when it had studied them more thoroughly, and if necessary to submit an amendment itself when the Committee considered the draft Declaration article by article.

48. Mr. TEKLE (Ethiopia) pointed out that the principle of respect for human rights was an integral part of the Ethiopian constitution, and that his delegation had spoken against discrimination too often to feel any need to reaffirm its position. Though the preamble in its present form was perfectly acceptable, he was prepared to support the amendment of Nigeria, Paraguay and Peru and the Australian amendment. He regretted, however, that he could not vote for the United Kingdom amendments, for he found their wording less satisfactory than that proposed by the Commission on Human Rights.

49. Miss WACHUKU (Nigeria) thought that a reference to the idea of dignity in the first paragraph of the preamble would be far from pointless because, while dignity presupposed equality, equality was no guarantee of dignity. The three-Power amendment would accordingly improve the first paragraph of the preamble. Her delegation could not support either of the United Kingdom amendments, which seemed to her to weaken the text; but it would vote for the Australian amendment.

50. The CHAIRMAN noted that the draft Declaration had not yet called forth any opposition or criticism and that, on the whole, delegations only wished to strengthen it and render it more specific and categorical. It was the fruit of a long period of work and of patient effort to reconcile divergent views. The text

submitted to the Economic and Social Council had in fact been based by the Commission on Human Rights on a preliminary draft prepared by a Working Group consisting of the United States, the Soviet Union, France, Lebanon, Liberia and Chile. The occasional vagueness of the text submitted to the Committee was thus due not to inadvertence but to the attempts of the members of the Working Group to reconcile opposing views and avoid disputes which might have been fatal to the project. He hoped that speakers would continue to discuss the text itself and the amendments, and requested delegations wishing to submit amendments to do so as soon as possible.

51. Mr. BAROODY (Saudi Arabia) would have liked a shorter preamble, but realized that in a compromise text the ideal of brevity was difficult to achieve. He had two other comments to make on the preamble. The word "hatred" in the eighth paragraph had no precise legal content and might well arouse feelings of hatred in the minds of peoples. Whereas the idea of "racial superiority" was objective and easy to define, that of hatred was purely subjective and had no place in a United Nations declaration. When the Universal Declaration had been drafted, the delegations represented, including that of Saudi Arabia, had tried to avoid using terms loaded with affect. Accordingly he intended, when the vote was taken on the preamble, to ask for a separate vote on the word "hatred". He would also ask for a separate vote on the word "expansionism" in the seventh paragraph of the preamble: expansionism had in fact nothing to do with racial discrimination, for it was usually an economic phenomenon, examples of which were the massive migrations of Asian peoples to Europe and of the Arabs to Spain.

52. The CHAIRMAN pointed out to the Saudi Arabian representative that the word "hatred" appeared in article 26 of the draft Covenant on Civil and Political Rights adopted by the Third Committee at the sixteenth session of the General Assembly (see A/5000, annex).

The meeting rose at 1 p.m.

Annex 71

United Nations, *Official Records of the Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Sixteenth Session, document E/CN.4/Sub.2/L.321 (17 January 1964)*



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
LIMITED

E/CN.4/Sub.2/L.321
17 January 1964

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION
OF MINORITIES
Sixteenth session
Item 4 of the agenda

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION

Mr. Ingles: Proposed Measures of Implementation

Article 1

1. The States Parties to this Convention undertake to submit a report on the legislative or other measures, including judicial remedies, which they have adopted and which give effect to the provisions of this Convention, (a) within one year after the entry into force of the Convention for the State concerned and (b) thereafter whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties.
2. All reports shall be submitted to the Secretary-General of the United Nations for the Economic and Social Council which may transmit them to the Commission on Human Rights or the specialized agency concerned for information, study and, if necessary, general recommendations.
3. The States Parties directly concerned may submit to the Economic and Social Council observations on any general recommendations that may be made in accordance with paragraph 2 of this article.

Article 2

There shall be established under the auspices of the United Nations a Fact-Finding and Conciliation Committee (hereinafter referred to as "the Committee")

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to be responsible for seeking the amicable settlement of disputes between States Parties concerning the interpretation, application or fulfilment of the present Convention.

Article 3

1. The Committee shall consist of eleven members who shall be persons of high moral standing and acknowledged impartiality.
2. The members of the Committee, who shall serve in their personal capacity, shall be elected by the General Assembly of the United Nations in accordance with the procedures established in articles 4 and 5, consideration being given to equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal systems.
3. The Committee may not include more than one national of the same State.

Article 4

1. The members of the Committee shall be elected from a list of persons possessing the qualifications prescribed in article 3 and nominated for the purpose by the States Parties to this Convention. Each State Party shall nominate not more than four persons. These persons shall be nationals of the nominating State or of any other State Party to the Convention.
2. At least three months before the date of each election to the Committee, the Secretary-General of the United Nations shall address a letter to the States Parties to the Convention inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated and shall submit it to the General Assembly and to the States Parties to the Convention.

Article 5

The members of the Committee shall be elected for a term of five years. They shall be eligible for re-election if renominated. The terms of six of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these six members shall be chosen by lot by the President of the General Assembly of the United Nations.

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Article 6

When electing members of the Committee, the General Assembly of the United Nations shall also designate from the list of nominees submitted by the States Parties under article 4 an alternate for each member so elected. An alternate need not be of the same nationality as the member concerned, but both of them should be from the same geographical area or region.

Article 7

1. In the event of the death or resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.
2. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, or is unable to continue the discharge of his duties, the Chairman of the Committee shall notify the Secretary-General of the United Nations who shall thereupon declare the seat of such member to be vacant.
3. In each of the cases provided for by paragraphs 1 and 2 of this article, the Secretary-General of the United Nations shall forthwith induct into office the alternate concerned as member of the Committee for the unexpired term and shall inform each State Party to this Convention accordingly.

Article 8

Members of the Committee shall receive travel and per diem allowances in respect of the periods during which they are engaged on the work of the Committee from the resources of the United Nations on terms laid down by the General Assembly.

Article 9

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations. Subsequent meetings may be held either at the Headquarters or at the European Office of the United Nations, as determined by the Committee.
2. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

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Article 10

1. The Committee shall elect its Chairman and Vice-Chairman for a period of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure. Before adopting such rules, the Committee shall send them in draft form to the States then Parties to the Convention who may communicate any observation and suggestion they may wish to make within three months.
3. The Committee shall re-examine its rules of procedure if at any time so requested by any State Party to the Convention.

Article 11

1. If a State Party to this Convention considers that another State Party is not giving effect to a provision of the Convention, it may, by written communication, bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall afford the complaining State an explanation or statement in writing concerning the matter, which should include, to the extent possible and pertinent, references to procedures and remedies taken, or pending, or available in the matter.
2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee by notice given to the Secretary-General of the United Nations and to the other State.

Article 12

The Committee shall deal with a matter referred to it under article 11 of this Convention only after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law.

Article 13

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

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Article 14

1. Subject to the provisions of article 12, the Committee, after obtaining all the information it thinks necessary, shall ascertain the facts, and make available its good offices to the States concerned with a view to an amicable solution of the matter on the basis of respect for the Convention.
2. The Committee shall in every case, and in no event later than eighteen months after the date of receipt by the Secretary-General of the United Nations of the notice under article 11, paragraph 2, draw up a report in accordance with the provisions of paragraph 3 below which will be sent to the States concerned and then communicated to the Secretary-General of the United Nations for publication. When an advisory opinion is requested of the International Court of Justice, in accordance with article 15, the time-limit shall be extended appropriately.
3. If a solution within the terms of paragraph 1 of this article is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached, the Committee shall draw up a report on the facts and indicate the recommendations which it made with a view to conciliation. If the report does not represent, in whole or in part the unanimous opinion of the members of the Committee, any member of the Committee shall be entitled to attach to it a separate opinion. Any written or oral submission made by the parties to the case shall also be attached to the report.

Article 15

The Committee may recommend to the Economic and Social Council that the Council request the International Court of Justice to give an advisory opinion on any legal question connected with a matter of which the Committee is seized.

Article 16

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

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Article 17

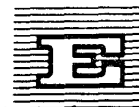
The States Parties to this Convention agree that any State Party complained of or lodging a complaint may, if no solution has been reached within the terms of article 14, paragraph 1, bring the case before the International Court of Justice after the report provided for in article 14, paragraph 3, has been drawn up.

Article 18

The provisions of this Convention shall not prevent the States Parties to the Convention from submitting to the International Court of Justice any dispute arising out of the interpretation or application of the Convention in a matter within the competence of the Committee; or from resorting to other procedures for settling the dispute, in accordance with general or special international agreements in force between them.

Annex 72

United Nations, *Official Records of the Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Report of the Sixteenth Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights*, document E/CN.4/Sub.2/L.345/Add.4
(30 January 1964)



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
LIMITED

E/CN.4/Sub.2/L.345/Add.4
30 January 1964

ORIGINAL: ENGLISH

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

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

New York, 13 to 31 January 1964

Rapporteur: Mr. Francesco Capotorti

Addendum

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II. DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF
ALL FORMS OF RACIAL DISCRIMINATION (continued)

Item 4 of the agenda

Article as to a certain interpretation of the Convention (Article VIII)

The draft text of an article relating to the interpretation of some points of the convention was submitted by Messrs. Calvocoressi and Capotorti. The text (E/CN.4/Sub.2/L.340) read as follows:

"1. Nothing in this Convention shall be interpreted as implying any right to discriminate on any basis other than those listed in article I, such as sex, language, religion, political or other opinion, social origin, property, birth or other status.

2. Nothing in this Convention shall be interpreted as implying a grant of equal political rights to nationals of a contracting State or a grant of political rights to a distinct racial ethnic or national group as such."

An amendment to the draft article was submitted by Mr. Matsch (E/CN.4/Sub.2/L.341) which read as follows:

"At the end of paragraph 2, add the following words:

'in a contracting State where no such special rights have been or are granted to a group of persons for reason of race, colour or ethnic origin'."

In the course of the discussion of the proposed article (E/CN.4/Sub.2/L.340) and the amendments submitted thereto, various oral amendments were submitted. The co-sponsors of the proposal decided to withdraw the first paragraph of their draft.

In connexion with the second paragraph, Mr. Cuevas Cancino proposed a new text (E/CN.4/Sub.2/L.347). The text read as follows:

"Nothing in this Convention shall be interpreted as implying positive obligations in accordance with which the States Parties undertake to grant a specific political or social status to aliens in their territory. It shall not be interpreted as a grant of political rights to racial, ethnic or national groups as such, if such a grant might destroy, in whole or in part, the national unity and the territorial integrity of a State Party."

Messrs. Krishnaswami and Mudawi also proposed a text (E/CN.4/Sub.2/L.348). The text read as follows:

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"The distinction between nationals and non-nationals of a State recognized by Public International law in the enjoyment of political rights shall not be affected by this convention, nor does it impose a duty to grant special political rights to any group because of race, colour or ethnic origin, although it does not prohibit their exercise if otherwise established."

After further discussion, the Chairman suggested a new text (E/CN.4/Sub.2/L.349). This text read as follows:

"Nothing in the present convention may be interpreted as implicitly recognizing or denying political rights or obligations to non-nationals nor to groups of persons of a common race, colour, ethnic or national origin which exist or may exist as distinct groups within a State Party."

Many members of the Sub-Commission expressed their support to the text suggested by the Chairman. The other texts submitted were withdrawn. Oral amendments to insert "or other" after the word "political" in the second line of the text proposed by the Chairman and to delete the words "or obligations" in the third line of this text were accepted by the Sub-Commission.

Mr. Matsch asked that the first part of the article ending with the word "non-national" and the second part, from the word "nor" to the end of the article be voted on separately.

The first part of the text was adopted unanimously.

The second part of the text was adopted by 11 votes to 2 with one abstention.

The whole text, as amended (E/CN.4/Sub.2/L.352), was adopted by 11 votes to none, with 3 abstentions.

Consideration of additional articles to the draft Convention

Mr. Mudawi proposed to add three articles to the draft Convention suggested by Mr. Abram (E/CN.4/Sub.2/L.308 and Add.1).

The proposal of Mr. Mudawi (E/CN.4/Sub.2/L.325) read as follows:

"Add the following articles:

'Article X

Every State party shall as far as appropriate include in its Constitution or fundamental law provisions prohibiting all forms of racial discrimination.

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Article XI

Each State party shall undertake to apply this Convention not only to its metropolitan territory but also to all Non-Self-Governing Trust and Colonial Territories for which it is for the time being responsible.

Article XII

For the effective execution of this Convention, each State party shall undertake to co-operate with regional organizations which may be set up to promote and encourage the purposes of this Convention and to report to the Secretary-General on the steps taken towards the eradication of all forms of racial discrimination."

The first article (article X) of document E/CN.4/Sub.2/L.325 was adopted by 10 votes in favour, none against, one abstention. It was agreed to add this article as article IX to the draft Convention.

As to the second article (article XI), it was decided to transmit it together with other articles concerning final clauses and contained in other texts submitted by members of the Sub-Commission to the Commission on Human Rights in a paper to be prepared by the Secretariat.

As to the third article (article XII) contained in E/CN.4/Sub.2/L.325, the author, Mr. Mudawi, agreed to the consideration of the article together with the measures of implementation.

Final clauses

The Chairman of the Sub-Commission, with the agreement of the members of the Sub-Commission, requested the Secretary-General to submit to the Commission on Human Rights a working paper presenting alternative forms for final clauses, including those submitted by members of the Sub-Commission (articles IV to VIII of document E/CN.4/Sub.2/L.309; articles IV to VII of document E/CN.4/Sub.2/L.314; and article XI of document E/CN.4/Sub.2/L.325) and taking into account provisions included in texts of conventions prepared by the United Nations and the specialized agencies, in order to assist the Commission in its work on the draft International Convention on the Elimination of All Forms of Racial Discrimination.

Measures of implementation

The Sub-Commission had before it the proposed measures of implementation submitted by Mr. Ingles (E/CN.4/Sub.2/L.321).

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After an exchange of views, the Sub-Commission decided to discuss article I of the proposed measures of implementation separately and decided that this text will become article X of the draft Convention. The text of article X, as orally amended, was adopted unanimously. The text read as follows:

"1. The States Parties to this Convention undertake to submit a report on the legislative or other measures which they have adopted and which give effect to the provisions of this Convention, (a) within one year after the entry into force of the Convention for the State concerned and (b) thereafter every two years and whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties.

2. All reports shall be submitted to the Secretary-General of the United Nations for consideration by the Economic and Social Council which may transmit them to the Commission on Human Rights or the specialized agency for information, study and, if necessary, general recommendation.

3. The States Parties directly concerned may submit to the Economic and Social Council observations on any general recommendations that may be made in accordance with paragraph 2 of this article."

Adoption of the Convention

The Sub-Commission voted on the whole of the draft Convention on the Elimination of All Forms of Racial Discrimination. The Sub-Commission adopted the Convention unanimously (14 votes).

The Sub-Commission adopted the following resolution 1 A (XVI):

RESOLUTION I A (XVI)

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Text adopted by the Sub-Commission

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

Noting that in accordance with General Assembly resolutions 1780 (XVII) and 1906 (XVIII), the Economic and Social Council has asked the Commission on Human Rights, bearing in mind inter alia the views of the Sub-Commission,

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to prepare a draft international convention on the elimination of all forms of racial discrimination to be submitted to the Assembly for consideration at its nineteenth session;

Submits to the Commission on Human Rights the draft International Convention on the Elimination of All Forms of Racial Discrimination and some measures of implementation, annexed to this resolution, which the Sub-Commission adopted unanimously.

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ANNEX

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION

Considering

1. that the Charter of the United Nations is based on the principle of the dignity and equality inherent in all human beings and imposes on all Members of the United Nations the obligations to ensure, promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

2. that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out in the Declaration, without distinction of any kind,

3. that the Declaration on the granting of independence to colonial countries and peoples of 14 December 1960 condemned colonialism and all practices of segregation and discrimination connected with it and proclaimed the necessity of bringing them, as well as colonialism in all its forms, wherever it exists, to a speedy and unconditional end,

4. that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 solemnly affirmed the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations,

Convinced that any doctrine based on racial differentiation or superiority is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination in theory or in practice anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and a fact capable of disturbing peace and security among peoples as did the evil racial doctrines and practices of nazism in the past,

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Concerned by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation, and desiring therefore to adopt further measures in order to eliminate racial discrimination in all its forms and manifestations as soon as possible,

Bearing in mind the Convention on Discrimination in Respect of Employment and Occupation and the Convention Against Discrimination in Education, adopted respectively by ILO in 1958 and by UNESCO in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption by Contracting States of practical measures to that end,

Have agreed as follows:

Article I

1. In this Convention the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, national or ethnic origin (and in the case of States composed of different nationalities discrimination based on such difference) which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in political, economic, social, cultural or any other field of public life set forth inter alia in the Universal Declaration of Human Rights.

2. Measures giving preference to certain racial groups for the sole purpose of securing adequate development or protection of individuals belonging to them shall not be deemed racial discrimination, provided however that such measures do not, as a consequence, lead to the maintenance of unequal or separate rights for different racial groups.

Article II

1. States Parties to the present Convention condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms, and to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination, and to ensure that all public authorities and public

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institutions, national and local, shall act in conformity with this obligation. Each State Party undertakes not to encourage, advocate or support racial discrimination by any person, group or organization;

(b) Each State Party shall take effective measures to revise governmental and other public policies, and to rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(c) Each State Party shall prohibit racial discrimination by any person, group or organization, and undertakes to adopt all necessary measures, including legislation, if appropriate.

2. States Parties shall take special concrete measures in appropriate circumstances in order to secure adequate development or protection of individuals belonging to under-developed racial groups with the object of ensuring the full enjoyment by such individuals of human rights and fundamental freedoms. These measures shall in no circumstances have as a consequence the maintenance of unequal or separate rights for different racial groups.

Article III

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate, in territories subject to their jurisdiction, all practices of this nature.

Article IV

States Parties condemn all propaganda and organizations which justify or promote racial hatred and discrimination and undertake to adopt immediate and positive measures designed to eradicate all incitement to such discrimination, and to this end, inter alia:

(a) Shall declare an offence punishable by law all incitement to racial discrimination resulting in or likely to cause acts of violence;

(b) Shall declare illegal and prohibit organizations, and also organized propaganda activities, which promote and incite racial discrimination;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

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Article V

In compliance with the fundamental obligations laid down in Article II, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms notably in the enjoyment of the following rights:

- (a) The rights to equality before the law and to equal justice under the law;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group or institution;
- (c) Political rights, in particular the rights to participate in elections through universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:
 - (i) the right to freedom of movement and residence within the border of the State;
 - (ii) the right to leave any country including his own, and to return to his country;
 - (iii) the right to nationality;
 - (iv) the right to marriage;
 - (v) the right to own property alone as well as in association with others;
 - (vi) the right to freedom of thought, conscience and religion;
 - (vii) the right to freedom of opinion and expression;
 - (viii) the right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
 - (i) the right to work, free choice of employment, just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration;
 - (ii) the right to form and join trade unions;
 - (iii) housing;
 - (iv) public health, medical care and social security and social services;
 - (v) education and training;
 - (vi) equal participation in cultural activities;

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(f) Access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafes, theatres, parks.

Article VI

States Parties shall assure to everyone within their jurisdiction effective remedies and protection through independent tribunals against any racial discrimination and the right to obtain from such tribunals reparation for any damage suffered as a result of racial discrimination.

Article VII

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education and information, with a view to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination.

Article VIII

Nothing in the present convention may be interpreted as implicitly recognizing or denying political or other rights to non-nationals nor to groups of persons of a common race, colour, ethnic or national origin which exist or may exist as distinct groups within a State Party.

Article IX

States Parties shall as far as appropriate include in their constitutions or fundamental laws provisions prohibiting all forms of racial discrimination.

Article X

1. The States Parties to this Convention undertake to submit a report on the legislative or other measures which they have adopted and which give effect to the provisions of this Convention, (a) within one year after the entry into force of the Convention for the State concerned and (b) thereafter every two years and whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties.

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2. All reports shall be submitted to the Secretary-General of the United Nations for consideration by the Economic and Social Council which may transmit them to the Commission on Human Rights or the specialized agency for information, study and, if necessary, general recommendations.

3. The States Parties directly concerned may submit to the Economic and Social Council observations on any general recommendations that may be made in accordance with paragraph 2 of this article.

Additional measures of implementation

Mr. Cuevas Cancino submitted a draft resolution on the other measures of implementation provided for in articles 2 to 18 of document E/CN.4/Sub.2/L.321 (E/CN.4/Sub.2/L.357). The text read as follows:

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

"Convinced of the importance of giving due consideration to all measures of implementation which might help to give effect to the substantive provisions approved in the draft international convention on the elimination of all forms of racial discrimination,

"Convinced also that the measures relating to the implementation of this draft convention are closely linked with the measures of implementation to be approved by the General Assembly for the Covenants on Human Rights,

1. Transmits to the Commission on Human Rights the following preliminary draft (document) on additional measures of implementation which will help to make the draft international convention on the elimination of all forms of racial discrimination more effective;

2. Requests the Secretary-General to transmit to the Commission on Human Rights the records containing the views expressed by the members of the Sub-Commission on this item".

The following preambular paragraph was added as a second paragraph:

"Taking into account the protocol instituting a conciliation and good offices Commission to be responsible for seeking the settlement of any dispute which may arise between the States Parties to the Convention against discrimination in education."

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The insertion in the first operative paragraph of the words "as an expression of the general views of the Sub-Commission" following the words "preliminary draft" was adopted by 10 votes in favour, 2 against and 1 abstention.

The draft resolution, as a whole and as amended, was adopted by 11 votes in favour, none against and 2 abstentions.

RESOLUTION I B (XVI)

Additional measures of implementation

Text adopted by the Sub-Commission

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

Convinced of the importance of giving due consideration to all measures of implementation which might help to give effect to the substantive provisions approved in the draft international convention on the elimination of all forms of racial discrimination,

Taking into account the Protocol Instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education,

Convinced also that the measures relating to the implementation of this draft convention are closely linked with the measures of implementation to be approved by the General Assembly for the Covenants on Human Rights,

1. Transmits to the Commission on Human Rights the following preliminary draft as an expression of the general views of the Sub-Commission on additional measures of implementation which will help to make the draft international convention on the elimination of all forms of racial discrimination more effective;

2. Requests the Secretary-General to transmit to the Commission on Human Rights the records containing the views expressed by the members of the Sub-Commission on this item.

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ANNEX

Additional measures of Implementation

Article 1

There shall be established under the auspices of the United Nations a Fact-Finding and Conciliation Committee (hereinafter referred to as "The Committee") to be responsible for seeking the amicable settlement of disputes between States Parties concerning the interpretation, application or fulfilment of the present Convention.

Article 2

1. The Committee shall consist of eleven members who shall be persons of high moral standing and acknowledged impartiality.
2. The members of the Committee, who shall serve in their personal capacity, shall be elected by the General Assembly of the United Nations in accordance with the procedures established in articles 4 and 5, consideration being given to equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal systems.
3. The Committee may not include more than one national of the same State.

Article 3

1. The members of the Committee shall be elected from a list of persons possessing the qualifications prescribed in article 3 and nominated for the purpose by the States Parties to this Convention. Each State Party shall nominate not more than four persons. These persons shall be nationals of the nominating State or of any other State Party to the Convention.
2. At least three months before the date of each election to the Committee, the Secretary-General of the United Nations shall address a letter to the States Parties to the Convention inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated and shall submit it to the General Assembly and to the States Parties to the Convention.

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Article 4

The members of the Committee shall be elected for a term of five years. They shall be eligible for re-election if renominated. The terms of six of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these six members shall be chosen by lot by the President of the General Assembly of the United Nations.

Article 5

When electing members of the Committee, the General Assembly of the United Nations shall also designate from the list of nominees submitted by the States Parties under article 4 an alternate for each member so elected. An alternate need not be of the same nationality as the member concerned, but both of them should be from the same geographical area or region.

Article 6

1. In the event of the death or resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

2. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, or is unable to continue the discharge of his duties, the Chairman of the Committee shall notify the Secretary-General of the United Nations who shall thereupon declare the seat of such member to be vacant.

3. In each of the cases provided for by paragraphs 1 and 2 of this article, the Secretary-General of the United Nations shall forthwith induct into office the alternate concerned as member of the Committee for the unexpired term and shall inform each State Party to this Convention accordingly.

Article 7

Members of the Committee shall receive travel and per diem allowances in respect of the periods during which they are engaged on the work of the Committee from the resources of the United Nations on terms laid down by the General Assembly.

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Article 8

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations. Subsequent meetings may be held either at the Headquarters or at the European Office of the United Nations, as determined by the Committee.

2. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

Article 9

1. The Committee shall elect its Chairman and Vice-Chairman for a period of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure. Before adopting such rules, the Committee shall send them in draft form to the States then Parties to the Convention who may communicate any observation and suggestion they may wish to make within three months.

3. The Committee shall re-examine its rules of procedure if at any time so requested by any State Party to the Convention.

Article 10

1. If a State Party to this Convention considers that another State Party is not giving effect to a provision of the Convention, it may, by written communication, bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall afford the complaining State an explanation or statement in writing concerning the matter, which should include, to the extent possible and pertinent, references to procedures and remedies taken, or pending, or available in the matter.

2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee by notice given to the Secretary-General of the United Nations and to the other State.

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Article 11

The Committee shall deal with a matter referred to it under article 10 of this Convention only after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law.

Article 12

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

Article 13

1. Subject to the provisions of article 11, the Committee, after obtaining all the information it thinks necessary, shall ascertain the facts, and make available its good offices to the States concerned with a view to an amicable solution of the matter on the basis of respect for the Convention.

2. The Committee shall in every case, and in no event later than eighteen months after the date of receipt by the Secretary-General of the United Nations of the notice under article 10, paragraph 2, draw up a report in accordance with the provisions of paragraph 3 below which will be sent to the States concerned and then communicated to the Secretary-General of the United Nations for publication. When an advisory opinion is requested of the International Court of Justice, in accordance with article 14, the time-limit shall be extended appropriately.

3. If a solution within the terms of paragraph 1 of this article is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached, the Committee shall draw up a report on the facts and indicate the recommendations which it made with a view to conciliation. If the report does not represent, in whole or in part the unanimous opinion of the members of the Committee, any member of the Committee shall be entitled to attach to it a separate opinion. Any written or oral submission made by the parties to the case shall also be attached to the report.

Article 14

The Committee may recommend to the Economic and Social Council that the Council request the International Court of Justice to give an advisory opinion on any legal question connected with a matter of which the Committee is seized.

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Article 15

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

Article 16

The States Parties to this Convention agree that any State Party complained of or lodging a complaint may, if no solution has been reached within the terms of article 13, paragraph 1, bring the case before the International Court of Justice after the report provided for in article 13, paragraph 3, has been drawn up.

Article 17

The provisions of this Convention shall not prevent the States Parties to the Convention from submitting to the International Court of Justice any dispute arising out of the interpretation or application of the Convention in a matter within the competence of the Committee; or from resorting to other procedures for settling the dispute, in accordance with general or special international agreements in force between them.

IV. STUDY OF DISCRIMINATION AGAINST PERSONS BORN OUT OF WEDLOCK

Item 6 of the agenda

1. At its 429th meeting the Sub-Commission considered item 6 of its agenda, "Study of discrimination against persons born out of wedlock".
2. The Sub-Commission had before it a progress report on discrimination against persons born out of wedlock (E/CN.4/Sub.2/236 and Add.1) drawn up by its Special Rapporteur, Mr. V.V. Saario, in accordance with resolution 3 (XV) of the Sub-Commission. The report was divided into two chapters, preceded by an introduction and followed by an annex.
3. In the introduction the Special Rapporteur indicated that he had revised the Outline for the collection of information submitted by him at the fifteenth session of the Sub-Commission, after taking into account the views expressed by the members, and reported on the countries and non-governmental organizations which had sent information based upon the Outline. In chapter I he reviewed the consideration during 1963 of the problem of persons born out of wedlock by various organs and bodies within the framework of the United Nations. In chapter II he outlined a few general tendencies, some of historic and others of contemporary interest, in the treatment of persons born out of wedlock. The revised Outline was presented in annex I.
4. In introducing the report, Mr. Saario pointed out that information based upon the Outline had been received from about fifty Governments, but that the study had not yet progressed to the point where any serious substantive evaluation of the problem could be made. He stressed that discrimination against persons born out of wedlock should be abolished and that equality of status between persons born in and out of wedlock should be achieved.
5. In the course of the debate members of the Sub-Commission joined in thanking the Special Rapporteur for his valuable work. It was pointed out that discrimination against persons born out of wedlock affected a great many individuals all over the world, and that the problem was very closely linked with tradition. In his view a complete history of the various customs and practices relating to the subject would be most interesting and useful.

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6. The view was expressed that the question of equality of rights between persons born in and out of wedlock was a very delicate one, and that only when the final report was submitted would it be possible to draw up principles.

7. One member expressed the hope that the next report would include, inter alia, a summary of the debates which took place in the Third Committee, at the eighteenth session of the General Assembly, on the article on the rights of the child inserted in the draft Covenant on Civil and Political Rights.

8. A draft resolution on the study of discrimination against persons born out of wedlock was suggested by the Chairman (E/CN.4/Sub.2/L.355). It was adopted unanimously, as follows:

RESOLUTION ____ (XVI)

STUDY OF DISCRIMINATION AGAINST PERSONS BORN OUT OF WEDLOCK

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

Having considered the progress report on the study of discrimination against persons born out of wedlock submitted by the Special Rapporteur, Mr. V.V. Saario (E/CN.4/Sub.2/236 and Add.1),

1. Expresses its warm appreciation to Mr. Saario for his highly informative progress report, which represents a substantial step forward in the Sub-Commission's work in this field;

2. Joins with Mr. Saario in thanking the Governments and non-governmental organizations which have responded to his request for information, and requests those Governments and non-governmental organizations which have not already supplied information to do so as soon as possible;

3. Invites Mr. Saario, taking into account the exchange of views on his progress report during the sixteenth session of the Sub-Commission, to submit a draft report, approximating as far as possible the final report on the study, in time for it to be considered by the Sub-Commission at its seventeenth session.

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V. STUDY OF EQUALITY IN THE ADMINISTRATION OF JUSTICE

Item 7 of the agenda

9. At its 429th meeting, the Sub-Commission considered item 7 of its agenda, "Study of Equality in the Administration of Justice".

10. The Sub-Commission had before it the preliminary report (E/CN.4/Sub.2/237), submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat, in accordance with resolution 1 (XV) of the Sub-Commission, resolution 5 (XIX) of the Commission on Human Rights, and resolution 958 C (XXXVI) of the Economic and Social Council. In the absence of Mr. Mohammed Ahmed Abu Rannat, the preliminary report was presented to the Sub-Commission by his alternate, Mr. Mohammed Yousef Mudawi.

11. The report contained an introduction and a chapter indicating the progress made in the collection of material for the study; these were followed by three annexes. In the introduction, the Special Rapporteur outlined the procedure which he intended to follow in the preparation of the study, and indicated how he intended to collect the data required for use in the study. In Annex I he submitted, for consideration by the Sub-Commission, the Outline which he had prepared for the collection of information. In Annex II he summarized the development of Article 10 of the Universal Declaration of Human Rights, and in Annex III he summarized the development of Article 14 of the draft covenant on civil and political rights.

12. In introducing the report, Mr. Mudawi pointed out that the problem of ensuring equality in the administration of justice was a complicated one, and that the Outline was not yet in its final form. He invited members of the Sub-Commission to suggest improvements in the Outline, as well as additional questions on which information should be obtained.

13. Because of the shortage of time the debate on the preliminary report was brief. Various members commended the Special Rapporteur for his work and in particular for the detailed Outline for the study which he had prepared. It was pointed out that there was wide-spread interest in the subject to be studied, and that the problem of equality in the administration of justice was one which affected millions of persons in every part of the world.

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14. Various members made suggestions for additional matters to be covered by the Outline. In general it was suggested that the problem of discrimination should occupy a more important place in the study than was accorded to it in the Outline, and that greater attention should be given to the problem of guarantees which should be extended to persons accused of crime.

Consideration of the draft resolution

15. A draft resolution on the study of equality in the administration of justice (E/CN.4/Sub.2/L.356) was suggested by the Chairman in view of the shortage of time. The draft resolution was adopted unanimously as follows:

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

Having examined the preliminary report submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat (E/CN.4/Sub.2/237 and Add.1 and Corr.1) on the study of equality in the administration of justice,

1. Expresses its grateful appreciation to the Special Rapporteur for his valuable work;
2. Requests the Special Rapporteur to continue his study and to present to the Sub-Commission, at its seventeenth session, a progress report taking into account the views expressed in the debate on this question;
3. Expresses the hope that all Governments Members of the United Nations and of the specialized agencies, specialized agencies, and non-governmental organizations in consultative status will provide the Special Rapporteur with relevant material as soon as possible.

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VI. CONSIDERATION OF THE FUTURE WORK OF THE SUB-COMMISSION

Item 13 of the agenda

16. At its 429th meeting the Sub-Commission examined item 13 of the agenda, "Consideration of the future work of the Sub-Commission".
17. The Sub-Commission had before it a note by the Secretary-General on this subject (E/CN.4/Sub.2/233). In the note the Secretary-General indicated that: "The resources normally available to the Sub-Commission are sufficient to enable it to carry out two studies in the field of discrimination simultaneously. A new study can be undertaken only when the necessary financial and staff resources become available. It would therefore be possible for the Sub-Commission to initiate a new study only at its eighteenth session, in 1966, after completing its examination of the final report on discrimination against persons born out of wedlock. In these circumstances the Secretary-General makes no proposal or recommendation on the Sub-Commission's programme of future work at this stage. However, the Sub-Commission might wish to examine the various proposals and suggestions summarized above with a view to formulating a tentative programme of work for future years in terms of priority requirements."
18. The Sub-Commission also had before it a statement submitted by the Coordinating Board of Jewish Organizations, a non-governmental organization in consultative status (E/CN.4/Sub.2/NGO/33).
19. In the brief debate on this item, it was pointed out that the Sub-Commission had been requested to undertake several extremely important and urgent tasks at its sixteenth session, but had not been provided with the time or the facilities necessary to complete these tasks properly. It had been compelled to work at a forced pace in order to deal with the two main items on its agenda within the three-week period of its session, and consequently had been unable to complete its work because of the lack of time. It was further pointed out that in 1965 the Sub-Commission again would have an extremely heavy agenda, including the examination of the draft report on the study of discrimination against persons born out of wedlock and the preparation of further international instruments relating to the elimination of all forms of religious intolerance. If this were the case, a session of three weeks would not be long enough.

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20. The Sub-Commission decided, without a record vote, to request the Commission on Human Rights to ask the Economic and Social Council to arrange for the Sub-Commission's 1965 session to be of four-weeks duration, particularly in view of the heavy agenda anticipated for that session and the fact that the discussion of several items on the agenda of the sixteenth session had been hurried and incomplete. Messrs. Calvocoressi and Capotorti requested that their abstention in regard to this decision should be noted.

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VII. PROTECTION OF MINORITIES

Item 10 of the agenda

21. At its 429th meeting the Sub-Commission considered item 10 of its agenda "Protection of minorities".

22. In connexion with this item the Sub-Commission had before it a draft resolution (E/CN.4/Sub.2/L.351) submitted by Mr. Matsch. The draft resolution requested the Sub-Commission to print as one publication the Memorandum listing and classifying special protective measures of 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 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).

23. The Sub-Commission also had before it a note by the Secretary-General (E/CN.4/Sub.2/L.351/Add.1) setting out the financial implications of the draft resolution.

24. In presenting the proposal Mr. Matsch explained that it was particularly of administrative character, and that the small cost of printing would be offset by revenue from sales.

25. In his view, many persons are interested in measures taken in various parts of the world for the protection of minorities particularly in view of the recent resurgence of this problem in certain areas. He felt that the Sub-Commission's memorandum would be useful to such persons, and would provide guidance and assistance to Governments interested in ensuring the protection of minorities within territories under their jurisdiction. He expressed regret that the Sub-Commission had not had the time for a full discussion of the problem of protection of minorities at its sixteenth session and proposed that the item should be included in the provisional agenda of the seventeenth session.

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26. The draft resolution submitted by Mr. Matsch was adopted by 8 votes to none, with 1 abstention, as follows:

RESOLUTION ____ (XVI)
PROTECTION OF MINORITIES

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

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 which are of contemporary interest and which provide special protective measures for ethnic, religious or linguistic groups (E/CN.4/Sub.2/214),

Considering that a joint publication of the compilation and memorandum, available also to the public, would contribute to the understanding of the problems involved,

1. Requests the Secretary-General within the frame of appropriated means to print the memorandum and the compilation as one publication;
2. Decides that the question of the Protection of Minorities remains on the agenda of the Sub-Commission.

Annex 73

United Nations, *Official Records of the Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Sixteenth Session, document E/CN.4/Sub.2/SR.408 (5 February 1964)*



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/Sub.2/SR.408
5 February 1964
ENGLISH
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Sixteenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND EIGHTH MEETING

Held at Headquarters, New York,
on Tuesday, 14 January 1964, at 3.15 p.m.

CONTENTS

Draft international convention on the elimination of all forms of
racial discrimination (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.308 and Add.1,
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PRESENT:

<u>Chairman:</u>	Mr. SANTA CRUZ	(Chile)
<u>Rapporteur:</u>	Mr. CAPOTORTI	(Italy)
<u>Members:</u>	Mr. ABRAM	(United States of America)
	Mr. CALVOCORESSI	(United Kingdom of Great Britain and Northern Ireland)
	Mr. CUEVAS CANCINO	(Mexico)
	Mr. INGLES	(Philippines)
	Mr. IVANOV	(Union of Soviet Socialist Republics)
	Mr. KETRZYNSKI	(Poland)
	Mr. KRISHNASWAMI	(India)
	Mr. MATSCH	(Austria)
	Mr. MUDAWI	(Sudan)
	Mr. SAARIO	(Finland)

Observers from Member States:

Mr. LEMA	Congo (Leopoldville)
Mr. SAJJAD	India
Mr. BARROMI	Israel
Mr. SCHAAPVELD	Netherlands
Mr. QUIMBAO	Philippines
Mr. MATSEIKO	Ukrainian Soviet Socialist Republic
Mr. ELMENDORF	United States of America
Mr. MELOVSKI	Yugoslavia

Representatives of specialized agencies:

Mr. FARMAN-FARMAIAN	International Labour Organisation
Mr. SALSAMENDI) Miss BARRETT)	United Nations Educational, Scientific and Cultural Organization

Secretariat:

Mr. HUMPHREY	Director, Division of Human Rights
Mr. LAWSON	Secretary of the Sub-Commission

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DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL
DISCRIMINATION (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.308 and Add.1, L.309) (continued)

Mr. CAPOTORTI said that he shared the view expressed by the Chairman at the previous meeting (E/CN.4/Sub.2/SR.407) that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination (A/RES/1904 (XVIII)) should serve as the basis for the Sub-Commission's work on the preparation of a draft convention. There were two opposing views on that subject. Some members considered, like Mr. Calvo-coressi, that the convention could not embody all the elements of the Declaration. Others, on the contrary, considered that the convention should be fuller and more detailed. He emphasized that a convention that would be wider and stricter than the Declaration would run the risk of not being adhered to by countries which faced certain problems and that, despite their goodwill, they were unable to solve for the moment. It was not enough for the Sub-Commission to elaborate a convention; such a convention should be capable of being signed, ratified and applied by the greatest possible number of countries. At all events, although a convention might be basically similar to a declaration, it was a more important instrument in the sense that it was legally binding on the States parties to it.

At the previous meeting (E/CN.4/Sub.2/SR.407), realistic and judicious statements had been made by Mr. Mudawi and Mr. Krishnaswami. He urged the Sub-Commission to borrow from the Declaration everything that might be useful in the preparation of the draft convention and to work along the lines indicated by the General Assembly itself, while taking into account the problems facing States.

Where form was concerned, he urged the preparation of a simple, concise text. With regard to the content of the convention, he suggested that stress should be laid in the preamble on the connexion between the maintenance of peace and respect for human rights, and that reference should be made therein to the Charter and the Declaration on the granting of independence to colonial countries and peoples, which had played a decisive role in the struggle against discriminatory measures. He would not comment on the articles in detail; but, with reference to Mr. Abram's text (E/CN.4/Sub.2/L.308 and Add.1), which, although

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(Mr. Capotorti)

long, would do well as a working basis, he wished to know the exact meaning of the expressions "ethnic origin" and "national origin" in article I.

Where the other articles were concerned, it would be useful to specify the particular aspects of social life in which the State might be called upon to intervene in order to prevent discrimination. One should envisage inter alia, employment, education, personal safety, enjoyment of property, access to the courts, access to facilities intended for use by the public, etc.

He also considered that it would be desirable to condemn the policy of apartheid and racist propaganda in the text of the draft convention, retaining the wording of the Declaration adopted by the General Assembly.

Lastly, he favoured the adoption, preferably at the end of the draft convention, of a clause whereby the States Parties to the convention would undertake to adopt the necessary legislative and administrative measures to ensure its application. On that subject, he agreed with Mr. Cuevas Cancino that it would be desirable to provide for the establishment of international machinery, on the model of article 7 of the UNESCO Convention on Discrimination in education, which provided for the submission of periodic reports by the signatory States, regardless of the difficulties which that might involve.

The CHAIRMAN said that he intended to invite any members who so desired to submit draft texts, and also to set a time-limit for the submission of amendments. Once the Sub-Commission had the texts and amendments before it, it could agree on a single text to be used as the basis for its discussions.

Mr. SAARIO agreed that it would be preferable for the Sub-Commission to begin by establishing a common text. In his opinion, that should not be too difficult a task; the two texts already before the Sub-Commission were similar on many points. He wished to express his gratitude to the authors of those texts, which he would study with the greatest attention, but which seemed to him at first sight to possess the qualities of conciseness and simplicity which it was reasonable to expect from a draft convention.

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(Mr. Saario)

In his opinion, such a draft should also be fairly general in scope in order to remain valid for the longest possible time; care should therefore be taken not to mention phenomena limited to a particular area or to the present time.

He was convinced that the convention in question should be based on the Declaration adopted by the General Assembly and should confine itself to stating the legal obligation arising from the principles of that Declaration. It should avoid going any further, lest it should alienate States which supported the principles of the Declaration but which were not yet willing to take very forceful action. The Sub-Commission should not lose sight of the fact that its main aim was to work out an instrument which would be capable of practical application.

He remarked, with reference to the text proposed by Mr. Abram, that the author referred in the third preambular paragraph and in article II to discrimination on the ground of national origin, and in article I to discrimination based on ethnic origin. It would be desirable to harmonize the text on those points.

Mr. KETRZYNSKI said he had not intended to speak, as he was working on a draft of a convention which he would submit later. He would therefore merely comment on what should be the Sub-Commission's approach to the drafting of a convention. In his opinion, the members of the Sub-Commission should never lose sight of the fact that they were essentially experts and not diplomats, and that their function was to go to the root of the problem without worrying too much about the reaction of countries to their work. Otherwise, they might easily produce a weak and insipid text. It was for the higher organs of the United Nations - in the present case, the Third Committee - to deal with Governments. It was encouraging, in that connexion, that while the Commission on Human Rights had received the Sub-Commission's draft declaration rather gingerly, the Third Committee had taken a courageous and radical stand in the matter, and it was on the basis of its recommendations that the Sub-Commission had resumed its work.

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(Mr. Ketrzynski)

Unlike Mr. Saario, who considered that the convention should be rather general in order to remain valid for a long period and that it should therefore avoid reference to contemporary events, he himself believed that the authors of the convention must base their work on an assessment of the present situation so that they would formulate specific proposals without asking themselves, for example, whether apartheid would still exist in twenty years' time and in general without trying to see into the future.

Mr. ABRAM said that in preparing his draft convention on the elimination of all forms of racial discrimination, he had drawn largely on the Declaration adopted by the General Assembly, while bearing in mind that a convention was not the same thing as a declaration. A declaration stated principles, put hopes and aspirations into words, and set the objectives to be reached. Moral principles, however, no matter how noble, could not all be incorporated in international law. The object of a Convention should be to formulate rules of conduct common to all civilized societies.

He had been guided by that consideration, in particular, in drafting article IX of his text. There was indeed general agreement that racist propaganda, like direct incitement to violence, was an evil which should be condemned, but there was no such agreement as regards the promotion of racial discrimination, odious as such discrimination might be. Consequently, that idea, which was to be found in the Declaration adopted by the General Assembly, could not be included in a convention. It was inconceivable that a convention should limit freedom of speech, for in most of the world that freedom was the cornerstone of society. Moreover, the Universal Declaration of Human Rights characterized the right to freedom of speech, opinion, meeting and association as one of the objectives for which the whole of mankind should strive, and history clearly showed that régimes which did not tolerate diversity of opinion could not survive.

On the other hand, he was ready to support any proposal for condemnation of Governments which encouraged racist propaganda. That was why his article IX, and particularly paragraph 2, imposed strict duties on signatory States in that

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(Mr. Abram)

respect and laid down that remedial relief should be provided for any individual who had suffered substantial harm for racial reasons.

Finally, he thought that it would be useful to mention in the convention all the grounds on which a person might be subjected to racial discrimination, not forgetting nationality.

Mr. SAARIO wished to make clearer, for the benefit of Mr. Ketrzynski, the view he had expressed in his first statement. In his opinion, once an international convention was adopted it became an integral part of international law; it should therefore state rules which were of lasting value.

Mr. IVANOV congratulated the experts who had prepared texts which the Sub-Commission could use as a basis for its work. He found it difficult, however, to make detailed observations on the drafts, as he did not yet have the Russian version. At first sight, Mr. Abram's article IX did not seem to him to be satisfactory; it was only too well known what a dangerous weapon freedom of speech could become when used by advocates of racism. He would speak again during the general debate to comment on the various drafts before the Sub-Commission.

Mr. MATSCH felt, like several other experts, that the Sub-Commission should take as the basis of its work the text of the Declaration on the Elimination of All Forms of Racial Discrimination, which had been adopted by the General Assembly, as it represented the widest possible measure of agreement among Member States. The Sub-Commission should therefore strive to reproduce the terms of that Declaration as far as possible.

He considered that the preamble of the draft convention should reflect the present situation and state the main objectives to be attained. On the whole, he shared the opinion expressed by the Chairman on that subject at the previous meeting.

As regards the wording to be used in the articles of the draft convention, it would be most appropriate to say: "Each State Party undertakes to ... ". In his view, such wording as "Each State Party shall ... " was not sufficiently binding.

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(Mr. Matsch)

He preferred the text proposed by Mr. Abram because it was closer to the Declaration adopted by the General Assembly. Articles IV to VIII of Mr. Calvocoressi's draft, however, also contained provisions which could usefully be retained.

The CHAIRMAN observed that there was little point in the Sub-Commission's continuing with the general debate, as not all its members had as yet arrived and the necessary texts were not yet available in all the working languages. He hoped that the translation services would be able to make up for the delay, caused, according to the Secretary-General's representative, by the bad weather conditions of the previous day. Before closing the meeting, he asked members to put forward their proposals and amendments as soon as possible, so as to make the best use of the limited time at the Sub-Commission's disposal.

The meeting rose at 4.30 p.m.

Annex 74

United Nations, *Official Records of the Economic and Social Council, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Sixteenth Session*, document E/CN.4/Sub.2/SR.411
(5 February 1964)

UNITED NATIONS
ECONOMIC
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SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/Sub.2/SR.411
5 February 1964

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Sixteenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND ELEVENTH MEETING

Held at Headquarters, New York,
on Thursday, 16 January 1964, at 11 a.m.

CONTENTS

Draft international convention on the elimination of all forms of racial discrimination (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.308 and Add.1/Rev.1 and Add.1/Rev.1/Corr.1, L.309, L.310, L.311, L.313, L.314) (continued)

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PRESENT:

<u>Chairman:</u>	Mr. SANTA CRUZ	(Chile)
<u>Rapporteur:</u>	Mr. CAPOTORTI	(Italy)
<u>Members:</u>	Mr. ABRAM	(United States of America)
	Mr. AWAD	(United Arab Republic)
	Mr. BOUQUIN	(France)
	Mr. CALVOCORESSI	(United Kingdom of Great Britain and Northern Ireland)
	Mr. CUEVAS CANCINO	(Mexico)
	Mr. INGLES	(Philippines)
	Mr. IVANOV	(Union of Soviet Socialist Republics)
	Mr. KETRZYNSKI	(Poland)
	Mr. KRISHNASWAMI	(India)
	Mr. MATSCH	(Austria)
	Mr. MUDAWI	(Sudan)
	Mr. SAARIO	(Finland)

Also present: Mrs. LEFAUCHEUX Commission on the Status of Women

Observers from Member States:

Mr. ROBICHAUD	Canada
Miss KRACHT	Chile
Mr. LEMA	Congo (Leopoldville)
Mr. SAJJAD	India
Mr. SCHAAPVELD	Netherlands
Mr. QUIAMBAO	Philippines
Mrs. NASON	United States of America
Mr. MELOVSKI	Yugoslavia

Representatives of specialized agencies:

Mr. FARMAN-FARMAIAN	International Labour Organisation
Mr. SALSAMENDI	United Nations Educational, Scientific and Cultural Organization

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PRESENT:(continued):

Representative of a non-governmental organization:

<u>Category A:</u>	Mr. BARTON	International Confederation of Free Trade Unions
<u>Secretariat:</u>	Mr. HUMPHREY	Director, Division of Human Rights
	Mr. LAWSON	Secretary of the Sub-Commission

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DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.308 and Add.1/Rev.1 and Add.1/Rev.1/Corr.1, L.309, L.310, L.311, L.313, L.314) (continued)

The CHAIRMAN announced that the Working Group had reached agreement on the text of a preamble to the draft convention. He invited discussion of the three sets of draft articles submitted by members of the Sub-Commission (E/CN.4/Sub.2/L.308 and Add.1/Rev.1 and Add.1/Rev.1/Corr.1, E/CN.4/Sub.2/L.309 and E/CN.4/Sub.2/L.314).

Mr. KRISHNASWAMI drew attention to his amendment (E/CN.4/Sub.2/L.310, para. 4) to the definition stated in article I of Mr. Abram's text (E/CN.4/Sub.2/L.308). He would introduce the word "nationality" in quotation marks and explain its meaning for the purposes of the convention in a foot-note reading as follows:

"'Nationality', as the term is used in this convention, is different from the meaning of the term in public international law where it indicates a recognized link between an individual and a State to which he owes allegiance and which has an international responsibility for him. It is for that reason that this term is within quotation marks. Its meaning in the present context is that which it has in the case of States composed of groups of different origin."

With that explanatory foot-note, the article could not be interpreted as denying to a State its right to make special provisions regarding aliens within its territory.

Mr. MUDAWI, commenting on the definition of racial discrimination given in the three texts before the Sub-Commission, emphasized that it should be as broad and explicit as possible. Mr. Abram's text had the great merit of clarity, while Mr. Calvocoressi's (E/CN.4/Sub.2/L.309) would gain by including in the term "person", not only groups of persons, but corporate bodies or juridical persons.

Mr. CALVOCORESSI said he was prepared to accept Mr. Mudawi's suggestion. His definition was brief for emphasis, and it reproduced the wording adopted in the UNESCO and ILO Conventions (E/CN.4/Sub.2/234):

Mr. MATSCH felt that the definition in question was too brief; it would be better to err on the side of wordiness rather than brevity.

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Mr. ABRAM, noting that his definition, like the Declaration adopted by the General Assembly, specified ethnic origin as one of the grounds for discrimination, stressed the importance, in drafting the convention, of assessing the nature and scope of ethnic discrimination in the contemporary world. Ethnic discrimination might well be directed towards obliterating the social and cultural differences which defined and gave life and significance to a particular ethnic group. That would also be true of a nationality group in a multi-national State. Recent events had once again reminded the world that there were two distinct groups in Cyprus, for example. Countries with multi-racial populations, such as the United States and the USSR, had very complex ethnic groups. The Nazis had used a system of grading ethnic groups as a basis for their genocide campaign. Since the defeat of Nazi Germany, while no State had pursued a policy of genocide, some States in which discrimination was prohibited by law were carrying out policies which might have the effect of obliterating an ethnic group.

Ethnic differences were absolutely dependent for survival on language, schools, publications and other cultural institutions often regarded as characteristic of a nationality. However well-treated in other respects a member of an ethnic group might be, if he were cut off from his tradition and culture, he would be the victim of discrimination and the right of his group to survive would be jeopardized. Consequently, all forms of discrimination which deprived an ethnic group of the means of continuing its culture and maintaining its traditions was a violation of the principle stated in the Declaration on the Elimination of All Forms of Racial Discrimination and should be made an offense under the Convention. He was not certain of the precise language that should be used but there was need to be specific with regard to nationality groups and national traditions.

Mr. CAFORTI, after making a comparative analysis of the three drafts under discussion, said that the text of the Convention should so far as possible convey the spirit of the Declaration adopted by the Assembly. Thus, it was proper for the definition of discrimination to include discrimination on ethnic grounds. However, the problem of ethnic discrimination should not be developed beyond the framework of the Declaration and should not be equated with discrimination on grounds of national origin or nationality. The problems of national origin and nationality were manifold, but they were outside the scope of

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(Mr. Capotorti)

a convention designed to protect the rights of the individual, which was the purpose of all United Nations conventions in the field of human rights. Indeed, it might even be helpful to make that purpose explicit. The definition of "person" contained in Mr. Calvocoressi's article I, as amended by Mr. Mudawi, was also a useful one, and should be retained. Finally, paragraph 2 of that article had considerable merit in that it recalled the definition of discrimination contained in the Declaration of Human Rights and in the draft Covenants.

Mr. MUDAWI observed that in some African countries small backward groups were given preferential treatment by legislation. He suggested, accordingly, that the article in which racial discrimination was defined should also include a statement to the effect that preferences designed to assist backward groups within a country did not constitute racial discrimination.

Mr. SAARIO pointed out that the problem was covered by article II, paragraph 3, of Mr. Abram's text (E/CN.4/Sub.2/L.308); however, he saw no objection to the addition suggested by Mr. Mudawi.

He always preferred brevity in definitions, particularly when they would have to be translated into many languages. He thought the word "distinction" preferable to the word "differentiation", which had too fine a shade of meaning. The words "distinction, exclusion, preference and limitation" would cover all the aspects of discrimination which should be taken into account.

While, as UNESCO had shown, there was no such thing as race, the term "race" would have to be used in the draft convention. The words "race", "colour" and "ethnic origin" all meant much the same thing, but "nationality" was a different matter. The General Assembly had used the expression "national origin" in the preamble of the Declaration on the Elimination of All Forms of Racial Discrimination and the expression "ethnic origin" in the body of the Declaration; he wondered why it had changed from the one expression to the other. In any event, everyone understood what was meant by the term "national origin", and he would not object to its use in the definition.

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Mr. KRISHNASWAMI recalled that Mr. Abram had accepted his proposal replacing the word "may" by the word "shall" in article II, paragraph 3 of his text (E/CN.4/Sub.2/L.308). That paragraph as amended, in directing States to take special measures to protect backward groups, went much further than the statement suggested by Mr. Mudawi. There would be no harm, however, in adding such a statement to the article defining racial discrimination.

There was some value in using the term "nationality" in quotation marks in the definition because in South Africa, for example, there was a problem of racial discrimination against persons of Indian national origin. "National origin" and "ethnic origin" were not synonymous.

Mr. AWAD was grateful to Mr. Mudawi for raising the problem of groups which the State had to favour in order to ensure their integration into the life of the country. The Sub-Commission must be very careful, however, to phrase any provision on that point in such a way as to leave no opportunity for abuse.

Mr. ABRAM said he preferred Mr. Krishnaswami's position on the question of nationality to Mr. Capotorti's.

Mr. BOUQUIN remarked that the three definitions before the Sub-Commission were not very different. Article 1, paragraph 1, of the text submitted by Mr. Ivanov and Mr. Ketrzynski (E/CN.4/Sub.2/L.314) contained some excellent ideas. He too preferred the word "distinction" to the word "differentiation", however, and he thought that, as the expressions "ban on access" and "exclusion" were synonymous, one of them should be omitted. The definition of the word "person" proposed in Mr. Calvocoressi's text (E/CN.4/Sub.2/L.309) should be retained. A reference to discrimination based on nationality or national origin in multi-national States might be helpful, but he wondered whether there would be any point in referring to such discrimination in States that were not multi-national. In all countries a distinction was made between nationals and aliens. The problem was a difficult one and should be carefully considered. On the question of special protective measures raised by Mr. Mudawi, he recalled

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(Mr. Bouquin)

that the Sub-Commission, in drafting paragraph 11 of the Declaration on the Elimination of All Forms of Racial Discrimination, had inserted a proviso to the effect that such measures should not be maintained after the achievement of their objective. The Sub-Commission should continue to treat such special measures as exceptional and provisional.

Mr. MATSCH felt that the terms "ban on access" and "exclusion" were synonymous, as were the terms "distinction" and "differentiation". If, therefore, Mr. Abram would agree to add the word "limitation" to his definition (E/CN.4/Sub.2/L.308), the list of terms equated with discrimination would be identical in the three definitions before the Sub-Commission. On the question of national origin, he preferred the full explanatory text suggested by Mr. Abram in article I of his text (E/CN.4/Sub.2/L.308).

Mr. IVANOV pointed out that the text which he and Mr. Ketrzynski had suggested (E/CN.4/Sub.2/L.314) contained at the end of article I, paragraph 1, an essential element in the definition of discrimination, namely, a description of the purpose or effect of discrimination as "nullifying or impairing equality in granting or practising human rights and freedoms". That part of the definition not only complemented the first part, but might, he felt, dispel the concern of previous speakers with regard to the inclusion in the convention of a reference to special measures for the protection of certain groups. As such measures were usually designed to place such groups on an equal footing with other sectors of the population which might be more advanced from educational or other points of view, the formula he had quoted should have the effect of ensuring that any such measures could not but be in accordance with the convention.

Mr. ABRAM accepted Mr. Matsch's suggestion regarding the inclusion of the word "limitation" in article I of his own text.

Mr. CUEVAS CANCINO found the definitions of discrimination contained in the three texts before the Sub-Commission on the whole very similar.

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(Mr. Cuevas Cancino)

He did not agree that the definition contained in article I of the text suggested by Mr. Ivanov and Mr. Ketrzynski (E/CN.4/Sub.2/L.314) was repetitious. For instance, the meaning of "ban on access" was not identical with that of "exclusion", as one meant that certain persons might be prohibited access to certain places, whereas the other would imply that certain people might be excluded from certain institutions and activities from which they were not in fact officially banned. The word "preference" acquired quite a definite meaning if it was considered in the context of the way in which whites were treated in the Republic of South Africa. Similarly, "limitation" had a perfectly definite meaning in the sense that it could refer to the prejudice to an individual's career caused by discrimination. A list of the various forms of discrimination in the article which defined the term was not only useful - it was absolutely necessary, because it would constitute the backbone of the convention, and he did not consider any of the terms used in the text suggested by Mr. Ivanov and Mr. Ketrzynski to be redundant.

With regard to the special measures which might be necessary for the protection of certain groups of the population, he still thought that the formula proposed by five Latin American countries in the Third Committee for article 2, paragraph 3 of the Declaration (A/5603, para. 66) was the most satisfactory. It was important to bear in mind that protection of certain groups did not constitute discrimination. Nor should such measures be abruptly discontinued. In some cases, they became part of national institutions, and a permanent means of securing rights which were in the interests of the country as a whole. As an example, he cited the case of Mexico, where the ownership of the land by the Indians had been originally recognized by the Spanish Crown, and subsequently, withdrawn on legal grounds, after the revolution of 1870, so that the Indian villages had been left entirely without land. It had required the revolution of 1910, with its ensuing land reform, to restore the original more equitable situation.

He was opposed to Mr. Krishnaswami's proposal to put the word "nationality" between quotation marks, and also against the insertion of a foot-note on the subject in the draft convention. Such an apparently special interpretation of

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(Mr. Cuevas Cancino)

of the word might prove misleading, and could cause problems. The term "nationality" as used in Mr. Abram's text (E/CN.4/Sub.2/L.308) might be taken to mean persons who had not been integrated into the national life of the State because they had originally come from other countries, and the existence of such groups raised problems of jurisdiction in any case. The term "national origin", used in document E/CN.4/Sub.2/L.314, seemed to him more satisfactory.

Mr. CALVOCORESSI said that he would withdraw paragraph 1 (b) of article I of his text (E/CN.4/Sub.2/L.309) if the Sub-Commission agreed to retain parts of the other two clauses. He had some doubts about the use of the term "national origin" and preferred the term "nationality". He would like to see the last part of article I, paragraph 1 as suggested by Mr. Ivanov and Mr. Ketrzynski with its reference to discrimination with the purpose or effect of nullifying or impairing equality in the granting or practising of human rights, retained in the draft convention.

He also hoped that the Sub-Commission would retain his own version of article I, paragraph 2. With regard to article I, paragraph 2 of Mr. Ivanov and Mr. Ketrzynski's text, he had no objection to its inclusion in the convention, but did not think that the article defining discrimination was the right place for it.

The CHAIRMAN, speaking in his personal capacity, remarked that he found the text suggested by Mr. Ivanov and Mr. Ketrzynski satisfactory, particularly since Mr. Cuevas Cancino's arguments had convinced him of the need to include a diversity of terms in the definition. He also thought that a reference to the purposes of discrimination was valuable, and that the second part of article I, paragraph 1 in that text should therefore be retained, but he suggested the addition, at the end of the sub-paragraph, of a phrase along the following lines: "as well as equality of treatment or opportunity in respect of such rights".

He agreed with Mr. Cuevas Cancino that the term "national origin" was preferable to "nationality", and he would certainly not be in favour of putting that word in quotation marks or using a foot-note. Such a procedure would not make for clarity, a primary requirement in the convention.

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(The Chairman)

It was sometimes necessary for Governments to take special measures to protect certain sections of the population, and in that connexion he too still felt a preference for the formula proposed in the Third Committee by five Latin American countries (A/5603, para. 66).

Mr. BARTON (International Confederation of Free Trade Unions) thought that the basic definition of discrimination should include some indication that the differences of race, colour, etc., might be either real or presumed. There were many cases where the difference between groups of a population, which were being used as a pretext for discrimination, were in fact non-existent, or at least debatable. Ceylon was one case in point, and another was South Africa, where the population was arbitrarily divided into the categories of white, black and coloured, and where persons and families were often changed from one category to another merely by decision of the authorities.

While Mr. Krishnaswami's suggestions concerning the treatment of the word "nationality" were unconventional, they probably represented the only way of solving the complex problem involved. Like the word "race", the word "nationality" represented different concepts, some ethnic, some political, in different countries.

Where special protection of certain groups was concerned, he felt some misgivings about the wisdom of including in the convention a reference to individuals belonging to certain racial groups, as had been done in article II of Mr. Abram's text (E/CN.4/Sub.2/L.308). While presumably the reference did not imply special protection to every single member of a group, it made the provision less clear.

Mr. INGLES thought that the Sub-Commission had already expressed a consensus of opinion regarding the contents of article I of the draft convention. In the interests of precision and to take care of the point raised by the Chairman, he suggested that the phrase "of opportunity or treatment in the enjoyment of human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights" should be inserted in article I, paragraph 1, after the word "equality", to replace the words "in granting or practising human rights and freedoms" in the text suggested by Mr. Ivanov and Mr. Ketrzynski (E/CN.4/Sub.2/L.314).

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The CHAIRMAN, speaking in his personal capacity, said that he found Mr. Ingles's amendment more satisfactory than his own, which he would accordingly withdraw.

Mr. SAARIO remarked that the difference between the terms "nationality" and "national origin" was clear. In international law, the term "nationality" was frequently used to mean "citizenship". He accordingly felt that the use of the term "national origin" would avoid ambiguity.

Mr. AWAD, observing that it was difficult to draft a document on the basis of three separate texts, suggested that the Sub-Commission might work more effectively if it selected one of the proposed texts as the basis of its work. The other proposals could then be submitted in the form of amendments to the working text.

The CHAIRMAN favoured the suggestion. The Sub-Commission was proceeding very slowly by its present method of work.

Mr. IVANOV felt that such a procedure would give an unjustifiable preference to one text over the others. In the past the Sub-Commission had been successful in working with a number of texts, either in plenary or through a working group. While the Sub-Commission should try to accelerate its work, it must avoid undue haste.

The meeting rose at 1.5 p.m.

Annex 75

United Nations, *Official Records of the Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Report of the Sixteenth Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights*, document E/CN.4/873, E/CN.4/Sub.2/241
(11 February 1964)



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/873
E/CN.4/Sub.2/241
11 February 1964

ORIGINAL: ENGLISH

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

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

New York, 13 to 31 January 1964

Rapporteur: Mr. Francesco Capotorti

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I. ORGANIZATION OF THE SESSION

Opening and duration of the session

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities held its sixteenth session at the Headquarters of the United Nations, New York, from 13 to 31 January 1964, inclusive.
2. The session was opened by Mr. Arcot Krishnaswami (India), Chairman of the Sub-Commission at its fifteenth session (405th meeting).

Attendance

3. Attendance at the session was as follows:

MEMBERS AND ALTERNATES

Mr. Morris B. Abram	(United States of America)
Mr. C. Clyde Ferguson (Alternate)	
Mr. Mohammed Awad	(United Arab Republic)
Mr. Jean Marcel Bouquin (Alternate)	(France)
Mr. Peter Calvocoressi	(United Kingdom of Great Britain and Northern Ireland)
Mr. Francesco Capotorti	(Italy)
Mr. Francisco Cuevas Cancino (Alternate)	(Mexico)
Mr. José D. Ingles	(Philippines)
Mr. Boris S. Ivanov	(Union of Soviet Socialist Republics)
Mr. Victor M. Titov (Alternate)	
Mr. Yakov A. Ostrovski (Alternate)	
Mr. Wojciech Ketrzynski	(Poland)
Mr. Stanislaw Soltysiak (Alternate)	
Mr. Arcot Krishnaswami	(India)
Mr. Franz Matsch	(Austria)
Mr. M.Y. Mudawi (Alternate)	(Sudan)
Mr. Voitto Saario	(Finland)
Mr. Hernán Santa Cruz	(Chile)

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4. Three members of the Sub-Commission, Mr. Mohammed Ahmed Abu Rannat (Sudan), Mr. Gabino Fraga (Mexico) and Mr. Pierre Juvigny (France), informed the Secretary-General that they were unable to attend the session and that, in accordance with rule 70 of the rules of procedure of the functional Commissions of the Economic and Social Council, and with the consent of their Governments, they appointed as alternates for the whole of the session Mr. Mohammed Moussef Mudawi, Mr. Francisco Cuevas Cancino, and Mr. Jean Marcel Bouquin, respectively. Mr. Morris B. Abram was unable to attend certain meetings of the Sub-Commission and, with the consent of his Government, designated as his alternate for those meetings, Mr. C. Clyde Ferguson. Mr. Boris S. Ivanov was unable to attend certain meetings of the Sub-Commission and, with the consent of his Government, designated as his alternates for those meetings, Mr. Victor N. Titov and Mr. Yakov Ostrovski. Mr. Wojciech Ketrzynski was unable to attend certain meetings of the Sub-Commission and, with the consent of his Government, designated as his alternate for those meetings, Mr. Stanislaw Soltysiak. The Secretary-General was in full agreement with these nominations and the alternates therefore enjoyed during the session the same status as members of the Sub-Commission, including the right to vote.
5. The following observers from Governments attended the session:

<u>Canada:</u>	Mr. Jacques Robichaud
<u>Chile:</u>	Sra. Leonora Kracht
<u>Congo (Leopoldville):</u>	Mr. Alphonse Lema
<u>India:</u>	Mr. I.A. Sajjad, Mr. S.K. Singh
<u>Israel:</u>	Mr. Joel Barromi
<u>Netherlands:</u>	Mr. Hein Th. Schaapveld
<u>Philippines:</u>	Mr. Ismael D. Quiambao
<u>Ukrainian SSR:</u>	Mr. Yuri M. Matseiko
<u>United States of America:</u>	Mrs. Rachel Nason
<u>Yugoslavia:</u>	Mr. Milos Melovski

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COMMISSION ON THE STATUS OF WOMEN

6. In accordance with Economic and Social Council resolution 48 (IV), the Commission on the Status of Women was represented at the session by:

Mrs. Marie-Hélène Lefaucheu (France).

SPECIALIZED AGENCIES

7. The following representatives of specialized agencies attended the session:

<u>International Labour Organisation (ILO):</u>	Mr. D. Farman-Farmaian
<u>United Nations Educational, Scientific and Cultural Organization (UNESCO):</u>	Mr. A. Salsamendi Miss Ruth Barrett
<u>World Health Organization (WHO):</u>	Mrs. Sylvia Meager

NON-GOVERNMENTAL ORGANIZATIONS

8. The following observers from non-governmental organizations in consultative status attended the session:

CATEGORY A

<u>International Confederation of Free Trade Unions:</u>	Mr. Paul Barton Mr. Pierre L. Bonuzzi
<u>World Federation of Trade Unions:</u>	Mr. Philip M. Connelly
<u>World Federation of United Nations Associations:</u>	Mr. Hilary Barrett-Brown
<u>World Veterans Federation:</u>	Mrs. Brenda Brimmer Mr. Gisbert Flanz

CATEGORY B

<u>Agudas Israel World Organization:</u>	Dr. Isaac Lewin
<u>Catholic International Union for Social Service:</u>	Mrs. Carmen Giroux Mrs. Allys Vergara
<u>Commission of the Churches on International Affairs:</u>	Mr. A. Dominique Micheli Mrs. Robbins Strong

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<u>Consultative Council of Jewish Organizations:</u>	Mr. Moses Moskowitz
<u>Coordinating Board of Jewish Organizations:</u>	Mr. Lobel A. Katz Mr. William Korey
<u>Friends World Committee for Consultation:</u>	Mrs. Nancy Smedley
<u>International Alliance of Women:</u>	Mrs. Frances A. Doyle
<u>International Catholic Child Bureau:</u>	Miss Margaret Bedard
<u>International Catholic Press Union:</u>	Mr. Hugh Morley
<u>International Conference of Catholic Charities:</u>	Mr. Louis Longarzo
<u>International Council of Women:</u>	Mrs. Eunice Carter
<u>International Council on Jewish Social and Welfare Services:</u>	Mr. Eugene Hevesi
<u>International Federation of Business and Professional Women:</u>	Miss Esther W. Hymer
<u>International Federation of University Women:</u>	Miss Dorothy V. Weston
<u>International Federation of Women Lawyers:</u>	Mrs. Mabel Whitesell Balboa Mrs. E. Judith H. Berger Mrs. Rose Korn Hirschman
<u>International League for the Rights of Man:</u>	Mr. Roger Baldwin Mr. Max Beer Mr. Sidney Liskofsky Mrs. Dora D. Roitbard
<u>International Movement for Fraternal Union among Races and Peoples:</u>	Miss Elizabeth Reid
<u>International Social Service:</u>	Mr. Michael Harris
<u>International Union for Child Welfare:</u>	Mrs. Frances A. Doyle
<u>International Union of Family Organizations:</u>	Mrs. Elizabeth S. Collins
<u>Pan Pacific and South-East Asia Women's Association:</u>	Mrs. Leah Horwitz
<u>Pax Romana:</u>	Mr. Peter J. Cass
<u>Women's International League for Peace and Freedom:</u>	Mrs. Adelaide N. Baker

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<u>World Alliance of Young Men's Christian Associations:</u>	Mr. Dalton F. McClelland
<u>World Federation of Catholic Young Women and Girls:</u>	Mrs. Rosemary Higgins Cass Mrs. Constance Young
<u>World Federation for Mental Health:</u>	Mrs. Myer Cohen
<u>World Jewish Congress:</u>	Mr. Natan Lerner Mr. Maurice C. Perlzweig
<u>World Young Women's Christian Association:</u>	Mrs. Arthur F. Anderson
<u>World Union of Catholic Women's Organizations:</u>	Miss Catherine Schaefer
<u>World Union for Progressive Judaism:</u>	Mrs. V. Polstein

REGISTER

<u>International Catholic Youth Federation:</u>	Miss Mary I. Di Fonzo
<u>International Humanist and Ethical Union:</u>	Mrs. Walter M. Weis
<u>St. Joan's International Alliance:</u>	Miss Frances McGillicuddy

Election of Officers

9. At its 405th meeting, the Sub-Commission elected the following officers:

<u>Chairman:</u>	Mr. Hernán Santa Cruz (Chile)
<u>Vice-Chairman:</u>	Mr. Voitto Saario (Finland)
<u>Rapporteur:</u>	Mr. Francesco Capotorti (Italy).

Secretariat

10. Mr. John P. Humphrey, Director of the Division of Human Rights, and Mr. Edward Lawson represented the Secretary-General. Mrs. Ekaterina Korshounova acted as secretary of the Sub-Commission.

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Agenda

11. At its 405th meeting, the Sub-Commission adopted without objection the items listed in the provisional agenda (E/CN.4/Sub.2/230/Rev.1) as its agenda for the sixteenth session. The agenda was as follows:

1. Election of officers.
2. Adoption of the agenda.
3. Invitation to the Commission on the Status of Women.
4. Draft international convention on the elimination of all forms of racial discrimination.
5. Draft declaration and draft convention on the elimination of all forms of religious intolerance.
6. Study of discrimination against persons born out of wedlock.
7. Study of equality in the administration of justice.
8. Review of further developments in the fields which have already been the subject of study or inquiry initiated by the Sub-Commission:
 - (a) Discrimination in education;
 - (b) Discrimination in the field of employment and occupation;
 - (c) Discrimination in the matter of religious rights and practices;
 - (d) Discrimination in the matter of political rights;
 - (e) Discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country;
 - (f) Manifestations of racial prejudice and national and religious intolerance.
9. Measures to be taken for the cessation of any advocacy of national, racial or religious hostility that constitutes an incitement to hatred and violence, jointly or separately.
10. Protection of minorities.
11. Communications relating to the prevention of discrimination and the protection of minorities.
12. Periodic reports on human rights.
13. Consideration of the future work of the Sub-Commission.
14. Report of the sixteenth session of the Sub-Commission to the Commission on Human Rights.

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12. The Sub-Commission devoted twenty-one of its twenty-seven plenary meetings to the examination of item 4 of its agenda, "Draft international convention on the elimination of all forms of racial discrimination". It devoted five meetings to item 5 of its agenda, "Draft declaration and draft convention on the elimination of all forms of religious intolerance". The remaining substantive items were dealt with at the 429th meeting. The Sub-Commission did not have the time to examine in detail item 8 of its agenda, "Review of further developments in the fields which have already been the subject of study or inquiry initiated by the Sub-Commission"; item 9, "Measures to be taken for the cessation of any advocacy of national, racial or religious hostility that constitutes an incitement to hatred and violence, jointly or separately", or item 12, "Periodic reports on human rights covering the period 1960 to 1962". In respect of item 8, the Sub-Commission took note of the documentation submitted to it by the Secretary-General (E/CN.4/Sub.2/232 and 239). In respect of item 12, the Sub-Commission requested the Secretary-General to continue to submit to it the summaries of periodic reports on human rights. In respect of item 9, the Sub-Commission decided that the item would appear on the provisional agenda of its seventeenth session.

13. On 31 January 1964, the Sub-Commission held a private meeting to consider item 11 of its agenda, "Communications relating to the prevention of discrimination and the protection of minorities". The Sub-Commission had before it a non-confidential list of communications (E/CN.4/Sub.2/CR.8) and a confidential list of communications (E/CN.4/Sub.2/Communications List No. 13). The Sub-Commission took note of the lists of communications.

Meetings, resolutions and documentation

14. The Sub-Commission held twenty-seven plenary meetings. The views expressed at those meetings are summarized in the records of the 405th to 431st meetings (E/CN.4/Sub.2/SR.405-431).

15. At its 409th, 410th, 417th and 429th meetings, the Sub-Commission heard statements by the representative of the Commission on the Status of Women (Mrs. Marie-Hélène Lefaucheu).

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16. At its 424th meeting the Sub-Commission heard a statement by the representative of the International Labour Organisation (Mr. D. Farman-Farmaian).

17. In accordance with rule 75 of the rules of procedure of the functional commissions of the Economic and Social Council, the Sub-Commission granted hearings (409th, 410th, 411th, 413th, 414th, 417th, 419th and 422nd meetings) to representatives of the following non-governmental organizations:

Category A: International Confederation of Free Trade Unions
(Mr. Paul Barton); World Federation of Trade Unions
(Mr. Philip M. Connelly);

Category B: Agudas Israel World Organization (Mr. Isaac Levin);
Consultative Council of Jewish Organizations
(Mr. Moses Moskowitz); Coordinating Board of
Jewish Organizations (Mr. Label A. Katz);
International League for the Rights of Man
(Mr. Max Beer); World Federation of Catholic
Young Women and Girls (Mrs. Rosemary Higgins Cass);
World Jewish Congress (Mr. Maurice C. Perlzweig).

18. The resolutions (1 to 6 (XVI)) and decisions of the Sub-Commission appear below under the appropriate headings.

19. Texts submitted by members of the Sub-Commission relating to the draft international convention on the elimination of all forms of racial discrimination are reproduced in Annex I to the present report; texts submitted by members of the Sub-Commission relating to the draft declaration on the elimination of all forms of religious intolerance are reproduced in Annex II; statements of financial implications of the decisions taken by the Sub-Commission at its sixteenth session are reproduced in Annex III; and the documents before the Sub-Commission at its sixteenth session are listed in Annex IV.

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II. DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION

Item 4 of the agenda

Introduction

20. In resolution 1780 (XVII) of 7 December 1962, the General Assembly requested the Economic and Social Council to ask the Commission on Human Rights, bearing in mind the views of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the debates at the seventeenth session of the Assembly, any proposals on this matter that might be submitted by Governments and any international instruments already adopted in this field by the specialized agencies, to prepare (a) a draft declaration on the elimination of all forms of racial discrimination, to be submitted to the Assembly for consideration at its eighteenth session; and (b) a draft international convention on the elimination of all forms of racial discrimination, to be submitted to the Assembly if possible at its nineteenth session and, in any case, not later than its twentieth session. In the same resolution the General Assembly invited Member States to submit their comments and proposals concerning the draft convention by 15 January 1964.

21. In resolution 1904 (XVIII) of 20 November 1963, the General Assembly proclaimed the United Nations Declaration on the Elimination of All Forms of Racial Discrimination. In resolution 1906 (XVIII) of the same date the General Assembly, emphasizing the importance of the speedy preparation and adoption of an international convention on the elimination of all forms of racial discrimination, requested the Economic and Social Council to invite the Commission on Human Rights, bearing in mind the views of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the debates at the seventeenth and eighteenth sessions of the General Assembly, any proposals on this matter that might be submitted by the Governments of Member States and any international instruments already adopted in this field, to give absolute priority to the preparation of a draft international convention on the elimination of all forms

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of racial discrimination, to be submitted to the Assembly for consideration at its nineteenth session.

22. In addition to the text of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the Sub-Commission had before it a note by the Secretary-General (E/CN.4/Sub.2/234 and Add.1) outlining the history of the consideration of the question in the United Nations. The note included the text of the Convention Concerning Discrimination in Respect of Employment and Occupation (ILO Convention No. 111), adopted by the General Conference of the International Labour Organisation on 25 June 1958 (annex I); the text of the Convention Against Discrimination in Education, adopted by the General Conference of UNESCO in Paris on 14 December 1960 (annex II); and the text of the Protocol Instituting a Conciliation and Good Offices Commission to be Responsible for Seeking the Settlement of any Disputes Which May Arise Between States Parties to the Convention Against Discrimination in Education, adopted by the General Conference of UNESCO on 10 December 1962 (annex III). The note also contained comments or proposals relating to the preparation of an international convention on the elimination of all forms of racial discrimination, submitted by the Governments of Czechoslovakia, Honduras, Madagascar, Nigeria, Trinidad and Tobago and the United Kingdom of Great Britain and Northern Ireland (annex IV). The Sub-Commission also had before it a statement submitted by the International League for the Rights of Man (E/CN.4/Sub.2/NGO/36).

23. The Sub-Commission devoted twenty-one meetings (406-418, 420, 422-425 and 427-429) to the consideration of item 4 of its agenda, "Draft International Convention on the Elimination of All Forms of Racial Discrimination".

24. A suggested draft for the convention on the elimination of all forms of racial discrimination (E/CN.4/Sub.2/L.308, E/CN.4/Sub.2/L.308/Add.1, E/CN.4/Sub.2/L.308/Add.1/Rev.1 and E/CN.4/Sub.2/L.308/Add.1/Rev.1/Corr.1) was submitted to the Sub-Commission by Mr. Abram. The draft is reproduced in part A of annex I of this report. Another draft text (E/CN.4/Sub.2/L.309) was submitted by Mr. Calvocoressi. This text is reproduced in part B of annex I of this report. A third draft text (E/CN.4/Sub.2/L.314) was submitted jointly by Messrs. Ivanov and Ketrzynski. This text is reproduced in part C of annex I of this report.

25. After a brief general debate on the three texts, the Sub-Commission proceeded to examine the preamble and provisions to be incorporated in the draft convention, having decided to take as a basis the suggested draft put forward by Mr. Abram.

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The amendments proposed and the voting thereon are described below. No attempt has been made to summarize in this report all the opinions expressed by the various members of the Sub-Commission, and attention is drawn to the summary records of the discussions where these opinions are recorded (E/CN.4/Sub.2/SR.406-418, 420, 422-425, 427-429).

26. The draft convention adopted by the Sub-Commission contains a preamble and ten articles. The number of the articles quoted in this report are those of the text as finally adopted by the Sub-Commission (see resolution 1 (XVI), annex).

General debate

27. Members agreed that they should make every effort to express the views of the Sub-Commission, in so far as possible, in a single document proposing texts to be incorporated in the draft convention. The convention, they felt, ultimately should set out clearly and precisely the obligations of States in regard to the elimination of racial discrimination in all its forms, and provide effective measures of implementation.

28. While members agreed that the draft convention should be based primarily on the provisions of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, some felt that it should represent a further progress while others expressed the view that it should not impose upon States obligations greater than those arising out of the principles proclaimed in the Declaration.

29. Certain members urged that the question of the elimination of racial discrimination should be examined in the context of recent historical developments and, in particular, in the light of the emergence of new States from colonialism and the struggle of various racial groups for equality and dignity. They felt that the convention should recognize the intimate relationship between manifestations of colonialism, which continue to affect millions of people, and racial discrimination. They expressed the hope that the convention would become an effective and practical instrument for eradicating fascism and racism as well as racial discrimination. Other members pointed out that manifestations of racial hatred and discrimination had not always been linked, in the past, to the existence of colonial territories.

30. During the debate on the item the Sub-Commission heard statements by the representative of the Commission on the Status of Women. A statement was made at the 416th meeting by the observer of Israel. The Sub-Commission also heard the representatives of the International Confederation of Free Trade Unions,

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International League for the Rights of Man, World Federation of Trade Unions, World Federation of Catholic Young Women and Girls, and the Coordinating Board of Jewish Organizations.

Preamble

31. Texts for the preamble of the draft convention were submitted by Messrs. Abram, Calvocoressi, and jointly by Messrs. Ivanov and Ketrzynski.

32. The text proposed by Mr. Abram (E/CN.4/Sub.2/L.308) read as follows:

"Desiring to implement the principles embodied in the Declaration on the Elimination of All Forms of Racial Discrimination, proclaimed by the General Assembly of the United Nations at its eighteenth session on 20 November 1963,

"Recognizing the obligation of all Members of the United Nations, in accordance with the Charter, to co-operate in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion,

"Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out in the Declaration, without distinction of any kind, in particular race, colour, or national origin,

"Taking into account the Convention on Discrimination in Respect of Employment and Occupation adopted by the International Labour Organisation in 1958,

"Taking into account also the Convention against Discrimination in Education adopted by UNESCO in 1960,

"Having resolved to conclude a Convention for this purpose,

"Hereby agree as hereinafter provided:".

33. The text proposed by Mr. Calvocoressi (E/CN.4/Sub.2/L.309) read as follows:

"The Contracting States,

"Recalling Article 55 of the United Nations Charter,

"Acting in pursuance of resolution 1904 (XVIII), adopted by the General Assembly of the United Nations on 20 November 1963,

"Desiring to eliminate all forms of racial discrimination and to secure respect for the dignity of the human person,

"Have agreed as follows:".

34. The text proposed jointly by Messrs. Ivanov and Ketrzynski (E/CN.4/Sub.2/L.314) read as follows:

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"The Contracting Parties,

"Considering that, in conformity with the principles and objectives of the Charter of the United Nations, the Universal Declaration of Human Rights of 1948 has established that everyone shall have all rights and freedoms proclaimed in the Declaration, without distinction of any kind, in particular as to race, colour or national origin,

"Recalling that the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by the United Nations in 1960 has urged to bring colonialism and all practices of segregation and discrimination associated therewith to a speedy and unconditional end,

"Proceeding from the Declaration on the Elimination of All Forms of Racial Discrimination of 1963 which has proclaimed that any doctrine of racial differentiation or superiority is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination either in theory or in practice,

"Desiring to adopt further measures in order to eliminate racial discrimination in all its forms and manifestations as soon as possible,

"Have agreed as follows:".

35. Mr. Krishnaswami submitted (E/CN.4/Sub.2/L.310) the following amendments to the text proposed by Mr. Abram:

"1. Add as the first preambular paragraph the following:

'Considering that the Charter of the United Nations is based on the dignity and equality of all human beings,'.

"2. Delete the fourth and fifth preambular paragraphs and substitute the following:

'Taking into account the other resolutions adopted by the General Assembly and the international instruments adopted by the specialized agencies, in particular the International Labour Organisation and UNESCO, in the field of discrimination,'.

"3. Renumber the first preambular paragraph of the suggested draft as preambular paragraph 4.".

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36. Oral amendments to the three texts were submitted by various members of the Sub-Commission.

37. After a preliminary discussion of the preambular texts and the amendments thereto, Messrs. Calvocoressi and Capotorti jointly submitted a new text for the preamble (E/CN.4/Sub.2/L.313), incorporating a number of amendments which had been proposed. The text read as follows:

"The Contracting States,

"Recalling the obligation of all Members of the United Nations, in accordance with Article 55 of the Charter, to promote universal and effective respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

"Recalling that the Universal Declaration of Human Rights proclaims, in article 1, that all human beings are born free and equal in dignity and rights and, in article 2, that everyone is entitled to the rights and freedoms set out in the Declaration without distinction of any kind,

"Recalling that the Declaration on the granting of independence to colonial countries and peoples condemned all practices of segregation and discrimination connected with colonialism and proclaimed the necessity of bringing them, as well as all continuing forms of colonialism, to a speedy and unconditional end,

"Recalling that the Declaration on the elimination of all forms of racial discrimination solemnly affirmed the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations,

"Desiring to implement the principles embodied in that Declaration and to secure the speediest adoption by Contracting States of practical measures to that end,

"Taking into account the Conventions on Discrimination in respect of employment and occupation and against discrimination in education adopted respectively by ILO in 1958 and by UNESCO in 1960,

"Convinced that any doctrine of racial differentiation or superiority is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination in theory or in practice,

"Convinced that the elimination of racial discrimination is a major contribution to international peace and security which is jeopardized by

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manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

"Having resolved therefore to conclude a Convention for the elimination of all forms of racial discrimination,

"Have agreed as follows:".

38. During a further discussion of the preamble, based upon the text submitted by Messrs. Calvocoressi and Capotorti, a number of amendments were suggested orally by various members of the Sub-Commission. At the suggestion of the Chairman a working group, composed of all members of the Sub-Commission who wished to participate, prepared a new draft preamble. The text of the new draft (E/CN.4/Sub.2/L.317), as revised during the meeting at the suggestion of the Chairman, read as follows:

"Considering

"1. that the Charter of the United Nations is based on the principle of the dignity and equality inherent in all human beings and imposes on all Members of the United Nations the obligation to ensure, promote and encourage universal respect for an observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

"2. that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out in the Declaration, without distinction of any kind,

"3. that the Declaration on the granting of independence to colonial countries and peoples condemned colonialism and all practices of segregation and discrimination connected with it and proclaimed the necessity of bringing them, as well as colonialism in all its forms, to a speedy and unconditional end,

"4. that the Declaration on the elimination of all forms of racial discrimination solemnly affirmed the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations,

"Desiring to implement the principles embodied in that Declaration and to secure the earliest adoption by Contracting States of practical measures to that end,

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"Convinced that any doctrine based on racial differentiation or superiority is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination in theory or in practice,

"Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is a fact capable of disturbing peace and security among peoples as did the evil racial doctrines and practices of national socialism in the past,

"Concerned by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation, and desiring therefore to adopt further measures in order to eliminate racial discrimination in all its forms and manifestations as soon as possible,

"Taking into account the Convention on discrimination in respect of employment and occupation adopted by ILO in 1958, and the Convention against discrimination in education adopted by UNESCO in 1960,

"Having resolved therefore to conclude a Convention for the elimination of all forms of racial discrimination,

"Have agreed as follows:"

39. In the course of a further discussion, based on the text submitted by the working group, various amendments were accepted without objection. In particular it was agreed to insert the dates of adoption of the Declarations referred to in paragraphs 3 and 4; to insert the words "wherever it exists" between the words "forms" and "to" in paragraph 3; to place the paragraph beginning "Desiring" at the end of the draft preamble as a substitute for the paragraph beginning "Having resolved"; to add the word "anywhere" at the end of the paragraph beginning "Convinced"; to substitute the word "nazism" for the expression "national socialism" in the paragraph beginning "Reaffirming"; and to substitute the expression "Bearing in mind" for the words "taking into account" in the penultimate paragraph. An amendment by Mr. Abrams, to transpose the words in the paragraph beginning "Convinced" so that the text would read: "Convinced that any doctrine of superiority based on racial differentiation is scientifically false", was rejected by 5 votes to 3, with 5 abstentions.

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40. The draft preamble submitted by the working group, as amended by the Sub-Commission, was adopted unanimously (see resolution 1 (XVI), annex, Preamble).

Definition of "racial discrimination" (article I)

41. Texts defining "racial discrimination", for inclusion in the draft convention, were submitted by Messrs. Abram, Calvocoressi, and jointly by Messrs. Ivanov and Ketrzynski.

42. The text proposed by Mr. Abram (E/CN.4/Sub.2/L.308, article I) read as follows:

"For the purpose of this convention, the term racial discrimination includes any distinction, exclusion or preference made on the basis of race, colour, or ethnic origin, and in the case of States composed of different nationalities or persons of different national origin, discrimination based on such differences."

43. The text proposed by Mr. Calvocoressi (E/CN.4/Sub.2/L.309) read as follows:

"(1) For the purposes of this Convention:

.....;

(b) discrimination means any distinction, exclusion, limitation or preference made on the basis of race, colour or ethnic origin.

"(2) Nothing in this Convention shall be interpreted as implying any right to discriminate on any basis other than those listed in Article 1 (1) (b) above, such as sex, language, religion, political or other opinion, social origin, property, birth or other status."

44. The text proposed jointly by Messrs. Ivanov and Ketrzynski (E/CN.4/Sub.2/L.314) read as follows:

"1. For the purpose of the present Convention the term 'racial discrimination' shall mean any differentiation, ban on access, exclusion, preference or limitation based on race, colour, national or ethnic origin, which has the purpose or effect of nullifying or impairing equality in granting or practising human rights and freedoms in political, economic, social, cultural, or any other field of public life.

"2. Racial discrimination, which is an offence to human dignity, shall be condemned as a denial of the rules of international law and principles of the Charter of the United Nations, as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights, as an obstacle to friendly and peaceful relations among nations and as a fact capable of disturbing peace and security among peoples, and shall therefore be prohibited by the present Convention."

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45. Mr. Krishnaswami proposed (E/CN.4/Sub.2/L.310, para. 4) to amend Mr. Abram's text by adding after the words "ethnic origin", "nationality" or "national origin" and to delete "and in the case of States composed of different nationalities or persons of different national origin, discrimination based on such differences".

46. Oral amendments to the three texts were submitted by various members of the Sub-Commission.

47. After a discussion of the texts defining "racial discrimination" and the amendments thereto, Messrs. Calvo-coressi and Capotorti jointly submitted a new text (E/CN.4/Sub.2/L.318), incorporating many of the amendments which had been proposed, as follows:

"Article 1

"1. For the purpose of this Convention, the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, national or ethnic origin, which has the purpose or effect of nullifying or impairing the equality of treatment or opportunity in respect of the human rights and freedoms set forth in the Universal Declaration of Human Rights.

"

"3. A Contracting State may take special concrete measures in appropriate circumstances in order to secure adequate development or protection of individuals belonging to certain racial groups with the object of ensuring the full enjoyment by such individuals of human rights and fundamental freedoms. These measures shall in no circumstances have as a consequence the maintenance of unequal or separate rights for different racial groups.

""

48. On the basis of the draft text (E/CN.4/Sub.2/L.318) submitted by Messrs. Calvo-coressi and Capotorti, and in the light of the discussions which had taken place, the working group prepared a new draft text (E/CN.4/Sub.2/L.319), as follows:

"Article 1

"1. In this Convention the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, national or ethnic origin (and in the case of States composed of different nationalities discrimination based on such difference) which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise of human rights and freedoms in political, economic, social, cultural or any other field of public life set forth inter alia in the Universal Declaration of Human Rights.

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"2. Measures giving preference to certain racial groups for the sole purpose of securing adequate development or protection of individuals belonging to them should not be deemed racial discrimination, provided however that such measures do not, as a consequence, lead to maintenance of unequal or separate rights for different racial groups."

49. In the discussion which followed, various amendments to the text submitted by the working group were accepted without objection. In particular, as suggested by Mr. Ivanov and Mr. Ketrzynski, the words "on an equal footing" were inserted after the word "exercise". It was also agreed that the word "fundamental" would be inserted before the word "freedom" and that in paragraph 2, the word "should" would be replaced by "shall".

50. The draft text of article 1 submitted by the working group, as amended by the Sub-Commission, was adopted unanimously (see resolution 1 (XVI), annex, article 1).

Obligations of States with regard to the elimination of racial discrimination
(Article II)

51. Texts relating to the obligations of States with regard to the elimination of racial discrimination were submitted by Mr. Abram, Mr. Calvocoressi, jointly by Messrs. Ivanov and Ketrzynski, by Mr. Ketrzynski alone, and jointly by Messrs. Calvocoressi and Capotorti.

52. The text proposed by Mr. Abram (E/CN.4/Sub.2/L.308) read as follows:

"Article 2

"1. No State Party shall make any discrimination whatsoever against persons, groups of persons or institutions on the grounds of race, colour, or ethnic origin, or where applicable, on the basis of 'nationality' or national origin.

"2. No State Party shall encourage, advocate or lend its support, through police action or otherwise, to racial discrimination by any group, institution, or individual.

"3. A State Party may take special concrete measures in appropriate circumstances in order to secure adequate development or protection of individuals belonging to certain racial groups with the object of ensuring the full enjoyment by such individuals of human rights and fundamental freedoms. These measures shall in no circumstances have as a consequence the maintenance of unequal or separate rights for different racial groups."

53. The text proposed by Mr. Calvocoressi (E/CN.4/Sub.2/L.309) read as follows:

"Article 2

"(1) A Contracting State shall not discriminate or support discrimination against any person in any manner. In particular, a Contracting State shall

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not discriminate against any person as regards civil rights, access to citizenship, education, religion, employment, occupation or housing.

"(2) A Contracting State shall pursue a national policy designed to prevent discrimination within its territory.

"(3) Within the territory of a Contracting State, it shall be an offence to commit, or to incite to commit, an act of violence against another person on the grounds of race, colour or ethnic origin."

54. The text proposed by Messrs. Ivanov and Ketrzynski (E/CN.4/Sub.2/L.314) read in part as follows:

"Article 2

"1. Each Contracting Party shall undertake to admit within its territory no acts or manifestations of racial discrimination of any kind, and to provide for, if appropriate, in its legislation, and implement, necessary measures with a view to speedy elimination or racial discrimination.

""

55. The text proposed by Mr. Ketrzynski (E/CN.4/Sub.2/L.323) read as follows:

"Article 2

"1. No State Party shall practise discrimination in any form against persons, groups of persons or institutions on the grounds of race, colour or ethnic origin or, where applicable, on the basis of 'nationality' or national origin, and each State Party shall for that purpose take effective measures to revise governmental and other public policies, and to rescind or nullify any laws and regulations, which have the effect of creating racial discrimination or of perpetuating it where it already exists.

"2. No State Party shall, in any manner whatsoever, encourage, advocate or lend its support to racial discrimination by any group, institution or individual.

"3. Each State Party undertakes not to permit any act or manifestation of racial discrimination of any kind in its territory and, if necessary,

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to make legislative provision for and to implement such measures as are required for the speedy elimination of all racial discrimination.

"4. Any State Party may take special concrete measures in appropriate circumstances in order to secure adequate development or protection of individuals belonging to certain racial groups with a view to ensuring the full enjoyment by such individuals of human rights and fundamental freedoms. Such measures shall in no circumstances result in the maintenance of unequal or separate rights for different racial groups."

56. The text proposed by Messrs. Calvocoressi and Capotorti (E/CN.4/Sub.2/L.324) read as follows:

"Article 2

"1. Each Contracting State undertakes to pursue by all appropriate means a policy of eliminating racial discrimination in all its forms.

"2. Each Contracting State shall rigorously abstain from any act or practise of racial discrimination and undertakes that all its legislative, executive, administrative and judicial organs, and also local authorities and public institutions of all kinds within its territory, shall act in conformity with this obligation. No Contracting State shall encourage, advocate or support racial discrimination by any individual, group or private organization.

"3. Each Contracting State shall rescind any laws and regulations which have the effect of creating or perpetuating racial discrimination.

"4. Each Contracting State undertakes to adopt all necessary measures, including legislation if appropriate, to prohibit racial discrimination by any individual, group or private organization."

57. Mr. Krishnaswami proposed (E/CN.4/Sub.2/L.310) to amend Mr. Abram's text by deleting the first paragraph and substituting the following:

"No State shall discriminate or support any discrimination whatsoever against persons, groups of persons or institutions on the ground of race, colour, or ethnic origin, or where applicable on the basis of 'nationality' or national origin."

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58. The text submitted by Messrs. Calvocoressi and Capotorti (E/CN.4/Sub.2/L.324) was selected by the working group as a basis for discussion.

59. Oral amendments to the text were suggested by various members of the Sub-Commission. In the light of these amendments, Messrs. Calvocoressi and Capotorti revised their text by adding "and without delay" after "appropriate means" in the first sentence of paragraph 1 and inserting "to this end" at the end of that sentence; converting paragraphs 2, 3 and 4 into sub-paragraphs (a), (b) and (c) of paragraph 1; deleting from the new sub-paragraph (a) the words "rigorously", "legislative, executive, administrative and judicial", and "private" and replacing the word "individual" by "person"; inserting in sub-paragraph (b) the words "take effective measures to revise governmental and other public policies, and to" after "Each Contracting State shall"; and, in sub-paragraph (c) reversing the order of the sentence so that it would read: "Each Contracting State shall prohibit racial discrimination by any person, group or organization, and undertakes to adopt all necessary measures, including legislation, if appropriate."

60. Amendments to the revised text (E/CN.4/Sub.2/L.324/Rev.1) were submitted by Messrs. Ferguson, Ivanov and Mudawi.

61. Mr. Ferguson proposed (E/CN.4/Sub.2/L.326) to substitute the following for the first sentence of sub-paragraph (a):

"Each State Party, including all its organs of whatever nature, shall abstain from any act of racial discrimination",

and to add the following:

"A State Party shall take special concrete measures in appropriate circumstances in order to secure adequate development or protection of individuals belonging to certain racial groups with the object of ensuring the full enjoyment by such individuals of human rights and fundamental freedoms. These measures shall in no circumstances have as a consequence the maintenance of unequal or separate rights of different racial groups".

62. Mr. Ivanov proposed (E/CN.4/Sub.2/L.327) replacing the text of the first sentence of article II by the following:

"Each Contracting State undertakes to prohibit racial discrimination and to carry out by all possible measures a policy of eliminating it in all its

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forms, since racial discrimination is an infringement of the rights and an offence to the dignity of the human person and a denial of the rules of international law and of the principles and objectives set forth in the United Nations documents mentioned in the preamble of the present Convention".

63. Mr. Ivanov further explained that his amendment consisted in introducing the words "and prohibit" after the word "condemn" and inserting after the words "in all its forms" the clause beginning "since racial discrimination". He also proposed that in article II, sub-paragraph (a), the words "shall abstain" should be replaced by "undertakes under no circumstances to permit".

64. Mr. Mudawi (E/CN.4/Sub.2/L.328) proposed the addition of the following paragraph:

"A State Party shall take special concrete measures in appropriate circumstances in order to secure adequate development or protection of individuals belonging to under-developed racial groups with the object of ensuring the full enjoyment by such individuals of human rights and fundamental freedoms. These measures shall in no circumstances have as a consequence the maintenance of unequal or separate rights for different racial groups".

65. Mr. Mudawi's amendment was adopted by 6 votes to 4 with 4 abstentions.

Mr. Ferguson's amendment, which the Sub-Commission considered substantially the same as Mr. Mudawi's, was not voted upon.

66. Mr. Ivanov's first amendment was rejected by 6 votes to 4 with 3 abstentions. His second amendment was rejected by 5 votes to 2 with 5 abstentions.

67. At the request of Mr. Ingles, a separate vote was taken on the second part of paragraph 1, sub-paragraph (c), beginning with the words "and undertakes".

This text was adopted by 13 votes to 1.

68. Article II, as amended, was adopted by 13 votes to none, with 1 abstention. (see resolution I (XVI), annex, article 2).

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Condemnation of apartheid (article III)

69. A text providing for the termination of racial segregation and especially of the policy of apartheid was proposed by Mr. Abram (E/CN.4/Sub.2/L.308). That text read in part as follows:

"Article III

.....

2. Each State Party shall put an end without delay to governmental and other public policies of racial segregation and especially policies of apartheid, as well as all forms of racial discrimination and separation resulting from such policies".

70. After considering this text, a new text (E/CN.4/Sub.2/L.338) was prepared and submitted by the working group. This text read as follows:

"States Parties particularly condemn apartheid and undertake to prevent and eradicate all practices of this nature".

71. In the course of the discussion, the text was orally amended to read as follows:

"States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate, in territories subject to their jurisdiction, all practices of this nature".

72. The draft article, as amended, was adopted unanimously (see resolution 1 (XVI), annex, article 3).

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The obligation of States to adopt positive measures to eradicate incitement to racial discrimination (Article IV)

73. Texts for an article providing for States Parties to adopt positive measures to eradicate incitement to racial discrimination were submitted by Mr. Abram and jointly by Messrs. Ivanov and Ketrzynski.

74. The text proposed by Mr. Abram (E/CN.4/Sub.2/L.308/Add.1/Rev.1/Corr.1) read as follows:

"1. Each State Party shall consider and declare all incitement to racial hatred and discrimination resulting in or likely to cause acts of violence, whether by individuals or organizations, as an offence against society and punishable under law.

2. No State Party shall grant a franchise or license to any agency, organization, group or individual for the purpose of inciting to such racial hatred.

3. No State Party shall permit its officials or any agency or organization supported in whole or in part by government funds to promote or incite racial hatred and discrimination.

4. Each State Party shall establish a national policy designed to eradicate all incitement to discrimination and racial hatred, and to assure equal treatment for all persons under its jurisdiction.

5. Each State Party shall provide remedial relief for any individual who has suffered substantial harm as the result of racial violence, hatred or discrimination."

75. The text proposed jointly by Messrs. Ivanov and Ketrzynski (E/CN.4/Sub.2/L.314) read in part as follows:

"2. Accordingly, each Contracting Party shall undertake, inter alia, to adopt appropriate measures:

(a) to prohibit and disband racist, fascist and any other organizations practising or inciting to racial discrimination;

(b) to admit no propaganda of any kind of the superiority of one race or national group over another, or any propaganda with a view to justifying or promoting racial discrimination in any form;

(c) to consider all participation in the activity of such organizations as those mentioned in sub-paragraphs 'a' and 'b' of the present article, as well as incitement to or acts of violence against an individual or

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group of persons on the ground of their race, national or ethnic origin, as a criminal offence counter to the interest of society punishable under law, and to prosecute those guilty thereof;"

76. Mr. Krishnaswami submitted (E/CN.4/Sub.2/L.311) the following amendments to the text proposed by Mr. Abram:

- "1. In paragraph 2, add the words 'or public authority' after the words 'No State Party'.
2. In paragraph 2, add the words 'or permit' after the word 'license'.
3. In paragraph 3, add the words 'or their officials' after the words 'government funds'.
4. Add, at the end of paragraph 3, the words 'or to aid and abet such activities by others'.
5. In paragraph 4, add the words 'and pursue' after the words 'shall establish'.
6. In paragraph 5, add the words 'effective, preventive and' after the word 'provide'.
7. In paragraph 5, add after the word 'who', the following: 'is in danger of suffering or who'."

77. After a general debate on the scope of the proposed text of the article dealing with the obligation of States to adopt positive measures to eradicate incitement to racial discrimination, Messrs. Cuevas Cancino and Ingles submitted a new text (E/CN.4/Sub.2/L.330). The text read as follows:

"All States Parties to this Convention severely condemn all propaganda and organizations which justify or promote racial discrimination and undertake to initiate immediate and positive measures designed to eradicate all incitement to such discrimination, and to this end, inter alia:

- (a) Each State Party shall penalize all incitement to racial discrimination resulting in or likely to cause acts of violence;
- (b) Each State Party shall prohibit or outlaw organizations which promote or incite racial discrimination;
- (c) Each State Party shall not permit its officials or any agency or organization supported in whole or in part by government funds to promote or incite racial discrimination;

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(d) Each State Party shall also provide remedial relief, including payment of damages, for any individual who has suffered harm as a result of racial violence or discrimination."

78. Mr. Abram proposed (E/CN.4/Sub.2/L.332) to replace the word "or" following the word "promote" in sub-paragraph (b) by the word "and".

79. During the discussion of the text submitted by Messrs. Cuevas Cancino and Ingles (E/CN.4/Sub.2/L.330), Mr. Ketrzynski submitted a new text (E/CN.4/Sub.2/L.331). This text read as follows:

"1. Each State Party shall undertake to recognize all incitement to racial discrimination and racial hatred as an offence punishable under law. Each State Party shall accordingly undertake to adopt appropriate measures to:

(a) institute judicial proceeding in respect of all incitement to or participation in acts of violence by individuals or organizations against a race or group of persons of a different colour or ethnic origin;

(b) institute judicial proceeding in respect of all acts of propaganda aimed at inciting to racial hatred or encouraging or justifying racial discrimination in any form;

(c) institute judicial proceeding against, and if necessary proscribe, all organizations, including fascist movements, aimed at inciting to violence, organizing acts of violence, or inciting to or promoting racial discrimination.

2. Each State Party shall establish a national policy designed to eradicate all prejudices based on ideas of differentiation or inequality among races, and to eliminate all forms of activity prejudicial to good understanding among races and groups of persons of a different colour or ethnic origin.

3. Each State Party shall ensure and by appropriate means provide remedial relief for any individual who has suffered substantial harm as a result of violence, hatred or racial discrimination."

80. Various oral amendments to the two texts (E/CN.4/Sub.2/L.330 and E/CN.4/Sub.2/L.331) were submitted by members of the Sub-Commission.

81. After further discussion of the texts and the amendments suggested, Messrs. Cuevas Cancino and Ingles, taking into consideration the various comments and suggestions, submitted a revised text (E/CN.4/Sub.2/L.330/Rev.1) which read as follows:

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"States Parties condemn all propaganda and organizations which justify or promote racial hatred and discrimination and undertake to adopt immediate and positive measures designed to eradicate all incitement to such discrimination, and to this end, inter alia:

(a) Shall penalize all incitement to racial discrimination resulting in or likely to cause acts of violence;

(b) Shall declare illegal organizations (or organized propaganda activities) which (promote or) incite racial discrimination;

(c) Shall not permit its officials, or any agency or organization supported in whole or in part by government funds, to promote or incite racial discrimination;

(d) Shall also provide remedial relief, including payment of damages, for any individual who has suffered harm as a result of racial violence or discrimination."

82. In the course of a further discussion, based on the revised text submitted by Messrs. Cuevas Cancino and Ingles (E/CN.4/Sub.2/L.330/Rev.1), various amendments were accepted without objection.

83. Mr. Abram's amendment (E/CN.4/Sub.2/L.332), which related to the first draft of article III (E/CN.4/Sub.2/L.330) but which was also applicable to the revised text (E/CN.4/Sub.2/L.330/Rev.1), was adopted by 7 votes to 2 with 2 abstentions. The revised text submitted by Messrs. Cuevas Cancino and Ingles, as amended, was adopted unanimously (see resolution 1 (XVI), annex, article 4).

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The obligation of States to prohibit and to eliminate racial discrimination in the enjoyment of various rights (article V)

84. Texts relating to the obligation of States to prohibit and to eliminate racial discrimination in the enjoyment of various rights were submitted by Mr. Abram, Mr. Calvocoressi and jointly by Messrs. Ivanov and Ketrzynski.
85. The text proposed by Mr. Abram (E/CN.4/Sub.2/308) read as follows:

"Article IV

Each State Party shall take effective measures, including the adoption of such legislation as may be necessary, to assure equal access to any place or facility intended for use by the general public, and to prohibit racial discrimination therein.

Article V

Each State Party shall take the necessary steps to prevent any racial discrimination in the enjoyment of political and citizenship rights, including in particular the right to participate in elections through universal and equal suffrage and to equal access to public service.

Article VI

Each State Party shall take the necessary steps to assure everyone within its jurisdiction the right to equality before the law and equal justice under the law. Everyone, without any racial discrimination, should be assured the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group, or institution."

86. The text proposed by Mr. Calvocoressi (E/CN.4/Sub.2/L.309) read as follows:

"Article III

1. The Contracting States shall secure to everyone within their territory the rights defined in this article.
2. Everyone, without discrimination, shall have the right:
 - (a) to equality before the law;
 - (b) to security of person against bodily harm;
 - (c) to equal access to any place intended for use by the general public.

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3. Every national of a Contracting State, without discrimination, shall:
- (a) have the right in that State to participate in elections and in the government; and
 - (b) be eligible for admission to the public service of that State, in accordance with the national procedures."

87. The text proposed by Messrs. Ivanov and Ketrzynski (E/CN.4/Sub.2/L.314) read as follows:

"Article II

.....

- (d) to admit no racial discrimination in granting political rights to, and their enjoyment by every citizen, including the inalienable right to participate in determining the nature of the social and political structure of his country, the rights to participate in elections through universal and equal suffrage, the right to actual participation by racial, national and ethnic groups in legislative and executive bodies, as well as equal access to public service;
- (e) to admit no racial discrimination in granting and enjoyment of the right to form and join trade unions;
- (f) to ensure equality for all before the law, without distinction as to race, colour, national or ethnic origin, personal security and protection against violence, as well as the right to an effective protection and remedy;
- (g) to admit no racial discrimination in the field of economic rights, inter alia, the right to employment and equal pay;
- (h) to admit no racial discrimination in granting the enjoyment of the right to education, and to provide the training of skilled manpower and expert personnel from among the groups of population formerly deprived of the right to education in consequence of discrimination based on race, colour, national or ethnic origin;
- (i) to admit no racial discrimination in the field of housing and to abolish reservations perpetuating and aggravating racial discrimination;
- (j) to admit no racial discrimination in public health, medical care and social security;
- (k) to admit no racial discrimination in access to all kinds of transport, recreation and public facilities, including restaurants, hotels, cinemas, parks, cafes, etc.;

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(1) to admit no racial discrimination in access to citizenship and enjoyment of civil rights, including the right to marriage."

88. Mr. Krishnaswami submitted (E/CN.4/Sub.2/L.310) the following amendments to the text proposed by Mr. Abram:

"Article IV: Insert the following text as the first paragraph:

'Each State shall prevent racial discrimination in the fields of civil rights, access to citizenship, education, religion, employment, occupation and housing.'

"Article V: Add the following at the end of the article: 'and to take part in the government.'

89. After a discussion of the three texts and of the amendments proposed, the working group submitted a draft text (E/CN.4/Sub.2/L.334), as follows:

"In compliance with the fundamental obligations laid down in article II, States Parties undertake not to admit and to eliminate racial discrimination in all its forms notably in the enjoyment of the following rights:

(a) The rights to equality before the law and to equal justice under the law;

(b) The right to security of person and protection by the States against violence or bodily harm, whether inflicted by Government officials or by any individual, group or institution;

(c) Political rights granted to any person in his own country, in particular the rights to participate in elections through universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

(i) the right to freedom of movement and residence within the border of the State;

(ii) the right to leave any country including his own, and to return to his country;

(iii) the right to nationality;

(iv) the right to marriage;

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- (v) the right to own property alone as well as in association with others;
 - (vi) the right to freedom of thought, conscience and religion;
 - (vii) the right to freedom of opinion and expression;
 - (viii) the right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
- (i) the right to work, free choice of employment, just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration;
 - (ii) the right to form and join trade unions;
 - (iii) housing;
 - (iv) public health, medical care and social security and social services;
 - (v) education and training;
 - (vi) equal participation in cultural activities;
- (f) Access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafes, theatres, parks."

90. Mr. Ivanov proposed (E/CN.4/Sub.2/L.335) the following amendment to the text submitted by the working group:

"In sub-paragraph (a), after the words 'to take part in the Government as well as in the conduct of public affairs at any level', insert the following words:

'- including the inalienable right to take part in determining the nature of the country's social and political structure, and the right of racial, national and ethnic groups of the population to take part on a real footing of equality in the work of legislative and executive organs -'."

This amendment was later withdrawn.

91. Various oral amendments were accepted without objection, and the article submitted by the working group, as amended, was adopted unanimously (see resolution 1 (XVI), annex, article 5).

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Remedy against racial discrimination (article VI)

92. Texts providing for an effective remedy against racial discrimination, through independent national tribunals, were proposed by Mr. Abram, Mr. Calvocoressi and jointly by Messrs. Cuevas Cancino and Ingles.

93. The text proposed by Mr. Abram (E/CN.4/Sub.2/L.308) read as follows:

"Article VII

Each State Party shall assure to everyone within its jurisdiction the right to an effective remedy against any racial discrimination he may suffer with respect to the rights recognized in this convention through independent national tribunals competent to deal with such matters".

"Article IX

.....

5. Each State Party shall provide remedial relief for any individual who has suffered substantial harm as the result of racial violence, hatred or discrimination".

94. The text (E/CN.4/Sub.2/L.309) proposed by Mr. Calvocoressi read as follows:

"Article III

.....

4. Everyone whose rights as set forth in this article are violated shall have an effective remedy before a national authority or tribunal".

95. The text (E/CN.4/Sub.2/L.330) proposed by Messrs. Cuevas Cancino and Ingles read as follows:

"Article III

.....

(d) Shall also provide remedial relief, including payment of damages, for any individual who has suffered harm as a result of racial violence or discrimination."

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96. In the course of the discussions Messrs. Abram, Calvocoressi and Capotorti submitted a new text (E/CN.4/Sub.2/L.339) which read as follows:

"States Parties shall assure to everyone within their jurisdiction effective remedies through independent tribunals against any damage he may suffer as a result of racial discrimination."

97. This text was orally revised by the Sub-Commission to read as follows:

"States Parties shall assure to everyone within their jurisdiction effective remedies and protection through independent tribunals against any racial discrimination and the right to obtain from such tribunals reparation for any damage suffered as a result of racial discrimination."

The revised text was adopted unanimously (see resolution 1 (XVI), annex, Article 6).

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Steps to be taken through education to promote and encourage the elimination of racial discrimination (article VII)

98. A text providing for the elimination of racial discrimination through educational and other means was submitted by Mr. Abram. That text (E/CN.4/Sub.2/L.308) read as follows:

"Article VIII

Each State Party shall take immediate steps through educational and other means, including legislative measures as appropriate, to promote or encourage the elimination of racial discrimination in any form and to promote understanding, tolerance, and friendship among all nations and all peoples."

99. Mr. Krishnaswami proposed (E/CN.4/Sub.2/L.310) to amend that text to read as follows:

"Article VIII

Each State shall take immediate steps, including legislative measures as appropriate, to eliminate racial discrimination in any form and educational and other means to promote and encourage understanding, tolerance and friendship among all nations and all peoples in accordance with the purposes and principles of the Charter of the United Nations, of the Universal Declaration of Human Rights, and of the Declaration on the granting of independence to colonial countries and peoples."

100. During the discussions Messrs. Abram, Calvocoressi and Capotorti proposed a new text (E/CN.4/Sub.2/L.339). This text read as follows:

"Article VII

States Parties shall take immediate steps through education to promote and encourage the elimination of racial discrimination in any form."

101. In the course of the discussions the Chairman proposed the following text:

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"Article VII

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education and information, with a view to promoting understanding, tolerance and friendship among nations and racial or ethnic groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination."

102. The text proposed by the Chairman was adopted unanimously (see resolution 1 (XVI), annex, article 7).

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Article relating to the interpretation of the convention (Article VIII)

103. The draft of an article relating to the interpretation of the convention was submitted by Messrs. Calvocoressi and Capotorti. The text (E/CN.4/Sub.2/L.340) read as follows:

"1. Nothing in this Convention shall be interpreted as implying any right to discriminate on any basis other than those listed in article I, such as sex, language, religion, political or other opinion, social origin, property, birth or other status.

"2. Nothing in this Convention shall be interpreted as implying a grant of equal political rights to nationals of a contracting State or a grant of political rights to a distinct racial ethnic or national group as such."

104. An amendment was submitted by Mr. Matsch (E/CN.4/Sub.2/L.341), as follows:

"At the end of paragraph 2, add the following words:

'in a contracting State where no such special rights have been or are granted to a group of persons for reason of race, colour or ethnic origin'."

105. In the course of the discussion of the proposed article (E/CN.4/Sub.2/L.340) and of the amendments submitted thereto, various oral amendments were submitted. The co-sponsors of the proposal decided to withdraw the first paragraph of their draft.

106. In connexion with the second paragraph, Mr. Cuevas Cancino proposed a new text (E/CN.4/Sub.2/L.347), as follows:

"Nothing in this Convention shall be interpreted as implying positive obligations in accordance with which the States Parties undertake to grant a specific political or social status to aliens in their territory. It shall not be interpreted as a grant of political rights to racial, ethnic or national groups as such, if such a grant might destroy, in whole or in part, the national unity and the territorial integrity of a State Party."

107. Messrs. Krishnaswami and Mudawi also proposed a text (E/CN.4/Sub.2/L.348), as follows:

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"The distinction between nationals and non-nationals of a State recognized by public international law in the enjoyment of political rights shall not be affected by this convention, nor does it impose a duty to grant special political rights to any group because of race, colour or ethnic origin, although it does not prohibit their exercise if otherwise established."

108. After further discussion, the Chairman suggested a new text (E/CN.4/Sub.2/L.349). This text read as follows:

"Nothing in the present convention may be interpreted as implicitly recognizing or denying political rights or obligations to non-nationals nor to groups of persons of a common race, colour, ethnic or national origin which exist or may exist as distinct groups within a State Party."

109. Many members of the Sub-Commission expressed their support of the text suggested by the Chairman. The other texts were withdrawn. Oral amendments to insert "or other" after the word "political" in the second line of the text proposed by the Chairman and to delete the words "or obligations" in the third line of this text were accepted by the Sub-Commission.

110. Mr. Matsch asked that the first part of the article ending with the word "non-national" and the second part, from the word "nor" to the end of the article be voted on separately.

111. The first part of the text was adopted unanimously. The second part of the text was adopted by 11 votes to 2 with one abstention. The text as a whole, as amended, was adopted by 11 votes to none, with 3 abstentions (see resolution 1 (XVI), annex, Article 8).

Consideration of additional articles for the convention

112. Mr. Mudawi proposed (E/CN.4/Sub.2/L.325) to add three articles to the draft convention suggested by Mr. Abram, as follows:

"Article X

"Every State party shall, as far as appropriate, include in its Constitution or fundamental law provisions prohibiting all forms of racial discrimination."

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"Article XI

"Each State party shall undertake to apply this Convention not only to its metropolitan territory but also to all Non-Self-Governing Trust and colonial territories for which it is for the time being responsible.

"Article XII

"For the effective execution of this Convention, each State party shall undertake to co-operate with regional organizations which may be set up to promote and encourage the purposes of this Convention and to report to the Secretary-General on the steps taken towards the eradication of all forms of racial discrimination."

113. The first article (article X) was adopted by 10 votes in favour, none against, one abstention. It was agreed to add this article to the draft convention as article IX (see resolution 1 (XVI), annex, Article 9).

114. Consideration of articles XI and XII was postponed until final clauses and measures of implementation could be taken upon.

Final clauses

115. The Chairman of the Sub-Committee, with the agreement of the members, requested the Secretary-General to submit to the Commission on Human Rights a working paper presenting alternative forms for final clauses, including those submitted by members of the Sub-Committee (articles IV to VIII of document E/CN.4/Sub.2/L.309; articles IV to VII of document E/CN.4/Sub.2/L.314; and article XI of document E/CN.4/Sub.2/L.325), and taking into account provisions included in texts of conventions prepared by the United Nations and the specialized agencies, in order to assist the Commission in its work on the draft international convention on the elimination of all forms of racial discrimination.

Measures of implementation

116. The Sub-Commission had before it a proposal concerning measures of implementation submitted by Mr. Ingles (E/CN.4/Sub.2/L.321).

117. After an exchange of views, the Sub-Commission considered article I of the proposed measures of implementation separately, and decided that this text should become article X of the draft Convention. The text of article X, as orally amended, was adopted unanimously, as follows:

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"1. The States Parties to this Convention undertake to submit a report on the legislative or other measures which they have adopted and which give effect to the provisions of this Convention, (a) within one year after the entry into force of the Convention for the State concerned and (b) thereafter every two years and whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties.

"2. All reports shall be submitted to the Secretary-General of the United Nations for consideration by the Economic and Social Council which may transmit them to the Commission on Human Rights or the specialized agency for information, study and, if necessary, general recommendation.

"3. The States Parties directly concerned may submit to the Economic and Social Council observations on any general recommendations that may be made in accordance with paragraph 2 of this article."

Adoption of the Convention

118. The Sub-Commission, at its 428th meeting on 29 January 1964, adopted the draft international convention on the elimination of all forms of racial discrimination, as a whole, unanimously.

119. The Sub-Commission then adopted unanimously a draft resolution orally proposed by its Chairman, as follows:

RESOLUTION I (XVI)

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

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

Noting that in accordance with General Assembly resolutions 1780 (XVII) and 1906 (XVIII), the Economic and Social Council has asked the Commission on Human Rights, bearing in mind inter alia the views of the Sub-Commission, to prepare a draft international convention on the elimination of all forms of racial discrimination to be submitted to the Assembly for consideration at its nineteenth session;

Submits to the Commission on Human Rights the draft International Convention on the Elimination of All Forms of Racial Discrimination, including some measures of implementation, annexed to this resolution, which the Sub-Commission adopted unanimously.

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ANNEX

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATIONConsidering

1. that the Charter of the United Nations is based on the principle of the dignity and equality inherent in all human beings and imposes on all Members of the United Nations the obligations to ensure, promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

2. that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out in the Declaration, without distinction of any kind,

3. that the Declaration on the granting of independence to colonial countries and peoples of 14 December 1960 condemned colonialism and all practices of segregation and discrimination connected with it and proclaimed the necessity of bringing them, as well as colonialism in all its forms, wherever it exists, to a speedy and unconditional end,

4. that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 solemnly affirmed the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations,

Convinced that any doctrine based on racial differentiation or superiority is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination in theory or in practice anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and a fact capable of disturbing peace and security among peoples as did the evil racial doctrines and practices of nazism in the past,

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Concerned by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation, and desiring therefore to adopt further measures in order to eliminate racial discrimination in all its forms and manifestations as soon as possible,

Bearing in mind the Convention on Discrimination in Respect of Employment and Occupation adopted by ILO in 1958, and the Convention Against Discrimination in Education adopted by UNESCO in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption by Contracting States of practical measures to that end,

Have agreed as follows:

Article I

1. In this Convention the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, national or ethnic origin (and in the case of States composed of different nationalities discrimination based on such difference) which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in political, economic, social, cultural or any other field of public life set forth inter alia in the Universal Declaration of Human Rights.

2. Measures giving preference to certain racial groups for the sole purpose of securing adequate development or protection of individuals belonging to them shall not be deemed racial discrimination, provided however that such measures do not, as a consequence, lead to the maintenance of unequal or separate rights for different racial groups.

Article II

1. States Parties to the present Convention condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms, and to this end:

- (a) Each State Party undertakes to engage in no act or practice of racial discrimination, and to ensure that all public authorities and public

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institutions, national and local, shall act in conformity with this obligation. Each State Party undertakes not to encourage, advocate or support racial discrimination by any person, group or organization;

(b) Each State Party shall take effective measures to revise governmental and other public policies, and to rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(c) Each State Party shall prohibit racial discrimination by any person, group or organization, and undertakes to adopt all necessary measures, including legislation, if appropriate.

2. States Parties shall take special concrete measures in appropriate circumstances in order to secure adequate development or protection of individuals belonging to under-developed racial groups with the object of ensuring the full enjoyment by such individuals of human rights and fundamental freedoms. These measures shall in no circumstances have as a consequence the maintenance of unequal or separate rights for different racial groups.

Article III

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate, in territories subject to their jurisdiction, all practices of this nature.

Article IV

States Parties condemn all propaganda and organizations which justify or promote racial hatred and discrimination and undertake to adopt immediate and positive measures designed to eradicate all incitement to such discrimination, and to this end, inter alia:

- (a) Shall declare an offence punishable by law all incitement to racial discrimination resulting in or likely to cause acts of violence;
- (b) Shall declare illegal and prohibit organizations, and also organized propaganda activities, which promote and incite racial discrimination;
- (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

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Article V

In compliance with the fundamental obligations laid down in Article II, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms notably in the enjoyment of the following rights:

- (a) The rights to equality before the law and to equal justice under the law;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group or institution;
- (c) Political rights, in particular the rights to participate in elections through universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:
 - (i) the right to freedom of movement and residence within the border of the State;
 - (ii) the right to leave any country including his own, and to return to his country;
 - (iii) the right to nationality;
 - (iv) the right to marriage;
 - (v) the right to own property alone as well as in association with others;
 - (vi) the right to freedom of thought, conscience and religion;
 - (vii) the right to freedom of opinion and expression;
 - (viii) the right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
 - (i) the right to work, free choice of employment, just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration;
 - (ii) the right to form and join trade unions;
 - (iii) housing;
 - (iv) public health, medical care and social security and social services;
 - (v) education and training;
 - (vi) equal participation in cultural activities;

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(f) Access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafes, theatres, parks.

Article VI

States Parties shall assure to everyone within their jurisdiction effective remedies and protection through independent tribunals against any racial discrimination and the right to obtain from such tribunals reparation for any damage suffered as a result of racial discrimination.

Article VII

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education and information, with a view to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination.

Article VIII

Nothing in the present convention may be interpreted as implicitly recognizing or denying political or other rights to non-nationals nor to groups of persons of a common race, colour, ethnic or national origin which exist or may exist as distinct groups within a State Party.

Article IX

States Parties shall as far as appropriate include in their constitutions or fundamental laws provisions prohibiting all forms of racial discrimination.

Article X

1. The States Parties to this Convention undertake to submit a report on the legislative or other measures which they have adopted and which give effect to the provisions of this Convention, (a) within one year after the entry into force of the Convention for the State concerned and (b) thereafter every two years and whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties.

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2. All reports shall be submitted to the Secretary-General of the United Nations for consideration by the Economic and Social Council which may transmit them to the Commission on Human Rights or the specialized agency for information, study and, if necessary, general recommendations.

3. The States Parties directly concerned may submit to the Economic and Social Council observations on any general recommendations that may be made in accordance with paragraph 2 of this article.

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Additional measures of implementation

120. In connexion with the provisions of articles 2 to 18 of the measures of implementation proposed by Mr. Ingles, the debate revealed three tendencies: some members were in favour of examining and voting upon the articles as prepared by Mr. Ingles; others felt that the principles contained in the document should be approved, but that such a decision need not imply full agreement as to the details, which the Sub-Commission had been unable to consider; while still others were of the opinion that it was premature for the Sub-Commission to take any position since the problem of measures of implementation in the field of human rights had not yet been decided upon by the General Assembly, which had begun consideration of this question in connexion with the draft covenants on human rights.

121. Following the debate, Mr. Cuevas Cancino submitted a draft resolution (E/CN.4/Sub.2/L.357), as follows:

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

"Convinced of the importance of giving due consideration to all measures of implementation which might help to give effect to the substantive provisions approved in the draft international convention on the elimination of all forms of racial discrimination,

"Convinced also that the measures relating to the implementation of this draft convention are closely linked with the measures of implementation to be approved by the General Assembly for the Covenants on Human Rights,

1. Transmits to the Commission on Human Rights the following preliminary draft (document) on additional measures of implementation which will help to make the draft international convention on the elimination of all forms of racial discrimination more effective;

2. Requests the Secretary-General to transmit to the Commission on Human Rights the records containing the views expressed by the members of the Sub-Commission on this item".

The following preambular paragraph was added as a second paragraph:

"Taking into account the protocol instituting a conciliation and good offices Commission to be responsible for seeking the settlement of any dispute which may arise between the States Parties to the Convention against discrimination in education."

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122. The insertion in the first operative paragraph of the words "as an expression of the general views of the Sub-Commission" following the words "preliminary draft" was adopted by 10 votes in favour, 2 against and 1 abstention.

123. The draft resolution, as a whole, as amended, was adopted by 11 votes in favour, none against and 2 abstentions, as follows:

RESOLUTION 2 (XVI)^{1/}

Additional measures of implementation

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

Convinced of the importance of giving due consideration to all measures of implementation which might help to give effect to the substantive provisions approved in the draft international convention on the elimination of all forms of racial discrimination,

Taking into account the Protocol Instituting a Conciliation and Good Offices Commission to be Responsible for Seeking the Settlement of any Disputes which Arise Between States Parties to the Convention against Discrimination in Education,

Convinced also that the measures relating to the implementation of this draft convention are closely linked with the measures of implementation to be approved by the General Assembly for the covenants on human rights,

1. Transmits to the Commission on Human Rights the following preliminary draft as an expression of the general views of the Sub-Commission on additional measures of implementation which will help to make the draft international convention on the elimination of all forms of racial discrimination more effective;

2. Requests the Secretary-General to transmit to the Commission on Human Rights the records containing the views expressed by the members of the Sub-Commission on this item (E/CN.4/Sub.2/SR.406-418, 420, 422-425, and 427-429).

^{1/} The financial implications of this resolution are set out in Annex III.

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ANNEX

Preliminary Draft: Additional measures of Implementation

Article 1

There shall be established under the auspices of the United Nations a Good Offices and Conciliation Committee (hereinafter referred to as "The Committee") to be responsible for seeking the amicable settlement of disputes between States Parties concerning the interpretation, application or fulfilment of the present Convention.

Article 2

1. The Committee shall consist of eleven members who shall be persons of high moral standing and acknowledged impartiality.

2. The members of the Committee, who shall serve in their personal capacity, shall be elected by the General Assembly of the United Nations in accordance with the procedures established in articles 3 and 4, consideration being given to equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal systems.

3. The Committee may not include more than one national of the same State.

Article 3

1. The members of the Committee shall be elected from a list of persons possessing the qualifications prescribed in article 2 and nominated for the purpose by the States Parties to this Convention. Each State Party shall nominate not more than four persons. These persons shall be nationals of the nominating State or of any other State Party to the Convention.

2. At least three months before the date of each election to the Committee, the Secretary-General of the United Nations shall address a letter to the States Parties to the Convention inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated and shall submit it to the General Assembly and to the States Parties to the Convention.

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Article 4

The members of the Committee shall be elected for a term of five years. They shall be eligible for re-election if renominated. The terms of six of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these six members shall be chosen by lot by the President of the General Assembly of the United Nations.

Article 5

When electing members of the Committee, the General Assembly of the United Nations shall also designate from the list of nominees submitted by the States Parties under article 3 an alternate for each member so elected. An alternate need not be of the same nationality as the member concerned, but both of them should be from the same geographical area or region.

Article 6

1. In the event of the death or resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

2. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, or is unable to continue the discharge of his duties, the Chairman of the Committee shall notify the Secretary-General of the United Nations who shall thereupon declare the seat of such member to be vacant.

3. In each of the cases provided for by paragraphs 1 and 2 of this article, the Secretary-General of the United Nations shall forthwith induct into office the alternate concerned as member of the Committee for the unexpired term and shall inform each State Party to this Convention accordingly.

Article 7

Members of the Committee shall receive travel and per diem allowances in respect of the periods during which they are engaged on the work of the Committee from the resources of the United Nations on terms laid down by the General Assembly.

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Article 8

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations. Subsequent meetings may be held either at the Headquarters or at the European Office of the United Nations, as determined by the Committee.

2. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

Article 9

1. The Committee shall elect its Chairman and Vice-Chairman for a period of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure. Before adopting such rules, the Committee shall send them in draft form to the States then Parties to the Convention who may communicate any observation and suggestion they may wish to make within three months.

3. The Committee shall re-examine its rules of procedure if at any time so requested by any State Party to the Convention.

Article 10

1. If a State Party to this Convention considers that another State Party is not giving effect to a provision of the Convention, it may, by written communication, bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall afford the complaining State an explanation or statement in writing concerning the matter, which should include, to the extent possible and pertinent, references to procedures and remedies taken, or pending, or available in the matter.

2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee by notice given to the Secretary-General of the United Nations and to the other State.

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Article 11

The Committee shall deal with a matter referred to it under article 10 only after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law.

Article 12

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

Article 13

1. Subject to the provisions of article 11, the Committee, after obtaining all the information it thinks necessary, shall ascertain the facts, and make available its good offices to the States concerned with a view to an amicable solution of the matter on the basis of respect for the Convention.

2. The Committee shall in every case, and in no event later than eighteen months after the date of receipt by the Secretary-General of the United Nations of the notice under article 10, paragraph 2, draw up a report in accordance with the provisions of paragraph 3 below which will be sent to the States concerned and then communicated to the Secretary-General of the United Nations for publication. When an advisory opinion is requested of the International Court of Justice, in accordance with article 14, the time-limit shall be extended appropriately.

3. If a solution within the terms of paragraph 1 of this article is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached, the Committee shall draw up a report on the facts and indicate the recommendations which it made with a view to conciliation. If the report does not represent, in whole or in part the unanimous opinion of the members of the Committee, any member of the Committee shall be entitled to attach to it a separate opinion. Any written or oral submission made by the parties to the case shall also be attached to the report.

Article 14

The Committee may recommend to the Economic and Social Council that the Council request the International Court of Justice to give an advisory opinion on any legal question connected with a matter of which the Committee is seized.

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Article 15

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

Article 16

The States Parties to this Convention agree that any State Party complained of or lodging a complaint may, if no solution has been reached within the terms of article 13, paragraph 1, bring the case before the International Court of Justice after the report provided for in article 13, paragraph 3, has been drawn up.

Article 17

The provisions of this Convention shall not prevent the States Parties to the Convention from submitting to the International Court of Justice any dispute arising out of the interpretation or application of the Convention in a matter within the competence of the Committee; or from resorting to other procedures for settling the dispute, in accordance with general or special international agreements in force between them.

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

Item 5 of the agenda

Introduction

124. At its 1187th meeting on 7 December 1962 the General Assembly, upon the recommendation of its Third Committee, adopted resolution 1781 (XVII), on the preparation of a draft declaration and a draft international convention on the elimination of all forms of religious intolerance. In the resolution the Assembly requested the Economic and Social Council to ask the Commission on Human Rights, bearing in mind the views of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the debates at the seventeenth session of the Assembly, any proposals on this matter that may be submitted by Governments and any international instruments already adopted in this field by the specialized agencies, to prepare (a) a draft declaration on the elimination of all forms of religious intolerance, to be submitted to the Assembly for consideration 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. In the same resolution the General Assembly invited Member States to submit their comments and proposals concerning the draft convention by 15 January 1964.

125. The Economic and Social Council, at its resumed thirty-fourth session on 19 December 1962, transmitted General Assembly resolution 1781 (XVII) to the Commission on Human Rights as well as to the Sub-Commission.

126. The Sub-Commission, at its fifteenth session, did not consider the question of a draft convention on the elimination of all forms of religious intolerance inasmuch as this draft was to be submitted to the General Assembly only at its nineteenth or twentieth session. With reference to the draft declaration on the elimination of all forms of religious intolerance, the Sub-Commission adopted resolution 8 (XV).

127. The Commission on Human Rights, at its nineteenth session in 1963 decided, in resolution 10 (XIX), to give priority at its twentieth session to preparing

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a draft declaration on the elimination of all forms of religious intolerance and requested the Sub-Commission to prepare and submit to the Commission at its twentieth (1964) session a preliminary draft of a declaration on the elimination of all forms of religious intolerance, taking into account the views expressed during the debate on this subject at the nineteenth session of the Commission. In this connexion, the Commission requested the Secretary-General to invite the Governments of Member States to submit any proposals they might wish to make as to the provisions which a declaration should contain in time for consideration by the Commission at its twentieth session.

128. On the recommendation of the Commission, the Economic and Social Council, at its thirty-sixth session, adopted resolution 958 (XXXVI) in which it drew the attention of the General Assembly to resolution 10 (XIX) of the Commission on Human Rights.

129. The Sub-Commission considered this agenda item at its 419th, 421st, 422nd, 424th and 426th meetings. It had before it a note by the Secretary-General (E/CN.4/Sub.2/235 and Add.1) outlining the background of the question. The note also contained comments and proposals relating to the preparation of an international convention on the elimination of all forms of religious intolerance, submitted by the Governments of Burma, Finland, the Netherlands, Nigeria, Trinidad and Tobago, and the United Kingdom of Great Britain and Northern Ireland. The Sub-Commission also had before it written statements submitted by the World Jewish Congress (E/CN.4/Sub.2/NGO/32), the Coordinating Board of Jewish Organizations (E/CN.4/Sub.2/NGO/34), the International Humanist and Ethical Union (E/CN.4/Sub.2/NGO/35), the Commission of the Churches on International Affairs (E/CN.4/Sub.2/NGO/37) and the Pax Romana International Catholic Movement for Intellectual and Cultural Affairs (E/CN.4/Sub.2/NGO/38). A statement was made at the 421st meeting by the observer of Israel. During its debate on the item, the Sub-Commission heard statements by representatives of the Agudas Israel World Organization, the International Confederation of Free Trade Unions and the World Jewish Congress.

130. A suggested draft for the declaration on the elimination of all forms of religious intolerance was submitted to the Sub-Commission by Mr. Abram (E/CN.4/Sub.2/L.312). This draft is reproduced in part A of annex II of this report. Another draft (E/CN.4/Sub.2/L.315) was submitted by Mr. Krishnaswami.

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This draft is reproduced in part B of annex II. A third draft was submitted by Mr. Calvocoressi (E/CN.4/Sub.2/L.316), who orally explained that his text was intended to be a short statement rather than a complete restatement of the principles already approved by the Sub-Commission at its 1960 session. The text of this draft is reproduced in part C of annex II.

131. During the general debate on this agenda item, held at the Sub-Commission's 419th, 421st and 422nd meetings, satisfaction was expressed by many speakers that draft proposals had been prepared which would form a useful basis for consideration of this question by the Sub-Commission and a number of comments have been put forward. A comparison of the three draft declarations was made and a discussion of the question of which draft should be made the basis of the preparation of a draft declaration took place.

132. It was made clear by several members that they attached equal importance to the question of the elimination of religious intolerance and the question of the elimination of racial discrimination. Other members emphasized the urgency of the elimination of racial discrimination, without minimizing the need for the elimination of religious intolerance. In the opinion of a few speakers there had been a decline in religious intolerance; one of the factors in that decline had been the growth of indifference to religious matters.

133. Nevertheless, members agreed that the Sub-Commission would not be able to attempt agreement on precise wording of a Declaration at the sixteenth session. Various procedural proposals were put forward. It was decided that a thorough general debate should be held and that Mr. Krishnaswami would prepare a revised draft of his proposal (E/CN.4/Sub.2/L.315) after consideration of the views expressed during the debate. This revised draft would form the basis of the Sub-Commission's work.

134. As requested by the Sub-Commission, Mr. Krishnaswami presented, at the 424th meeting, a revised draft declaration (E/CN.4/Sub.2/L.315/Rev.1). At the same meeting a number of suggestions were submitted by Mr. Titov (E/CN.4/Sub.2/L.336). These suggestions are reproduced in part D of annex II.

135. Several members of the Sub-Commission expressed their views on Mr. Krishnaswami's and Mr. Titov's proposals. Mr. Calvocoressi and Mr. Abram declared that they were ready to support Mr. Krishnaswami's revised text. Mr. Titov declared that he could not fully support Mr. Krishnaswami's new draft since it did not reflect his suggestions.

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136. At its 426th meeting the Sub-Commission considered the following draft resolution (E/CN.4/Sub.2/L.346), submitted jointly by Messrs. Abram and Capotorti:

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

"Desiring to respond without further delay to the request of the General Assembly, in its resolution 1781 (XVII), for views which the Human Rights Commission might take into account in preparing a draft declaration on the elimination of all forms of religious intolerance,

"Considering the Principles on Freedom from Discrimination in Religious Rights and Practices, unanimously adopted by the Sub-Commission at its twelfth session in 1960, and the importance of further action to make these principles effective,

"Believing that, in view of its heavy agenda and the limited time available, the Sub-Commission should not attempt agreement on precise wording,

"Finding itself in substantial agreement on the content that should be included in a Declaration,

"Transmits the following text to the Commission on Human Rights as representing its general views, consistent with the Principles adopted in 1960, regarding the substance which should be taken into account in preparing a draft declaration on the elimination of all forms of religious intolerance."

137. The draft resolution was examined by the Sub-Commission and a number of points were raised by various speakers. Following suggestions made by Messrs. Bouquin and Ingles, the co-sponsors agreed to amend their draft as follows:

(a) to add between the first and second paragraphs of the preamble a new paragraph reading:

"Considering that the Commission on Human Rights decided, in resolution 10 (XIX), to give priority at its twentieth session to preparing a draft declaration on the elimination of all forms of religious intolerance, and requested the Sub-Commission to prepare and submit to the Commission at its twentieth session such a preliminary draft";

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- (b) to replace in the second paragraph of the preamble the word "Considering" by the expression "Taking into account";
- (c) to replace in the last paragraph of the draft resolution the word "text" by the words "preliminary draft";
- (d) to eliminate the last paragraph of the preamble, reading:
- "Finding itself in substantial agreement on the content that should be included in a Declaration";
- (e) to add at the end of the draft resolution a new operative paragraph 2, reading:

"Requests the Secretary-General to transmit also to the Commission on Human Rights the summary records of the discussions in the Sub-Commission at its sixteenth session (E/CN.4/Sub.2/SR.419, 421, 422, 424 and 426), and all other relevant documentation."

138. Mr. Ivanov proposed orally to delete from the operative paragraph the words "as representing its general views".
139. The amendment by Mr. Ivanov was put to the vote first and was rejected by a vote of 11 to 1, with 2 abstentions.
140. A separate vote was taken on the new operative paragraph 2 to be added at the end of the draft resolution. The text was adopted by a vote of 13 to none, with 1 abstention.
141. The text of the draft resolution, as revised, was adopted by a vote of 12 to none, with 2 abstentions.
142. The text of the resolution, as adopted at the 426th meeting on 28 January 1964 is as follows:

RESOLUTION 3 (XVI)

DRAFT DECLARATION ON THE ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE

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

Desiring to respond without further delay to the request of the General Assembly, in its resolution 1781 (XVII), for views which the Human Rights Commission might take into account in preparing a draft declaration on the elimination of all forms of religious intolerance,

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Considering that the Commission on Human Rights decided, in resolution 10 (XIX), to give priority at its twentieth session to preparing a draft declaration on the elimination of all forms of religious intolerance, and requested the Sub-Commission to prepare and submit to the Commission at its twentieth session such a preliminary draft,

Taking into account the Principles on Freedom from Discrimination in Religious Rights and Practices, unanimously adopted by the Sub-Commission at its twelfth session in 1960, and the importance of further action to make these principles effective,

Believing that, in view of its heavy agenda and the limited time available, the Sub-Commission should not attempt agreement on precise wording,

1. Transmits the following preliminary draft to the Commission on Human Rights as representing its general views, consistent with the Principles adopted in 1960, regarding the substance which should be taken into account in preparing a draft declaration on the elimination of all forms of religious intolerance;

2. Requests the Secretary-General to transmit also to the Commission on Human Rights the summary records of the discussions in the Sub-Commission at its sixteenth session (E/CN.4/Sub.2/SR.419, 421, 422, 424 and 426), and all other relevant documentation.

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ANNEX

PRELIMINARY DRAFT OF A UNITED NATIONS DECLARATION ON THE ELIMINATION
OF ALL FORMS OF RELIGIOUS INTOLERANCE

The General Assembly,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality of all human beings and seeks, among other basic objectives, to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, in particular as to race, colour, religion or national origin,

Considering that the Universal Declaration of Human Rights proclaims further that all are equal before the law and are entitled without any discrimination to equal protection of the law and that all are entitled to equal protection against any discrimination and against any incitement to such discrimination,

Considering further that the right of everyone to freedom of thought, conscience and religion has been proclaimed in the Universal Declaration of Human Rights, which right includes freedom to change one's religion or belief, and freedom, either alone or in community with others and in public or private, to manifest one's religion or belief in teaching, practice, worship or observance,

Noting that the disregard of human rights and fundamental freedoms through discrimination because of religion and the denial of the right to freedom of thought, conscience and religion has brought in the past untold sorrow to mankind by inflicting grievous suffering on those who were its victims and in injuring those responsible for them,

Considering that in order to eliminate and prevent all such forms of religious intolerance it is vital for Governments to take legislative, educational and other measures to that end, and for organizations and private persons to lend their fullest support to the achievement of this objective,

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Convinced that the building of a world society free from all forms of religious intolerance is one of the fundamental objectives of the United Nations, Solemnly affirms the necessity of adopting national and international measures to that end and in order to secure the universal and effective recognition and observance of the principles set forth below, Proclaims this declaration:

ARTICLE I

Discrimination between human beings on the grounds of religion or belief is an offence to human dignity and shall be condemned as a denial of the principles of the Charter of the United Nations, as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and as an obstacle to friendly and peaceful relations among nations.

ARTICLE II

No State, institution, group or individual shall make any discrimination in matters of human rights and fundamental freedoms in the treatment of persons on the grounds of their religion or their belief.

ARTICLE III

1. Particular efforts shall be made to prevent discrimination based on religion, especially in the fields of civil rights, access to citizenship and the enjoyment of political rights, such as the right to participate in elections, to hold public office, or in other ways to take part in the government of his country.

2. Everyone has the right to effective remedial relief by the competent national tribunals against any discrimination he may suffer on the grounds of religion or belief, through acts violating fundamental rights granted him by the constitution or by law.

ARTICLE IV

Everyone has the right to adhere, or not to adhere, to a religion or belief and to change in accordance with the dictates of his conscience - without being subjected to any pressure, inducement or undue influence likely to impair his freedom of choice or decision in this matter.

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ARTICLE V

Parents or legal guardians have the right to decide upon the religion or belief in which a child should be brought up. In the case of a child who has been deprived of its parents, the best interests of the child being the guiding principle, their expressed or presumed wish shall be duly taken into account.

ARTICLE VI

Everyone has the right to comply with what is prescribed by his religion or belief and shall be free to worship, and profess, in public or in private, without suffering any discrimination on account of his religion or belief and specifically:

1. Every person and every group has the right to worship, either alone or together with others, in public or in private, and to maintain houses of worship in accordance with the prescription of their belief.

2. (i) Every individual has the right in association with others, without any limitation based on the number of members, to form and maintain religious communities and institutions.

(ii) Every religious community and institution has the right, in association with similar religious communities and institutions, to form territorial federations on a national, regional or local basis.

3. Everyone has the right to teach and to learn his religion or belief, his sacred language and religious traditions, either in public or in private. No one shall be compelled to receive instruction in a religion or belief contrary to his convictions or, in the case of children, contrary to the wishes of their parents, or legal guardians. All education shall be directed to promote understanding, tolerance and friendship among all religions and beliefs.

4. Every religious group or community has the right to write, to print and to publish religious books and texts and shall be permitted to train the personnel required for the performance of its practices or rites. No religious group or community shall be prevented from bringing teachers from abroad for this purpose. Every religious group or community shall be enabled to have contacts with communities and institutions belonging to the same religion abroad.

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5. (i) Everyone has the right to observe the dietary practices prescribed by his religion or belief. Any individual or any religious community shall be permitted to acquire and produce all materials and objects necessary for the observance of prescribed ritual or practices, including dietary practices.

(ii) Where the State controls the means of production and distribution, it shall help to provide the above-mentioned materials, or the materials and means necessary for their production, to religious communities of the religions concerned and to its members, and if necessary allow them to be imported.

6. Everyone has the right to make pilgrimage to sites held in veneration, whether inside or outside his country, and every State shall grant freedom of access to these places.

7. Equal legal protection shall be accorded to all forms of worship, places of worship and institutions. Similar guarantees shall be accorded to ritual objects, language of worship and sacred books.

8. Due account shall be taken of the prescriptions of each religion or belief relating to holy days and days of rest, and all discrimination in this regard between persons of different religions or beliefs shall be prohibited.

ARTICLE VII

Everyone shall have the right to have marriage rites performed in accordance with the prescriptions of his religion or belief, and no one shall be compelled to undergo a religious marriage ceremony not in conformity with his convictions. Nothing in this Article shall, however, dispense anyone from the obligation to observe other requirements and formalities laid down by the law regarding marriage.

ARTICLE VIII

The prescriptions of the religion of a deceased person shall be followed in all matters affecting burial customs, subject to the wishes, if any, expressed by the deceased during his lifetime, or failing that those of his family.

ARTICLE IX

Equal legal protection shall be afforded to all cemeteries or other burial place and also to the funeral or memorial rites of all religions or beliefs.

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ARTICLE X

Religious communities shall have the right to receive the funds necessary for the carrying out of their functions.

ARTICLE XI

No one shall be compelled to take an oath of a religious nature contrary to his convictions.

ARTICLE XII

No State shall discriminate in the granting of subsidies, in taxation or in exemptions from taxation, between different religions or beliefs or their adherents. However, public authorities shall not be precluded from levying general taxes or from contributing funds for the preservation of religious structures recognized as monuments of historic or artistic value.

ARTICLE XIII

1. The freedoms and rights set out in Articles I, II, III, IV, V and XI shall not be subject to any restrictions.

2. The freedoms and rights set out elsewhere in this Declaration shall be subject only to the restrictions prescribed by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the legitimate requirements of morality, health, public order and the general welfare in a democratic society. Any restrictions which may be imposed shall be consistent with the purposes and principles of the United Nations and with the rights and freedoms stated in the Universal Declaration of Human Rights. These freedoms and rights may in no case be exercised contrary to the purposes and principles of the United Nations.

ARTICLE XIV

1. All acts directed or intended to prevent or to restrict the freedom of religion or cult, shall be prohibited.

2. All incitements to hatred or acts of violence, whether by individuals or organizations against any religious group of persons belonging to a religious community, shall be considered an offence against society and punishable by law and all propaganda designed to foster or justify it, shall be condemned.

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3. In order to put into effect the purposes and principles of the present declaration, all States shall take immediate and positive measures, including legislative and other measures, to prosecute and/or declare illegal organizations which promote and incite to religious discrimination or incite to, or use violence for purposes of discrimination based on religion.

4. The United Nations, the specialized agencies, Member States and non-governmental organizations shall do all in their power to promote energetic action, through research, education, information, and appropriate legislation with a view to hastening the elimination of all forms of religious discrimination and intolerance.

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IV. STUDY OF DISCRIMINATION AGAINST PERSONS BORN OUT OF WEDLOCK

Item 6 of the agenda

143. At its 429th meeting the Sub-Commission considered item 6 of its agenda, "Study of discrimination against persons born out of wedlock".

144. The Sub-Commission had before it a progress report on discrimination against persons born out of wedlock (E/CN.4/Sub.2/236 and Add.1) drawn up by its Special Rapporteur, Mr. V.V. Saario, in accordance with resolution 3 (XV) of the Sub-Commission. The report was divided into two chapters, preceded by an introduction and followed by an annex.

145. In the introduction the Special Rapporteur indicated that he had revised the Outline for the collection of information submitted by him at the fifteenth session of the Sub-Commission, after taking into account the views expressed by the members, and reported on the countries and non-governmental organizations which had sent information based upon the Outline. In chapter I he reviewed the consideration during 1963 of the problem of persons born out of wedlock by various organs and bodies within the framework of the United Nations. In chapter II he outlined a few general tendencies, some of historic and others of contemporary interest, in the treatment of persons born out of wedlock. The revised Outline was presented in annex I.

146. In introducing the report, Mr. Saario pointed out that information based upon the Outline had been received from about fifty Governments, but that the study had not yet progressed to the point where any serious substantive evaluation of the problem could be made. He stressed that discrimination against persons born out of wedlock should be abolished and that equality of status between persons born in and out of wedlock should be achieved.

147. In the course of the debate members of the Sub-Commission joined in thanking the Special Rapporteur for his valuable work. It was pointed out that discrimination against persons born out of wedlock affects a great many individuals all over the world, that the problem is very closely linked with tradition, and that a complete history of the various customs and practices relating to the subject would be most interesting and useful.

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148. The view was expressed that the question of equality of rights between persons born in and out of wedlock was a very delicate one, and that only when the final report was submitted would it be possible to draw up principles.

149. One member expressed the hope that the next report would include, inter alia, a summary of the debates which took place in the Third Committee, at the eighteenth session of the General Assembly, on the article on the rights of the child inserted in the draft Covenant on Civil and Political Rights.

150. A draft resolution on the study of discrimination against persons born out of wedlock was suggested by the Chairman (E/CN.4/Sub.2/L.355). It was adopted unanimously, as follows:

RESOLUTION 4 (XVI)

STUDY OF DISCRIMINATION AGAINST PERSONS BORN OUT OF WEDLOCK

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

Having considered the progress report on the study of discrimination against persons born out of wedlock submitted by the Special Rapporteur, Mr. V.V. Saario (E/CN.4/Sub.2/236 and Add.1),

1. Expresses its warm appreciation to Mr. Saario for his highly informative progress report, which represents a substantial step forward in the Sub-Commission's work in this field;

2. Joins with Mr. Saario in thanking the Governments and non-governmental organizations which have responded to his request for information, and requests those Governments and non-governmental organizations which have not already supplied information to do so as soon as possible;

3. Invites Mr. Saario, taking into account the exchange of views on his progress report during the sixteenth session of the Sub-Commission, to submit a draft report, approximating as far as possible the final report on the study, in time for it to be considered by the Sub-Commission at its seventeenth session.

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V. STUDY OF EQUALITY IN THE ADMINISTRATION OF JUSTICE

Item 7 of the agenda

151. At its 429th meeting, the Sub-Commission considered item 7 of its agenda, "Study of Equality in the Administration of Justice".

152. The Sub-Commission had before it the preliminary report (E/CN.4/Sub.2/237), submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat, in accordance with resolution 1 (XV) of the Sub-Commission, resolution 5 (XIX) of the Commission on Human Rights, and resolution 958 C (XXXVI) of the Economic and Social Council. In the absence of Mr. Mohammed Ahmed Abu Rannat, the preliminary report was presented to the Sub-Commission by his alternate, Mr. Mohammed Yousef Mudawi.

153. The report contained an introduction and a chapter indicating the progress made in the collection of material for the study; these were followed by three annexes. In the introduction, the Special Rapporteur outlined the procedure which he intended to follow in the preparation of the study, and indicated how he intended to collect the required data. In Annex I he submitted, for consideration by the Sub-Commission, the Outline which he had prepared for the collection of information. In Annex II he summarized the development of Article 10 of the Universal Declaration of Human Rights, and in Annex III he summarized the development of Article 14 of the draft covenant on civil and political rights.

154. In introducing the report, Mr. Mudawi pointed out that the problem of ensuring equality in the administration of justice was a complicated one, and that the Outline was not yet in its final form. He invited members of the Sub-Commission to suggest improvements in the Outline, as well as additional questions on which information should be obtained.

155. Because of the shortage of time the debate on the preliminary report was brief. Various members commended the Special Rapporteur for his work and in particular for the detailed Outline which he had prepared. It was pointed out that there was wide-spread interest in the subject to be studied, and that the problem of equality in the administration of justice was one which affected millions of persons in every part of the world.

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156. Various members made suggestions for additional matters to be covered by the Outline. In general it was suggested that the problem of discrimination should occupy a more important place in the study than had been accorded to it in the Outline, and that greater attention should be given to the problem of guarantees which should be extended to persons accused of crime.

Consideration of the draft resolution

157. A draft resolution on the study of equality in the administration of justice (E/CN.4/Sub.2/L.356) was suggested by the Chairman in view of the shortage of time. The draft resolution was adopted unanimously, as follows:

RESOLUTION 5 (XVI)

STUDY OF EQUALITY IN THE ADMINISTRATION OF JUSTICE

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

Having examined the preliminary report submitted by the Special Rapporteur, Mr. Mohammed Ahmed Abu Rannat (E/CN.4/Sub.2/237 and Add.1 and Corr.1) on the study of equality in the administration of justice,

1. Expresses its grateful appreciation to the Special Rapporteur for his valuable work;
2. Requests the Special Rapporteur to continue his study and to present to the Sub-Commission, at its seventeenth session, a progress report taking into account the views expressed in the debate on this question;
3. Expresses the hope that all Governments Members of the United Nations and of the specialized agencies, specialized agencies, and non-governmental organizations in consultative status will provide the Special Rapporteur with relevant material as soon as possible.

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VI. CONSIDERATION OF THE FUTURE WORK OF THE SUB-COMMISSION

Item 13 of the agenda

158. At its 429th meeting the Sub-Commission examined item 13 of the agenda, "Consideration of the future work of the Sub-Commission".

159. The Sub-Commission had before it a note by the Secretary-General on this subject (E/CN.4/Sub.2/233). In the note the Secretary-General stated that:

"The resources normally available to the Sub-Commission are sufficient to enable it to carry out two studies in the field of discrimination simultaneously. A new study can be undertaken only when the necessary financial and staff resources become available. It would therefore be possible for the Sub-Commission to initiate a new study only at its eighteenth session, in 1966, after completing its examination of the final report on discrimination against persons born out of wedlock. In these circumstances the Secretary-General makes no proposal or recommendation on the Sub-Commission's programme of future work at this stage. However, the Sub-Commission might wish to examine the various proposals and suggestions summarized above with a view to formulating a tentative programme of work for future years in terms of priority requirements."

160. The Sub-Commission also had before it a statement on its future work submitted by the Coordinating Board of Jewish Organizations, a non-governmental organization in consultative status (E/CN.4/Sub.2/NGO/33).

161. In the brief debate on this item, it was pointed out that the Sub-Commission had been requested to undertake several extremely important and urgent tasks at its sixteenth session, but had not been provided with the time or the facilities necessary to complete these tasks properly. It had been compelled to work at a forced pace in order to deal with the two main items on its agenda within the three-week period of its session, and consequently had been unable to complete its work because of the lack of time. It was further pointed out that in 1965 the Sub-Commission again would have an extremely heavy agenda, including the examination of the draft report on the study of discrimination against persons born out of wedlock and the preparation of further international instruments relating to the elimination of all forms of religious intolerance. If this were the case, a session of three weeks would not be long enough.

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162. The Sub-Commission considered the possibility of requesting the Commission on Human Rights to ask the Economic and Social Council to arrange for the Sub-Commission's 1965 session to be of four-weeks duration, particularly in view of the heavy agenda anticipated for that session and the fact that the discussion of several items on the agenda of the sixteenth session had been hurried and incomplete. In the absence of a formal proposal, no vote was taken. Messrs. Calvocoressi and Capotorti stated that they would have abstained if a vote had been taken.

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VII. PROTECTION OF MINORITIES

Item 10 of the agenda

163. At its 429th meeting the Sub-Commission considered item 10 of its agenda, "Protection of minorities".

164. In connexion with this item the Sub-Commission had before it a draft resolution (E/CN.4/Sub.2/L.351) submitted by Mr. Matsch, requesting the Secretary-General to print as one publication the Memorandum listing and classifying special protective measures of 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 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).

165. The Sub-Commission also had before it a note by the Secretary-General (E/CN.4/Sub.2/L.351/Add.1) setting out the financial implications of the draft resolution.

166. In presenting the proposal Mr. Matsch explained that it was primarily of administrative character, and that the small cost of printing would be offset by revenue from sales.

167. In his view, interest exists in measures taken in various parts of the world for the protection of minorities. He felt that the Sub-Commission's memorandum would be useful, and would provide guidance and assistance to Governments interested in ensuring the protection of minorities within territories under their jurisdiction. He expressed regret that the Sub-Commission had not had the time for a full discussion of the problem of protection of minorities at its sixteenth session, and proposed that the item should be included in the provisional agenda of the seventeenth session.

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168. The draft resolution submitted by Mr. Matsch was adopted by 8 votes to none, with 1 abstention, as follows:

RESOLUTION 6 (XVI)^{1/}
PROTECTION OF MINORITIES

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

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 which are of contemporary interest and which provide special protective measures for ethnic, religious or linguistic groups (E/CN.4/Sub.2/214),

Considering that a joint publication of the compilation and memorandum, available also to the public, would contribute to the understanding of the problems involved,

1. Requests the Secretary-General within the frame of appropriated means to print the memorandum and the compilation as one publication;
2. Decides that the question of the Protection of Minorities remains on the agenda of the Sub-Commission.

^{1/} The financial implications of this resolution are set out in annex III.

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

Item 14 of the agenda

169. The Sub-Commission considered the draft report of its sixteenth session (E/CN.4/Sub.2/L.345 and Adds. 1-4) at its 431st meeting on 31 January 1964, and adopted this report, as revised by the Rapporteur, unanimously.

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ANNEX I

Texts relating to the Draft Convention on the Elimination
of All Forms of Racial Discrimination submitted by members
of the Sub-Commission

A

Mr. Abram: Suggested Draft for United Nations convention on
the elimination of all forms of racial discrimination

Desiring to implement the principles embodied in the Declaration on the
Elimination of all Forms of Racial Discrimination, proclaimed by the General
Assembly of the United Nations at its eighteenth session on 20 November 1963;

Recognizing the obligation of all Members of the United Nations, in
accordance with the Charter, to co-operate in promoting and encouraging respect
for human rights and fundamental freedoms for all without distinction as to race,
sex, language, or religion;

Considering that the Universal Declaration of Human Rights proclaims that
all human beings are born free and equal in dignity and rights and that everyone
is entitled to all the rights and freedoms set out in the Declaration, without
distinction of any kind, in particular race, colour, or national origin;

Taking into account the Convention on Discrimination in Respect of
Employment and Occupation adopted by the International Labour Organisation
in 1958;

Taking into account also the Convention against Discrimination in Education
adopted by UNESCO in 1960;

Having resolved to conclude a Convention for this purpose,

Hereby agree as hereinafter provided:

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Article I

For the purpose of this convention, the term racial discrimination includes any distinction, exclusion or preference made on the basis of race, colour, or ethnic origin, and in the case of States composed of different nationalities or persons of different national origin, discrimination based on such differences.

Article II

1. No State Party shall make any discrimination whatsoever against persons, groups of persons or institutions on the grounds of race, colour, or ethnic origin, or where applicable, on the basis of "nationality" or national origin.

2. No State Party shall encourage, advocate or lend its support, through police action or otherwise, to racial discrimination by any group, institution, or individual.

3. A State Party may take special concrete measures in appropriate circumstances in order to secure adequate development or protection of individuals belonging to certain racial groups with the object of ensuring the full enjoyment by such individuals of human rights and fundamental freedoms. These measures shall in no circumstances have as a consequence the maintenance of unequal or separate rights for different racial groups.

Article III

1. Each State Party shall take effective measures to revise governmental and other public policies, and to rescind or nullify any laws and regulations which have the effect of creating and perpetuating racial discrimination wherever it exists.

2. Each State Party shall put an end without delay to governmental and other public policies of racial segregation and especially policies of apartheid, as well as all forms of racial discrimination and separation resulting from such policies.

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Article IV

Each State Party shall take effective measures, including the adoption of such legislation as may be necessary, to assure equal access to any place or facility intended for use by the general public, and to prohibit racial discrimination therein.

Article V

Each State Party shall take the necessary steps to prevent any racial discrimination in the enjoyment of political and citizenship rights, including in particular the right to participate in elections through universal and equal suffrage and to equal access to public service.

Article VI

Each State Party shall take the necessary steps to assure everyone within its jurisdiction the right to equality before the law and equal justice under the law. Everyone, without any racial discrimination, should be assured the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group, or institution.

Article VII

Each State Party shall assure to everyone within its jurisdiction the right to an effective remedy against any racial discrimination he may suffer with respect to the rights recognized in this convention through independent national tribunals competent to deal with such matters.

Article VIII

Each State Party shall take immediate steps through educational and other means, including legislative measures as appropriate, to promote or encourage the elimination of racial discrimination in any form and to promote understanding, tolerance, and friendship among all nations and all peoples.

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Article IX

1. Each State Party shall consider and declare all incitement to racial hatred and discrimination resulting in or likely to cause acts of violence, whether by individuals or organizations, as an offence against society and punishable under law.
2. No State Party shall grant a franchise or license to any agency, organization, group or individual for the purpose of inciting to such racial hatred.
3. No State Party shall permit its officials or any agency or organization supported in whole or in part by government funds to promote or incite racial hatred and discrimination.
4. Each State Party shall establish a national policy designed to eradicate all incitement to discrimination and racial hatred, and to assure equal treatment for all persons under its jurisdiction.
5. Each State Party shall provide remedial relief for any individual who has suffered substantial harm as the result of racial violence, hatred or discrimination.

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B

Mr. Calvocoressi: Draft convention on the elimination of all forms of racial discrimination

THE CONTRACTING STATES,

Recalling Article 55 of the United Nations Charter;

Acting in pursuance of resolution 1904 (XVIII), adopted by the General Assembly of the United Nations on 20 November 1963;

Desiring to eliminate all forms of racial discrimination and to secure respect for the dignity of the human person;

Have AGREED as follows:

Article I

- (1) For the purposes of this Convention:
 - (a) "person" includes a group of persons;
 - (b) "discrimination" means any distinction, exclusion, limitation or preference made on the basis of race, colour or ethnic origin.
- (2) Nothing in this Convention shall be interpreted as implying any right to discriminate on any basis other than those listed in Article I (1) (b) above, such as sex, language, religion, political or other opinion, social origin, property, birth or other status.

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Article II

- (1) A Contracting State shall not discriminate or support discrimination against any person in any manner. In particular, a Contracting State shall not discriminate against any person as regards civil rights, access to citizenship, education, religion, employment, occupation or housing.
- (2) A Contracting State shall pursue a national policy designed to prevent discrimination within its territory.
- (3) Within the territory of a Contracting State, it shall be an offence to commit, or to incite to commit, an act of violence against another person on the grounds of race, colour or ethnic origin.

Article III

- (1) The Contracting States shall secure to everyone within their territory the rights defined in this Article.
- (2) Everyone, without discrimination, shall have the right:
 - (a) to equality before the law;
 - (b) to security of person against bodily harm;
 - (c) to equal access to any place intended for use by the general public.
- (3) Every national of a Contracting State, without discrimination, shall:
 - (a) have the right in that State to participate in elections and in the government; and
 - (b) be eligible for admission to the public service of that State, in accordance with the national procedures.
- (4) Everyone whose rights as set forth in this Article are violated shall have an effective remedy before a national authority or tribunal.

Article IV

- (1) This Convention shall be open until for signature by any State Member of the United Nations or any of its Specialized Agencies, at the Headquarters of the United Nations.
- (2) This Convention shall be subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

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(3) This Convention shall be open to accession by any State referred to in paragraph (1) of this Article. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article V

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territory but also to all non-self-governing, trust, colonial and other territories for the international relation of which they are responsible; they undertake to consult, if necessary the governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Secretary-General of the United Nations of the territories to which it is accordingly applied, the notification to take effect three months after the date of its receipt.

Article VI

(1) This Convention shall enter into force ninety days after the date of deposit of the twentieth instrument of ratification or accession.

(2) For each State ratifying or acceding after the date of deposit of the twentieth instrument of ratification or accession, this Convention shall enter into force ninety days after the deposit of the instrument.

Article VII

A Contracting State may denounce this Convention on its own behalf or on behalf of any territory for whose international relations it is responsible, by a written notification to the Secretary-General of the United Nations.

A denunciation shall take effect for that State one year after the date of its receipt by the Secretary-General.

Article VIII

The Secretary-General of the United Nations shall inform all the States referred to in paragraph (1) of Article IV of the following particular:

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- (a) Signatures, ratifications and accessions under Article IV;
- (b) extensions under Article V;
- (c) the date of entry into force of this Convention under Article VI;
- (d) denunciations under Article VII.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Convention.

Done at New York, this day of 196 , in a single copy, of which the Chinese, English, French, Russian and Spanish texts are equally authentic and which shall be deposited in the archives of the United Nations, and certified copies of which shall be sent by the Secretary-General of the United Nations to all the States referred to in paragraph (1) of Article IV of this Convention.

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C

Messrs. Ivanov and Ketrzynski: Draft convention on the
elimination of all forms of racial discrimination

The Contracting Parties,

Considering that, in conformity with the principles and objectives of the Charter of the United Nations, the Universal Declaration of Human Rights of 1948 has established that everyone shall have all rights and all freedoms proclaimed in the Declaration, without distinction of any kind, in particular as to race, colour or national origin,

Recalling that the Declaration on the granting of independence to colonial countries and peoples adopted by the United Nations in 1960 has urged to bring colonialism and all practices of segregation and discrimination associated therewith to a speedy and unconditional end,

Froceeding from the Declaration on the Elimination of All Forms of Racial Discrimination of 1963 which has proclaimed that any doctrine of racial differentiation or superiority is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination either in theory or in practice,

Desiring to adopt further measures in order to eliminate racial discrimination in all its forms and manifestations as soon as possible,

Have agreed as follows:

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Article 1

1. For the purpose of the present Convention the term "racial discrimination" shall mean any differentiation, ban on access, exclusion, preference or limitation based on race, colour, national or ethnic origin, which has the purpose or effect of nullifying or impairing equality in granting or practising human rights and freedoms in political, economic, social, cultural, or any other field or public life.

2. Racial discrimination, which is an offence to human dignity, shall be condemned as a denial of the rules of international law and principles of the Charter of the United Nations, as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights, as an obstacle to friendly and peaceful relations among nations and as a fact capable of disturbing peace and security among peoples, and shall therefore be prohibited by the present Convention.

Article 2

1. Each Contracting Party shall undertake to admit within its territory no acts or manifestations of racial discrimination of any kind, and to provide for, if appropriate, in its legislation, and implement, necessary measures with a view to speedy elimination of racial discrimination.

2. Accordingly, each Contracting Party shall undertake, inter alia, to adopt appropriate measures:

(a) to prohibit and disband racist, fascist and any other organizations practising or inciting to racial discrimination;

(b) to admit no propaganda of any kind for the superiority of one race or national group over another, or any propaganda with a view to justifying or promoting racial discrimination in any form;

(c) to consider all participation in the activity or such organizations as those mentioned in sub-paragraphs 2 (a) and 2 (b) of the present article, as well as incitement to or acts of violence against an individual or group of persons on the ground of their race, national or ethnic origin, as a criminal offence counter to the interests of society punishable under law, and to prosecute those guilty thereof;

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- (d) to admit no racial discrimination in granting political rights to, and their enjoyment by every citizen, including the inalienable right to participate in determining the nature of the social and political structure of his country, the rights to participate in elections through universal and equal suffrage, the right to actual participation by racial, national and ethnic groups in legislative and executive bodies, as well as equal access to public service;
- (e) to admit no racial discrimination in the granting and enjoyment of the right to form and join trade unions;
- (f) to ensure equality for all before the law, without distinction as to race, colour, national or ethnic origin, personal security and protection against violence, as well as the right to an effective protection and remedy;
- (g) to admit no racial discrimination in the field of economic rights, inter alia, the right to employment and equal pay;
- (h) to admit no racial discrimination in granting the enjoyment of the right to education, and to provide the training of skilled manpower and expert personnel from among the groups of population formerly deprived of the right to education in consequence of discrimination based on race, colour, national or ethnic origin;
- (i) to admit no racial discrimination in the field of housing and to abolish reservations perpetuating and aggravating racial discrimination;
- (j) to admit no racial discrimination in public health, medical care and social security;
- (k) to admit no racial discrimination in access to all kinds of transport, recreation and public facilities, including restaurants, hotels, cinemas, parks, cafes, etc.;
- (l) to admit no racial discrimination in access to citizenship and enjoyment of civil rights, including the right to marriage.

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Article 3

Nothing in the present Convention shall be regarded as diminishing in any way the obligations taken by the States under the 1958 Convention concerning discrimination in respect of employment and occupations, the 1960 Convention against discrimination in education, and other international agreements designed to secure the fundamental human rights and freedoms.

Article 4

1. The present Convention is open for signature by all States at the United Nations Headquarters.
2. The present Convention shall be ratified; the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 5

1. The present Convention shall enter into force on the thirtieth day from the date of the deposit with the Secretary-General of the United Nations of the fifth instrument of ratification or instrument of accession.
2. For the States ratifying the Convention or acceding to it after the deposit of the fifth instrument of ratification or instrument of accession the present Convention shall enter into force on the thirtieth day from the date of the deposit of their own instruments of ratification or instruments of accession.

Article 6

The Secretary-General of the United Nations Organization shall notify all States of:

- (a) signature of the Convention and receipt of the instruments of ratification under Article IV;
- (b) receipt of the instruments of accession under Article V;
- (c) date of entry into force of the present Convention under Article V.

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Article 7

1. The present Convention, the Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the United Nations Organization.
2. The Secretary-General of the United Nations Organization shall communicate certified copies of this Convention to all States.

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ANNEX II

Texts relating to the draft declaration on the elimination of
all forms of religious intolerance submitted by the members
of the Sub-Commission

A

Mr. Abram: Suggestions for a draft declaration on the
elimination of all forms of religious intolerance

The General Assembly,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality of all human beings and seeks, among other basic objectives, to achieve international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion;

Considering that the disregard of human rights and fundamental freedoms, and in particular of the right to freedom of thought, conscience and religion, has brought great suffering to mankind;

Considering that the Universal Declaration of Human Rights proclaims that all are equal before the law and are entitled without any discrimination to equal protection of the law;

Noting that the Universal Declaration of Human Rights proclaims further that everyone has the right to freedom of thought, conscience and religion; which right includes freedom to change one's religion or belief, and freedom, either alone or in community with others and in public or private, to manifest one's religion or belief in teaching, practice, worship and observance;

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Taking into account that this right is closely linked to other human rights proclaimed in the Universal Declaration of Human Rights;

Considering the rich diversity of religions among men and the need to practice tolerance if the world is to be safe for this diversity;

Convinced that agreement on further provisions relating to the right to freedom of thought, conscience and religion will contribute to the elimination of all forms of religious intolerance;

PROCLAIMS this Declaration to the end that Governments, non-governmental organizations and individuals shall strive, through legal, educational or other measures, to promote a spirit of understanding, tolerance and friendship among all religious, racial and other groups, and to make the right to freedom of thought, conscience and religion secure for all peoples:

Article I

No one, on the ground of his religion or belief shall be subjected to any disability, liability or restriction with regard to the free exercise of the human rights proclaimed in the Universal Declaration of Human Rights; especially, no one shall, on the ground of his religion or belief, be denied the right to:

- (a) peaceful assembly and association;
- (b) freedom of opinion and expression, and the right to seek, receive and impart information and ideas through any media and regardless of frontiers;
- (c) citizenship and enjoyment of political rights, such as the right to participate in elections, to hold public office, or in other ways to take part in the government of his country;
- (d) equal access to education, employment, occupation, housing, governmental welfare programmes or social services, and public accommodations and facilities;
- (e) acquire, own, inherit or transfer property, both real and personal; and
- (f) recourse to competent courts or other national tribunals for the purpose of seeking an effective remedy for discrimination threatened or suffered by reason of his religion or belief.

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Article II

Everyone shall be free to adhere, or not to adhere, to a religion or belief, in accordance with the dictates of his conscience.

Article III

Everyone shall have the right to maintain or to change his religion or belief, without incurring any legal disabilities as a consequence of the exercise of this right.

Article IV

Everyone shall be free to manifest his religion and belief in public or in private, alone or in community with others, in worship, teaching, practice and observance.

Article V

No one shall be required, contrary to his convictions, to receive religious instruction, to take part in or attend any religious ceremony or observance, whether such instruction, ceremony or observance relates to his own or another religion.

Article VI

Parents, or legal guardians, shall have the prior right to determine the religion or belief in which their children shall be raised.

Article VII

All persons shall have the equal right in association with other persons of like religion or belief to:

- (a) learn and teach the doctrines, precepts, rites, traditions and sacred languages of their religion or belief, in public or in private;
- (b) establish and maintain houses of worship, religious schools and congregational, charitable and educational institutions, for the furtherance of religious purposes;

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- (c) hold meetings and organize on a local, regional, national and international level for religious, educational or charitable purposes;
- (d) communicate freely with their co-religionists and with other religious organizations and groups, to visit Holy Places, to send representatives and observers to religious conferences and meetings, and to receive representatives, observers and visitors from religious organizations and groups, in their own and other countries;
- (e) write, print and publish religious books and other religious literature and materials, and to sell or distribute them;
- (f) train religious and spiritual leaders, teachers or other personnel who wish to devote themselves to the practice or promotion of the religion or belief, or to bring them from other countries for these purposes. Persons desiring such training shall be free to acquire it outside their country;
- (g) produce or procure religious objects, dietary foods, or other articles and facilities required or customarily used for worship or performance of religious observances, with freedom, if necessary, to import such objects, foods, or articles. Where the State controls the means of production and distribution, it shall make such objects, foods, articles or facilities, or the means of producing or procuring them, available;
- (h) observe the Holy Days, religious rites, ceremonies and burial customs prescribed by their religion or belief; and
- (i) solicit and obtain voluntary contributions for the performance or pursuit of religious purposes.

Article VIII

Prohibitions against or impediments to religious worship, teaching, practice or observance shall not be imposed or enforced by means of denials of licenses or permits, or through other administrative or legal procedures.

Article IX

The United Nations, the specialized agencies, Member States and non-governmental organizations shall do all in their power to promote energetic action, through research, education, information, and appropriate legislation with a view to hastening the elimination of all forms of religious discrimination and intolerance.

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B

Mr. Krishnaswami: Draft United Nations declaration on the
elimination of all forms of religious intolerance

The General Assembly,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality of all human beings and seeks, among other basic objectives, to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, in particular as to race, colour, religion or national origin,

Considering that the Universal Declaration of Human Rights proclaims further that all are equal before the law and are entitled without any discrimination to equal protection of the law and that all are entitled to equal protection against any discrimination and against any incitement to such discrimination,

Considering further that the right of everyone to freedom of thought, conscience and religion has been proclaimed in the Universal Declaration of Human Rights,

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Noting that the disregard of human rights and fundamental freedoms through discrimination because of religion and the denial of the right to freedom of thought, conscience and religion has brought in the past untold sorrow to mankind by inflicting grievous suffering on those who were its victims and ultimately destroying those who were responsible for it,

Considering that in order to eliminate and prevent all such forms of religious intolerance it is vital for Governments to take legislative, educational and other measures to that end, and for organizations and private persons to lend their fullest support to the achievement of this objective,

Convinced that the building of a world society free from all forms of religious intolerance is one of the fundamental objectives of the United Nations.

Solemnly affirms the necessity of adopting national and international measures to that end and in order to secure the universal and effective recognition and observance of the principles set forth below;

Proclaims this declaration:

ARTICLE I

Discrimination between human beings on the grounds of race, colour, ethnic origin, religion or belief is an offence to human dignity and shall be condemned as a denial of the principles of the Charter of the United Nations, as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and as an obstacle to friendly and peaceful relations among nations.

ARTICLE II

No State, institution, group or individual shall make any discrimination in matters of human rights and fundamental freedoms in the treatment of persons on the grounds of religion or belief.

ARTICLE III

Particular efforts shall be made to prevent discrimination based on religion, especially in the fields of civil rights, access to citizenship, education, employment, occupation and housing.

ARTICLE IV

Everyone has the right to adhere, or not to adhere, to a religion or belief, in accordance with the dictates of his conscience - without being subjected to any pressure, inducement or undue influence likely to impair his freedom of choice or decision in this matter.

ARTICLE V

Parents or legal guardians, have the right to decide upon the religion or belief, ancestral heritage or historical tradition, in which a child should be brought up. In the case of a child who has been deprived of its parents, the best interests of the child being the guiding principle, their expressed or presumed wish shall be duly taken into account.

ARTICLE VI

Everyone has the right to comply with what is prescribed by his religion, and shall be free to worship, in public or in private, without fear of any discrimination on account of his religion or belief and specifically:

1. Every person and every group has the right to worship, either alone or together with others, in public or in private, and to maintain houses of worship in accordance with the prescription of their belief.

2. Equal legal protection shall be accorded to all forms of worship, places of worship, congregational institutions, ritual objects, language of worship and sacred books.

3. Everyone has the right to make pilgrimage to sites held in veneration, whether inside or outside his country, and every State shall grant freedom of access to these places.

4. Everyone has the right to observe the dietary practices prescribed by his religion or belief. Any individual or any religious community shall be permitted to acquire and produce all materials and objects necessary for the observance of prescribed ritual or practices, including dietary practices.

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5. Where the State controls the means of production and distribution, it shall make the above-mentioned materials, or the materials and means necessary for their production, available to any individual or any religious communities of the religion concerned and if necessary allow them to be improved.

6. Recognition shall be given by law to the prescriptions of each religion or belief relating to holy days and days of rest, and all discrimination in this regard between persons of different religions or beliefs shall be prohibited.

7. (i) Every individual has the right in association with others, without any limitation based on the number of members, to form and maintain religious congregations and institutions.

(ii) Every religious congregation and institution has the right, in association with similar religious congregations and institutions, to form territorial federations on a national, regional, or local basis.

8. Everyone has the right to teach and to learn his religion or belief, his sacred language and religious traditions, either in public or in private. No one shall be compelled to receive instruction in a religion or belief contrary to his convictions or, in the case of children, contrary to the wishes of their parents, or legal guardians.

9. Every religious group or community has the right to write, to print and to publish religious books and texts and shall be permitted to train the personnel required for the performance of its practices or rites. No religious group or community shall be prevented from bringing teachers from abroad for this purpose. Every religious group or community shall be enabled to have contacts with communities and institutions belonging to the same religion abroad. No limitations shall be placed upon travel abroad for the purpose of maintaining these contacts.

ARTICLE VII

Every State may enact laws governing the performance of marriages and their dissolution, subject only to the condition that these laws shall not prevent any person from having his marriage performed or dissolved in accordance with the prescriptions of his religion.

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ARTICLE VIII

The prescriptions of the religion of a deceased person shall be followed in all matters affecting burial customs, subject to the wishes, if any, expressed by the deceased during his lifetime.

ARTICLE IX

Equal legal protection shall be afforded to all cemeteries or other burial place and also to the funeral or memorial rites of all religions.

ARTICLE X

No one shall be compelled to take an oath of a religious nature contrary to his convictions.

ARTICLE XI

Religious congregations shall have the right to solicit the funds necessary for the carrying out of their functions.

ARTICLE XII

No State shall impose discriminatory taxes on religious institutions or funds raised for religious purposes.

ARTICLE XIII

The freedoms and rights set out above shall be subject only to the restrictions prescribed by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the legitimate requirements of morality, health, public order and the general welfare in a democratic society. Any restrictions which may be imposed shall be consistent with the purposes and principles of the United Nations and with the Universal Declaration of Human Rights. These freedoms and rights may in no case be exercised contrary to the purposes and principles of the United Nations.

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ARTICLE XIV

1. All publications and acts directed or intended to prevent or to restrict the freedom of religion or cult, will be prohibited.

2. All incitement to hatred or acts of violence, whether by individuals or organizations against any religious group of persons belonging to a religious community, shall be considered an offence against society and punishable by law.

3. In order to put into effect the purposes and principles of the present declaration, all States shall take immediate and positive measures, including legislative and other measures, to prosecute and/or outlaw organizations which promote or incite to religious discrimination or incite to, or use violence for purposes of discrimination based on religion.

ANNEX III

Financial implications of the decisions taken by the
Sub-Commission at its sixteenth sessionResolution 2 (XVI): Additional measures of implementation

1. The preliminary draft of additional measures of implementation attached to resolution 2 (XVI) of the Sub-Commission proposes the establishment of a Good Offices and Conciliation Committee to consist of eleven members (see article 2). Articles 2 through 7 provide inter alia that the members would serve in their personal capacity and be persons of high moral standing and acknowledged impartiality elected by the General Assembly from a list of persons nominated by States Parties to the Convention.

2. Since the members of the Committee will be serving in their personal capacity and not as representatives of their Governments, they will, under the provisions of paragraph 2 (a) of General Assembly resolution 1798 (XVII), be eligible to travel expenses and subsistence allowance for the duration of the meetings of the Committee. Article 8 of the draft Convention provides for the first session of the Committee to be held at United Nations Headquarters, New York, to draw up its rules of procedure and presumably agree on its methods of work. On the assumption that this session would last for no more than a period of four weeks, the estimated costs to the Organization are:

Round-trip travel of 11 members at an average of		
\$1,200 each		\$13,200
Subsistence allowance for 11 members at \$30 per day		
for 30 days	\$ 9,900	\$23,100

3. No provision is made for payment of fees to the members of the Committee. In this connexion, the Secretary-General invites the attention of the Sub-Commission to the basic principles recommended to the General Assembly by the Fifth Committee and adopted by it at its 1082nd plenary meeting whereby neither

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fee nor other remuneration shall normally be paid to members serving on organs and subsidiary organs of the United Nations in an individual capacity.^{1/}

4. While it is difficult to foresee at the present time the additional workload that would arise in consequence of the establishment of this Committee, the Secretary-General would hope to provide the Secretariat for the first session of the Committee from within the available resources. On the basis of the experience of the first session (and the programme and methods of work drawn up by the Committee) a better assessment could perhaps be made of the need for additional substantive and other resources necessary for the functioning of the Committee.

5. In regard to the servicing of the Committee's first session, the Secretary-General assumes that the dates for the meetings could be so scheduled as to be fitted conveniently into the annual programme of meetings. On this assumption, and the further one that summary records of the discussions would not be required, the need for additional resources for conference servicing will not arise. However, the Committee's final report will presumably require to be printed in the three working languages - on the basis of a report of no more than sixty printed pages (8-1/2" x 11" format), the related costs would be \$3,500 for a press run of 6,000 copies (3,000 in English; 1,500 in French; and 1,500 in Spanish).

6. In regard to subsequent sessions of the Committee, it is noted that the Preliminary draft provides for their being held either in New York or in Geneva, as determined by the Committee. With regard to regular meetings of the Committee which may be planned, the Secretary-General invites attention to General Assembly resolution 1202 (XII), regarding the pattern of conferences, and particularly to paragraphs 2 and 4 of this resolution regarding the timing and location of meetings. The Secretary-General would hope that decisions for calling a session of the Committee are taken sufficiently in time for appropriate provision to be made in the annual budget estimates. In this connexion, the

^{1/} Official Records of the General Assembly, Sixteenth Session, Supplement No. 17 (A/5100), p. 13, foot-note 18 and Document A/5005, paragraph 10.

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Secretary-General would draw attention to the considerations he has been urging since the thirty-fourth session of the Economic and Social Council (E/3702, paragraph 12), and most recently reiterated in his report in the Pattern of Conferences (A/5638) submitted to the eighteenth session of the General Assembly.

7. Furthermore, the Secretary-General notes that: (i) under article 10, if a State Party to the Convention considers that another State Party is not giving effect to the provision of the Convention, it may by written communication bring the matter to the attention of that State, and (ii) under article 13, the Committee shall make available its good offices to the States concerned with a view to an amicable solution to the matter on the basis of responsibility to the Convention. With regard to the costs incurred as a result of making available the Committee's good offices under these articles, the Secretary-General suggests that the allocation of such costs, whether on the regular scale of assessment or to the interested States Parties, would be a matter for determination by the General Assembly.

Summary of Costs for the First Session to be held in New York

Travel and subsistence of members	\$23,100
Printing of report	<u>3,500</u>
	<u>\$26,600</u>

Resolution 6 (XVI): Protection of Minorities

1. The draft resolution in document E/CN.4/Sub.2/L.351 requests the Secretary-General to print as one publication (which would be placed on sale), the Memorandum listing and classifying special protective measures of 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 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).

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2. On the assumption that the issue of the publication in photo-offset from fair copy with a cover would meet the requirements, and that a press run of 6,400 copies (3,200 - English; 1,500 - French; 1,200 - Spanish; and 500 - Russian) would meet the demand, the related costs are estimated at \$2,500 for a booklet of seventy-two pages in a 8-1/2" x 11" format.

3. The publications programme as currently envisaged for 1964, if fully implemented, would exceed the relevant appropriation. Therefore, to provide the costs for the printing of the Compilation and Memorandum in 1964, it would be necessary to seek a supplementary appropriation. Under these circumstances and in the light of General Assembly resolution 1449 (XIV), it would be the Secretary-General's intention to include the necessary funds in his initial estimates for 1965, should the Commission on Human Rights and the Economic and Social Council subsequently endorse the request for printing.

ANNEX IV

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

1. Documents issued in the general series:

- | | |
|------------------------|--|
| E/CN.4/Sub.2/230 | - Provisional Agenda
(Note by the Secretary-General) |
| E/CN.4/Sub.2/230/Rev.1 | - Revised Provisional Agenda |
| E/CN.4/Sub.2/231 | - Economic and Social Consequences of
Racial Discriminatory Practices
(Note by the Secretary-General) |
| E/CN.4/Sub.2/232 | - Review of further developments in fields
which have already been the subject of
study or inquiry initiated by the Sub-
Commission: Discrimination in the
matter of religious rights and practices,
discrimination in the matter of political
rights, discrimination in respect of
the right of everyone to leave any
country, including his own, and to
return to his country; and manifestations
of racial prejudice and national and
religious intolerance
(Note by the Secretary-General) |
| E/CN.4/Sub.2/233 | - Consideration of the future work of
the Sub-Commission
(Note by the Secretary-General) |
| E/CN.4/Sub.2/234 | - Draft International Convention on the
Elimination of All Forms of Racial
Discrimination
(Note by the Secretary-General) |
| E/CN.4/Sub.2/234/Add.1 | - Supplement to Annex IV |
| E/CN.4/Sub.2/235 | - Draft Declaration and Draft Convention
on the Elimination of All Forms of
Religious Intolerance
(Note by the Secretary-General) |

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- E/CN.4/Sub.2/235/Add.1 - Comments of the Governments of the Netherlands and the United Kingdom of Great Britain and Northern Ireland
- E/CN.4/Sub.2/236 - Study of Discrimination Against Persons Born out of Wedlock
 (Progress Report submitted by the Special Rapporteur, Mr. V.V. Saario)
- E/CN.4/Sub.2/236/Add.1 - Addendum
- E/CN.4/Sub.2/237 - Study of Equality in the Administration of Justice
 (Preliminary report submitted by the Special Rapporteur, Mr. Mohamed Ahmed Abu Rannat)
- E/CN.4/Sub.2/237/Corr.1 - Corrigendum, English only
- E/CN.4/Sub.2/238 - Periodic Reports on Human Rights covering the period 1960-1962
 (Note by the Secretary-General)
- E/CN.4/Sub.2/239 - Review of Further Developments in Fields which have already been the subject of Study or Inquiry Initiated by the Sub-Commission:
 Discrimination in respect of Employment and Occupation
 (Memorandum submitted by the International Labour Office)
- E/CN.4/Sub.2/240 - Review of Further Developments in Fields which have already been the subject of Study or Inquiry Initiated by the Sub-Commission:
 Recent Activities of UNESCO in the Field of Combatting Discrimination in Education and in Race Relations
 (Memorandum submitted by the United Nations Educational, Scientific and Cultural Organization)
- E/CN.4/Sub.2/CR.8 - Non-Confidential List of Communications Concerning Discrimination and Minorities

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2. Documents issued in the limited series:

- E/CN.4/Sub.2/L.308 - Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Abram: suggested Draft for United Nations Convention on the Elimination of All Forms of Racial Discrimination)
- E/CN.4/Sub.2/L.308/Add.1
 L.308/Add.1/Rev.1
 L.308/Add.1/Rev.1/Corr.1 - Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Abram: revised suggested draft for United Nations Convention on the Elimination of All Forms of Racial Discrimination)
- E/CN.4/Sub.2/L.309 - Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Calvocoressi: Draft Convention on the Elimination of All Forms of Racial Discrimination)
- E/CN.4/Sub.2/L.310 - Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Krishnaswami: Amendments to the Suggested Draft for United Nations Convention on the Elimination of All Forms of Racial Discrimination (E/CN.4/Sub.2/L.308))
- E/CN.4/Sub.2/L.311 - Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Krishnaswami: Amendments to article 9 of the Suggested Draft for United Nations Convention on the Elimination of All Forms of Racial Discrimination (E/CN.4/Sub.2/L.308/Add.1/Rev.1 and Corr.1))
- E/CN.4/Sub.2/L.312 - Draft Declaration and Draft Convention on the Elimination of All Forms of Religious Intolerance
 (Mr. Abram: Suggestions for a Draft Declaration on the Elimination of All Forms of Religious Intolerance)

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- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Messrs. P. Calvocoressi and F. Capotorti: draft preamble)

E/CN.4/Sub.2/L.314

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Messrs. Ivanov and Ketrzynski: Draft Convention on the Elimination of All Forms of Racial Discrimination)

E/CN.4/Sub.2/L.315 and Rev.1

- Draft Declaration and Draft Convention on the Elimination of All Forms of Religious Intolerance
 (Mr. Krishnaswami: draft United Nations Declaration on the Elimination of All Forms of Religious Intolerance)

E/CN.4/Sub.2/L.316

- Draft Declaration and Draft Convention on the Elimination of All Forms of Religious Intolerance
 (Mr. Calvocoressi: Draft Articles for a draft Declaration on the Elimination of All Forms of Religious Intolerance)

E/CN.4/Sub.2/L.317

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Working Group: draft Preamble)

E/CN.4/Sub.2/L.318

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Messrs. Calvocoressi and Capotorti: draft for article I)

E/CN.4/Sub.2/L.319

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Working Group: draft for article I)

E/CN.4/Sub.2/L.320

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Draft Preamble submitted by the Working Group, as adopted by the Sub-Commission)

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- E/CN.4/Sub.2/L.321
- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Ingles: Proposed Measures of Implementation)
- E/CN.4/Sub.2/L.322
- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Text adopted by the Sub-Commission: Article I)
- E/CN.4/Sub.2/L.323
- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Ketrzynski: draft for Article II)
- E/CN.4/Sub.2/L.324 and Rev.1
- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Messrs. Calvocoressi and Capotorti: draft for Article II)
- E/CN.4/Sub.2/L.325
- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Mudawi: proposal relating to the draft for United Nations Convention on the Elimination of All Forms of Racial Discrimination suggested by Mr. Abram (E/CN.4/Sub.2/L.308 and Add.1))
- E/CN.4/Sub.2/L.326
- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Fergusson: amendments to the revised draft for Article II (E/CN.4/Sub.2/L.324/Rev.1))
- E/CN.4/Sub.2/L.327
- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Ivanov: amendments to the revised draft for Article II (E/CN.4/Sub.2/L.324/Rev.1))
- E/CN.4/Sub.2/L.328
- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Mudawi: amendment to the revised draft for Article II (E/CN.4/Sub.2/L.324/Rev.1))

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- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Text adopted by the Sub-Commission Article II)

E/CN.4/Sub.2/L.330 and Rev.1

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Cuevas Cancino and Mr. Ingles: Working Paper on Article III)

E/CN.4/Sub.2/L.331

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Ketrzynski: Working Paper on Article III)

E/CN.4/Sub.2/L.332

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Abram: amendment to the Working Paper submitted by Mr. Cuevas Cancino and Mr. Ingles (E/CN.4/Sub.2/L.330))

E/CN.4/Sub.2/L.333

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Text adopted by the Sub-Commission: Article III)

E/CN.4/Sub.2/L.334

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Text submitted by the Working Group: Article IV)

E/CN.4/Sub.2/L.335

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
 (Mr. Ivanov: amendment to the text of Article IV submitted by the Working Group (E/CN.4/Sub.2/L.334))

E/CN.4/Sub.2/L.336

- Draft Declaration and Draft Convention on the Elimination of All Forms of Religious Intolerance
 (Mr. Titov: suggestions)

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E/CN.4/Sub.2/L.337

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Text adopted by the Sub-Commission: Article IV)

E/CN.4/Sub.2/L.338

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Text submitted by the Working Group: Article V)

E/CN.4/Sub.2/L.339

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Messrs. Abram, Calvocoressi and Capotorti: draft for Articles VI and VII)

E/CN.4/Sub.2/L.340

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Messrs. Calvocoressi and Capotorti: draft for Article VIII)

E/CN.4/Sub.2/L.341

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Mr. Matsch: Amendment to the draft for Article VIII submitted by Messrs. Calvocoressi and Capotorti (E/CN.4/Sub.2/L.340))

E/CN.4/Sub.2/L.342

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Text adopted by the Sub-Commission: Article V)

E/CN.4/Sub.2/L.343

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Text adopted by the Sub-Commission: Article VI)

E/CN.4/Sub.2/L.344

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Text adopted by the Sub-Commission: Article VII)

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| E/CN.4/Sub.2/L.345 and Add.1-4 | - Report of the Sixteenth Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights |
| E/CN.4/Sub.2/L.346 | - Draft Declaration and Draft Convention on the Elimination of All Forms of Religious Intolerance
(Messrs. Abram and Capotorti: draft resolution) |
| E/CN.4/Sub.2/L.347 | - Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Mr. Cuevas Cancino: Draft for Article VIII) |
| E/CN.4/Sub.2/L.348 | - Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Messrs. Krishnaswami and Mudawi: draft for Article VIII) |
| E/CN.4/Sub.2/L.349 | - Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Suggestion by the Chairman: Article VIII) |
| E/CN.4/Sub.2/L.350 | - Draft Declaration and Draft Convention on the Elimination of All Forms of Religious Intolerance
(Resolution adopted by the Sub-Commission) |
| E/CN.4/Sub.2/L.351 | - Protection of Minorities
(Mr. Matsch: draft resolution) |
| E/CN.4/Sub.2/L.351/add.1 | - Protection of Minorities
(Note by the Secretary-General) |
| E/CN.4/Sub.2/L.352 | - Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Text adopted by the Sub-Commission: Article VIII) |

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E/CN.4/Sub.2/L.353

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Text adopted by the Sub-Commission: Article IX)

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- Draft International Convention on the Elimination of All Forms of Racial Discrimination
Resolution I A (XVI) -
(Text adopted by the Sub-Commission)

E/CN.4/Sub.2/L.355

- Study of Discrimination Against Persons Born out of Wedlock
(Draft resolution suggested by the Chairman)

E/CN.4/Sub.2/L.356

- Study of Equality in the Administration of Justice
(Draft resolution suggested by the Chairman)

E/CN.4/Sub.2/L.357

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Mr. Cuevas Cancino: draft resolution on measures of implementation)

E/CN.4/Sub.2/L.358

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
Resolution I B (XVI)
(Additional measures of implementation
Text adopted by the Sub-Commission)

E/CN.4/Sub.2/L.359

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Text adopted by the Sub-Commission: Article X)

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3. Documents issued in the NGO series:

- E/CN.4/Sub.2/NGO/32 - Draft Declaration and Draft Convention on the Elimination of All Forms of Religious Intolerance (Statement submitted by the World Jewish Congress, a non-governmental organization in consultative status, category B)
- E/CN.4/Sub.2/NGO/33 - Future Work of the Sub-Commission (Statement submitted by the Coordinating Board of Jewish Organizations, a non-governmental organization in consultative status, category B)
- E/CN.4/Sub.2/NGO/34 - Draft Declaration and Draft Convention on the Elimination of All Forms of Religious Intolerance (Statement submitted by the Coordinating Board of Jewish Organizations, a non-governmental organization in consultative status, category B)
- E/CN.4/Sub.2/NGO/35 - Draft Declaration and Draft Convention on the Elimination of All Forms of Religious Intolerance (Statement submitted by the International Humanist and Ethical Union, a non-governmental organization in consultative status, Register)
- E/CN.4/Sub.2/NGO/36 - Draft International Convention on the Elimination of All Forms of Racial Discrimination (Statement submitted by the International League for the Rights of Man, a non-governmental organization in consultative status, category B)
- E/CN.4/Sub.2/NGO/37 - Draft Declaration and Draft Convention on the Elimination of All Forms of Religious Intolerance (Statement submitted by the Commission of the Churches on International Affairs, a non-governmental organization in consultative status, category B)

E/CN.4/Sub.2/NGO/38

- Draft Declaration and Draft Convention on the Elimination of All Forms of Religious Intolerance
(Statement submitted by Pax Romana, International Catholic Movement for Intellectual and Cultural Affairs, non-governmental organization in consultative status, category B)

E/CN.4/Sub.2/NGO/39

- Draft International Convention on the Elimination of All Forms of Racial Discrimination
(Statement submitted by the International Council of Women, a non-governmental organization in consultative status, category B)
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United Nations, *Official Records of the Economic and Social Council, Commission on Human Rights, Twentieth Session*, document E/CN.4/L.679 (17 February 1964)

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
LIMITED

E/CN.4/L.679
17 February 1964

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS
Twentieth session
Item 3 of the provisional agenda

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION

Final Clauses

Working paper prepared by the Secretary-General

1. The Chairman of the Sub-Commission on Prevention of Discrimination and the Protection of Minorities, with the agreement of the members of the Sub-Commission, requested the Secretary-General to submit to the Commission a working paper presenting alternative forms for final clauses, including those submitted by members of the Sub-Commission, and taking into account provisions included in texts of conventions prepared by the United Nations and the specialized agencies, in order to assist the Commission in its work on the draft International Convention on the Elimination of all Forms of Racial Discrimination (E/CN.4/873, para. 115).
2. In compliance with this request the Secretary-General submits herewith a working paper setting forth alternative forms of final clauses in the following order:

I	Signature and ratification	Article 1 A - 1 G
II	Accession	Article 2 A - 2 C
III	Entry into force	Article 3 A - 3 E
IV	Territorial Application	Article 4 A - 4 F
V	Federal State	Article 5
VI	Reservation	Article 6 A - 6 C
VII	Denunciation and Abrogation	Article 7 A - 7 D
VIII	Settlement of Disputes	Article 8 A - 8 D
IX	Revision	Article 9 A - 9 C
X	Notifications	Article 10 A - 10 C
XI	Authentic Text	Article 11 A - 11 C

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At the end of the working paper a list is given of the instruments cited in the paper, with a reference to the documents in which they may be consulted.

3. More comprehensive examples of final clauses are set out in the "Handbook of Final Clauses", (ST/LEG/6) which was prepared by the Treaty Section of the Office of Legal Affairs in 1957.

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I. Signature and Ratification

Article 1-A^{1/}

1. This Convention shall be open until _____ for signature by any State Member of the United Nations or any of its specialized agencies, at the Headquarters of the United Nations.
2. This Convention shall be subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 1-B^{2/}

1. The present Convention is open for signature by all States at the United Nations Headquarters.
2. The present Convention shall be ratified. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 1-C^{3/}

1. This Convention shall be open for signature on behalf of any Member of the United Nations and also on behalf of any other State to which an invitation has been addressed by the General Assembly.
2. This Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

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- 1/ Paragraphs (1) and (2) of article IV of the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi to the Sub-Commission (E/CN.4/873, annex I B).
 - 2/ Article 4 of the draft convention on the elimination of all forms of racial discrimination submitted by Messrs. Ivanov and Ketrzynski to the Sub-Commission (E/CN.4/873, annex I C).
 - 3/ Article IV of the Convention on the Political Rights of Women, 1952 (General Assembly resolution 640 (VII), annex).

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Article 1-D^{4/}

1. The present Convention shall be open for signature and ratification on behalf of any State Member of the United Nations and also on behalf of any other State which is or hereafter becomes a member of any specialized agency of the United Nations, or which is or hereafter becomes a Party to the Statute of the International Court of Justice, or any other State to which an invitation has been addressed by the General Assembly of the United Nations.
2. The present Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 1-E^{5/}

1. This Convention shall be open for signature until 31 December 1963 on behalf of any non-Member State which is a Party to the Statute of the International Court of Justice, or Member of a specialized agency, and any other non-Member State which has been invited by the Economic and Social Council to become a Party to the Convention.
2. This Convention shall be ratified. The instruments of ratification shall be deposited with the Secretary-General.

4/ Article 3 of the Convention on the Nationality of Married Women, 1957 (General Assembly resolution 1040 (XI), annex). See also article VIII of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 (E/CONF/26/9/Rev.1), articles 48 and 49 of the Vienna Convention on Diplomatic Relations, 1961 (A/CONF/20/14/Add.1) and articles 74 and 75, of the Vienna Convention on Consular Relations, 1963 (A/CONF/25/12).

5/ Article 13 of the Convention on the Recovery Abroad of Maintenance, 1956 (E/CONF/21/7).

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Article 1-F^{6/}

1. The present Convention shall, until 31 December 1963, be open for signature on behalf of all States Members of the United Nations or members of any of the specialized agencies, and of any other State invited by the General Assembly of the United Nations to become a party to the Convention.
2. The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 1-G^{7/}

1. This Convention shall be subject to ratification or acceptance by States Members of UNESCO in accordance with their respective constitutional procedures.
2. The instruments of ratification shall be deposited with the Director-General of UNESCO.

^{6/} Article 4 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962 (General Assembly resolution 1763 (XVII), annex). See also the statement made by the Legal Counsel at the 1142nd meeting of the Third Committee in connexion with this article (A/C.3/L.985, and A/C.3/SR.1142, paras. 25-27).

^{7/} Article 12 of the UNESCO Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex II).

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II. Accession

Article 2-A^{8/}

This Convention shall be open to accession by any State referred to in paragraph 1 of article 1. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 2-B^{9/}

1. The present Convention shall be open for accession to all States referred to in paragraph 1 of article 1.
2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 2-C^{10/}

1. This Convention shall be open to accession by all States, not members of UNESCO, which are invited to do so by the Executive Board of the Organization.
2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of UNESCO.

III. Entry into force

Article 3-A^{11/}

1. This Convention shall enter into force ninety days after the date of deposit of the [twentieth] instrument of ratification or accession.
2. For each State ratifying or acceding after the date of deposit of the [twentieth] instrument of ratification or accession, this Convention shall enter into force ninety days after the deposit of the instrument.

^{8/} Paragraph 3 of article IV of the draft Convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi (E/CN.4/873, annex I B).

^{9/} Article V of the Convention on the Political Rights of Women, 1952, article 5 of the Convention on the Nationality of Married Women, 1957, article 5 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962.

^{10/} Article 12 of the UNESCO Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex II).

^{11/} Article IV of the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi to the Sub-Commission (E/CN.4/873, annex I B). /...

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Article 3-B^{12/}

1. The present Convention shall enter into force on the thirtieth day from the date of the deposit with the Secretary-General of the United Nations of the fifth instrument of ratification or instrument of accession.
2. For the States ratifying the Convention or acceding to it after the deposit of the fifth instrument of ratification or instrument of accession, the present Convention shall enter into force on the thirtieth day from the date of the deposit of their own instruments of ratification or instruments of accession.

Article 3-C^{13/}

1. The present Convention shall come into force on the ninetieth day following the date of deposit of the sixth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day after deposit by such State of its instrument of ratification or accession.

Comments

Similar clauses are to be found in most other Conventions drawn up under the auspices of the United Nations, but the number of ratifications and accessions and the time-limits required for entry into force of the Convention may vary. For example, article 6 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962, refers to eight instead of six instruments of ratification or accession as being necessary before that Convention can enter into force. Article 29 of the Convention on the Territorial Sea and the Contiguous Zone, 1958, provides for the entry into force

^{12/} Article 5 of the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Ivanov and Mr. Ketrzynski (E/CN.4/873, annex I C).

^{13/} Article VI of the Convention on the Political Rights of Women, 1952, and article VI of the Convention on the Nationality of Married Women, 1957.

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of the Convention on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession (A/CONF.13/18). Similar requirements are contained also in article 34 of the Convention on the High Seas, 1958, article 18 of the Convention on Fishing and Conservation of the Living Resources of the High Seas, 1958, in article 11 of the Convention on the Continental Shelf, 1958 (A/CONF.13/38), in article 15 of the Vienna Convention on Diplomatic Relations, 1961 (A/CONF.20/14/Add.1), in article 77 of the Vienna Convention on Consular Relations, 1963 (A/CONF.25/12).

Article 41 of the Single Convention on Narcotic Drugs, 1961, provides that the Convention shall come into force on the thirtieth day following the date on which the fortieth instrument of ratification or accession is deposited (62.XI.1).

Article 3-D^{14/}

1. [This Convention] shall come into force twelve months after the date on which the ratification of two members have been registered with the Director-General of the International Labour Office.
2. Thereafter this Convention shall come into force for any member twelve months after the date on which its ratification has been registered.

Article 3-E^{15/}

This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments on/or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

14/ Article 8, paras. 2 and 3 of the ILO Convention concerning discrimination in respect of employment and occupation, 1958 (E/CN.4/Sub.2/234, annex I).

15/ Article 14 of the UNESCO Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex II).

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IV. Territorial Application

Article 4-A^{16/}

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territory, but also to all non-self-governing, trust, colonial and other territories for the international relations of which they are responsible; they undertake to consult, if necessary, the Governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Secretary-General of the United Nations of the territories to which it is accordingly applied, the notification to take effect three months after the date of its receipt.

Article 4-B^{17/}

Each State Party shall undertake to apply this Convention not only to its metropolitan territory but also to all non-self-governing, trust and colonial territories for which it is for the time being responsible.

Article 4-C^{18/}

The provisions of the present Convention shall extend to or be applicable equally to a contracting metropolitan State and to all the territories, be they non-self-governing, trust or colonial territories, which are being administered or governed by such metropolitan State.

16/ Article V of the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi to the Sub-Commission (E/CN.4/873, annex I B). A similar clause is included in article 15 of the UNESCO Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex II).

17/ Additional article proposed by Mr. Mudawi (E/CN.4/873, para. 112) to the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Abram to the Sub-Commission (E/CN.4/873, annex I A).

18/ Article IX of the Convention on the International Right of Correction, 1952 (General Assembly resolution 630 (VII), annex). The General Assembly by resolution 422 (V) requested the Commission on Human Rights to include a similar article in the International Covenant on Human Rights.

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Article 4-D^{19/}

The provisions of this Convention shall extend to or be applicable equally to all non-self-governing, trust or other territories for the international relations of which a Contracting Party is responsible, unless the latter, on ratifying or acceding to this Convention, has given notice that the Convention shall not apply to any one or more of such territories. Any Contracting Party making such a declaration may, at any time thereafter, by notification to the Secretary-General, extend the application of the Convention to any or all such territories.

Article 4-E^{20/}

Any Contracting State may at any time, by notification addressed to the Secretary-General of the United Nations extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting State is responsible.

Article 4-F^{21/}

1. This Convention shall apply to all non-self-governing, trust, colonial and other non-metropolitan territories for the international relations of which any State Party is responsible; the Party concerned shall, subject to the provisions of paragraph 2 of this article, at the time of signature, ratification or accession declare the non-metropolitan territory or territories to which the Convention shall apply ipso facto as a result of such signature, ratification or accession.

19/ Article 12 of the Convention on the Recovery Abroad of Maintenance, 1956 (E/CONF/21/7). A similar clause is included in article 14 of the Convention on the Declaration of Death of Missing Persons, 1950 (United Nations Treaty Series, Vol. 119).

20/ Article 12 of the Convention on the Prevention and Punishment of the Crime of Genocide, 1948 (General Assembly resolution 260 (III), annex). Similar provisions are included in article 40 of the Convention Relating to the Status of Refugees, 1951 (A/CONF.2/108) and article 36 of the Convention Relating to the Status of Stateless Persons, 1954 (E/CONF.17/S/Rev.1).

21/ Article 12 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956 (E/CONF/24/23). A similar clause is included in article 7 of the Convention on the Nationality of Married Women, 1957; and article 42 of the Single Convention on Narcotic Drugs, 1961 (62.XI.1).

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2. In any case in which the previous consent of a non-metropolitan territory is required by the constitutional laws or practices of the Party or of the non-metropolitan territory, the Party concerned shall endeavour to secure the needed consent of the non-metropolitan territory within the period of twelve months from the date of signature of the Convention by the metropolitan State, and when such consent has been obtained, the Party shall notify the Secretary-General. This Convention shall apply to the territory or territories named in such notification from the date of its receipt by the Secretary-General.

3. After the expiry of the twelve-month period mentioned in the preceding paragraph, the States Parties concerned shall inform the Secretary-General of the results of the consultations with those non-metropolitan territories for whose international relations they are responsible and whose consent to the application of this Convention may have been withheld.

V. Federal State

Article 5^{22/}

In the case of a Federal or non-unitary State, the following provisions shall apply:

- (a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States;
- (b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment.

^{22/} Article 41 of the Convention Relating to the Status of Refugees, 1951. Similar clauses are included in article 37 of the Convention Relating to the Status of Stateless Persons, 1954, and article 11 of the Convention on the Recovery Abroad of Maintenance, 1956.

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(c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

VI. Reservation^{23/}

Article 6-A^{24/}

Reservation to this Convention shall not be permitted.

Article 6-B^{25/}

In the event that any State submits a reservation to any of the articles of this Convention at the time of signature, ratification or accession, the Secretary-General shall communicate the text of the reservation to all States which are or may become Parties to this Convention. Any State which objects to the reservation may, within a period of ninety days from the date of the said communication (or upon the date of its becoming a Party to the Convention), notify the Secretary-General that it does not accept it. In such case, the Convention shall not enter into force as between such State and the State making the reservation.

Article 6-C^{26/}

1. At the time of signature, ratification or accession, any State may make reservations to any article of the present Convention other than articles.....

^{23/} See comments at the end of article 6-C below.

^{24/} Article 9 of the UNESCO Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex II). Similar clause is included in article 9 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956 (E/CONF/24/23).

^{25/} Article VII of the Convention on the Political Rights of Women, 1952.

^{26/} Article 8 of the Convention on the Nationality of Married Women, 1957.

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2. If any State makes a reservation in accordance with paragraph 1 of the present article, the Convention, with the exception of those provisions to which the reservation relates, shall have effect as between the reserving State and the other Parties. The Secretary-General of the United Nations shall communicate the text of the reservation to all States which are or may become Parties to the Convention. Any State Party to the Convention or which thereafter becomes a Party may notify the Secretary-General that it does not agree to consider itself bound by the Convention with respect to the State making the reservation. This notification must be made, in the case of a State already a Party, within ninety days from the date of the communication by the Secretary-General; and, in the case of a State subsequently becoming a Party, within ninety days from the date when the instrument of ratification or accession is deposited. In the event that such a notification is made, the Convention shall not be deemed to be in effect as between the State making the notification and the State making the reservation.

3. Any State making the reservation in accordance with paragraph 1 of the present article may at any time withdraw the reservation, in whole or in part, after it has been accepted, by a notification to this effect addressed to the Secretary-General of the United Nations. Such notification shall take effect on the date on which it is received.

Comment

The Secretary-General draws attention of the Commission to General Assembly resolution 598 (VI) of 12 January 1952 by which the Assembly recommended that organs of the United Nations "should, in the course of preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them".

VII. Denunciation and Abrogation

Article 7-A^{27/}

A Contracting State may denounce this Convention on its own behalf or on behalf of any territory for whose international relations it is responsible, by a written

^{27/} Article VII of the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi to the Sub-Commission (E/CN.4/873, annex I B). A similar clause is included in article 16 of the UNESCO Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex II).

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notification to the Secretary-General of the United Nations. A denunciation shall take effect for that State one year after the date of its receipt by the Secretary-General.

Article 7-B^{28/}

Any Contracting State may denounce the present Convention by notification to the Secretary-General of the United Nations. Denunciation shall take effect six months after the date of receipt of the notification by the Secretary-General.

Article 7-C^{29/}

1. Any Contracting State may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.
2. The present Convention shall cease to be in force as from the date when the denunciation which reduces the number of Parties to less than six becomes effective.

Article 7-D^{30/}

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

28/ Article X of the Convention on the International Right of Correction, 1952.

29/ Article VIII of the Convention on the Political Rights of Women, 1952, and article 9 of the Convention on the Nationality of Married Women, 1957.

30/ Article 9 of the ILO Convention concerning Discrimination in Respect of Employment and Occupation, 1958 (E/CN.4/Sub.2/234, annex I).

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2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this article.

VIII. Settlement of Disputes

Article 8-A^{31/}

Any dispute which may arise between any two or more Contracting States concerning the interpretation or application of this Convention, which is not settled by negotiation, shall at the request of any of the parties to the dispute be referred to the International Court of Justice for decision unless they agree to another mode of settlement.

Article 8-B^{32/}

Any dispute which may arise between any two or more Contracting States concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of all the parties to the dispute, be referred to the International Court of Justice for decision, unless the parties agree to another mode of settlement.

^{31/} Article IX of the Convention on the Political Rights of Women, 1952. Similar provisions are included in article 38 of the Convention Relating to the Status of Refugees, 1951, in article V of the Convention on the International Right of Correction, 1952, in article 34 of the Convention Relating to the Status of Stateless Persons, 1954, in article 10 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and in Article 10 of the Convention on the Nationality of Married Women, 1957.

^{32/} Article 8 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962.

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Article 8-C^{33/}

Any dispute which may arise between any two or more States Parties to this Convention concerning the interpretation or application of this Convention, which is not settled by negotiation shall at the request of the parties to the dispute be referred, failing other means of settling the dispute, to the International Court of Justice for decision.

Article 8-D^{34/}

1. If there should arise between two or more Parties a dispute relating to the interpretation or application of this Convention, the said Parties shall consult together with a view to the settlement of the dispute by negotiation, investigation, mediation, conciliation, arbitration, recourse to regional bodies, judicial process or other peaceful means of their choice.
2. Any such dispute which cannot be settled in the manner prescribed shall be referred to the International Court of Justice for decision.

Comment

There are other examples of clauses concerning arbitration, interpretation and settlement of disputes (see ST/LEG/6, IX), including optional Protocols concerning the compulsory settlement of disputes, such as those connected with the Convention relating to the Law of the Sea, 1958, and Conventions relating to Diplomatic and Consular Relations, 1961 and 1963 respectively. (see A/CONF.13/38, A/CONF.20/14/Add.1 and A/CONF.25/15).

In this connexion attention is drawn also to the preliminary draft of the additional measures of implementation proposed for the draft international convention on the elimination of all forms of racial discrimination which were transmitted by the Sub-Commission to the Commission (E/CN.4/873, para. 123, resolution 2 (XVI), annex).

^{33/} Article 8 of the UNESCO Convention Against Discrimination in Education, 1960. In addition, the General Conference of UNESCO adopted a Protocol Instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex III).

^{34/} Article 48 of the Single Convention on Narcotic Drugs, 1961.

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IX. Revision

Article 9-A^{35/}

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such a request.

Article 9-B^{36/}

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 9-C^{37/}

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.
2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession as from the date on which the new revising convention enters into force.

^{35/} Article XVI of the Convention on the Prevention and Punishment of the Crime of Genocide, 1948. A similar provision is included in article 45 of the Convention Relating to the Status of Refugees, 1951. Similar provisions are included also in article 30 of the Convention on Territorial Sea and the Contiguous Zone, 1958, in article 35 of the Convention on the High Seas, 1958, in article 20 of the Convention on Fishing and Conservation of the Living Resources of the High Seas, 1958, and in article 13 of the Convention on the Continental Shelf, 1958 (A/CONF.13/38, annexes), except that under these Conventions a request for revision may be made only after the expiration of five years from the date of entry of any one of the Conventions.

^{36/} Article 12 of the ILO Convention concerning Discrimination in Respect of Employment and Occupation, 1958 (E/CN.4/Sub.2/234, annex I).

^{37/} Article 18 of the UNESCO Convention Against Discrimination in Education, 1960 (E/CN.4/Sub.2/234, annex II).

X. Notifications

Article 10-A^{38/}

The Secretary-General of the United Nations shall inform all the States referred to in paragraph (1) of article IV of the following particular:

- (a) Signatures, ratifications and accessions under article IV;
- (b) Extensions under article V;
- (c) The date of entry into force of this Convention under article VI;
- (d) Denunciation under article VII;

Article 10-B^{39/}

The Secretary-General of the United Nations Organization shall notify all States of:

- (a) Signature of the Convention and receipt of the instruments of ratification under article IV;
- (b) Receipt of the instruments of accession under article V;
- (c) Date of entry into force of the present Convention under article V.

Article 10-C^{40/}

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-Member States contemplated in paragraph _____ of article _____ of this Convention on the following:

- (a) Signatures and instruments of ratification received in accordance with article _____;
- (b) Instruments of accession received in accordance with article _____;
- (c) The date upon which this Convention enters into force in accordance with article _____;
- (d) Communications and notifications received in accordance with article _____;
- (e) Notifications of denunciation received in accordance with paragraph _____ of article _____;
- (f) Abrogation in accordance with paragraph _____ of article _____.

^{38/} Article VIII of the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi to the Sub-Commission (E/CN.4/873, annex I B).

^{39/} Article 6 of the draft convention on the elimination of all forms of racial discrimination submitted by Messrs. Ivanov and Ketrzynski to the Sub-Commission (E/CN.4/873, annex I C).

^{40/} Article X of the Convention on the Political Rights of Women, 1952. A similar clause is included in article 11 of the Convention on the Nationality of Married Women, 1957, and in article 9 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962.

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XI. Authentic Text

Article 11-A^{41/}

In witness whereof the undersigned Plenipotentiaries have signed this Convention.

Done at New York, this day of 196..., in a single copy, of which the Chinese, English, French, Russian and Spanish texts are equally authentic and which shall be deposited in the archives of the United Nations, and certified copies of which shall be sent by the Secretary-General of the United Nations to all the States referred to in paragraph (1) of article IV of this Convention.

Article 11-B^{42/}

1. The present Convention, the Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the United Nations Organization.
2. The Secretary-General of the United Nations Organization shall communicate certified copies of the this Convention to all States.

Article 11-C^{43/}

1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit a certified copy of the Convention to all States Members of the United Nations and to the non-Member States contemplated in paragraph _____ of article _____.

^{41/} This provision is taken from the draft convention on the elimination of all forms of racial discrimination submitted by Mr. Calvocoressi to the Sub-Commission (E/CN.4/873, annex I B).

^{42/} Article 7 of the draft convention on the elimination of all forms of racial discrimination submitted by Messrs. Ivanov and Ketrzynski to the Sub-Commission (E/CN.4/873, annex I C).

^{43/} Article XI of the Convention on the Political Rights of Women, 1952, article 12 of the Convention on the Nationality of Married Women, 1957, and article 10 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962.

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| Convention on the Prevention and Punishment of the Crime of Genocide, 1948 | General Assembly resolution 260 (III), annex |
| Convention on the Declaration of Death of Missing Persons, 1950 | United Nations Treaty Series, Vol. 119 |
| Convention Relating to the Status of Refugees, 1951 | A/CONF.2/108 |
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| Convention on the Political Rights of Women, 1952 | General Assembly resolution 640 (VII), annex |
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Convention on Fishing and Conservation
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E/3873
E/CN.4/874



COMMISSION ON HUMAN RIGHTS
REPORT ON THE TWENTIETH SESSION

17 February–18 March 1964

ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS : THIRTY-SEVENTH SESSION
SUPPLEMENT No. 8

UNITED NATIONS



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UNITED NATIONS
New York, 1964

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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ARTICLE I

71. The text of article I submitted by the Sub-Commission read as follows:

"1. In this Convention the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, national or ethnic origin (and in the case of States composed of different nationalities discrimination based on such difference) which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in political, economic, social, cultural or any other field of public life set forth inter alia in the Universal Declaration of Human Rights.

"2. Measures giving preference to certain racial groups for the sole purpose of securing adequate development or protection of individuals belonging to them shall not be deemed racial discrimination, provided however that such measures do not, as a consequence, lead to the maintenance of unequal or separate rights for different racial groups."

72. The Commission considered this article at its 783rd to 788th meetings, held from 25 to 28 February 1964 (see paras. 99-101 below).

Amendments submitted

73. Amendments were submitted by the representatives of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.689), Poland (E/CN.4/L.690), Lebanon (E/CN.4/L.691), Italy and the Netherlands (E/CN.4/L.692), Lebanon and Poland (E/CN.4/L.694), Italy, Lebanon, the Netherlands and Poland (E/CN.4/L.695) and India (E/CN.4/L.697 and E/CN.4/L.697/Rev.1).

Amendment to paragraph 1

74. The amendment of the United Kingdom of Great Britain and Northern Ireland (E/CN.4/L.689) called for the transposition of the words "in political, economic, social, cultural or any other field of public life" from their present place to follow the words "equal footing", and to insert between the word "of" and the words "human rights" the words "any of the". The amendment further called for the deletion of the words "inter alia". The text as amended would then read:

"... of nullifying or impairing the recognition, enjoyment or exercise on an equal footing, in political, economic, social, cultural or any other field of public life, of any of the human rights and fundamental freedoms set forth in the Universal Declaration of Human Rights".

75. This amendment was withdrawn at the 786th meeting by the representative of the United Kingdom of Great Britain and Northern Ireland who agreed to the oral amendment of the representative of Lebanon to end the paragraph after the words "of public life".

Amendments to paragraph 2

76. The amendment of Poland (E/CN.4/L.690) proposed that the paragraph be redrafted to read as follows:

"Measures adopted for the sole purpose of securing for certain racial groups adequate development or protection of individuals belonging to them shall not be deemed preference giving rise to racial discrimination, provided however that such measures do not, as a consequence, lead to the maintenance of unequal or separate rights for different racial groups."

77. The amendment of Lebanon (E/CN.4/L.691) proposed that the opening words, "measures giving preference to certain racial groups for the sole purpose of securing adequate development or protection", be replaced by the words "special measures for the sole purpose of securing adequate development or protection of certain racial groups or".

78. The amendments of Poland and Lebanon were replaced by a joint amendment of Lebanon and Poland (E/CN.4/L.694), which proposed that the paragraph be redrafted as follows:

"Special measures for the sole purpose of securing adequate development or protection of certain racial groups or individuals belonging to them shall not be deemed measures of racial discrimination, provided however that such measures do not, as a consequence, lead to the maintenance of unequal or separate rights for different racial groups."

79. The amendment of Italy and the Netherlands (E/CN.4/L.692) proposed that the paragraph be replaced by the following text:

"Special measures adopted in appropriate circumstances for the sole purpose of securing adequate development or protection of individuals belonging to certain racial groups shall not be deemed racial discrimination, provided however that such measures shall not be maintained after the objectives for which they were taken have been achieved."

80. All of the above amendments were subsequently replaced by an amendment jointly sponsored by Italy, Lebanon, the Netherlands and Poland (E/CN.4/L.695) which proposed the following text:

"Special measures for the sole purpose of securing adequate development or protection of certain under-developed racial groups or individuals belonging to them in order to ensure to them equal enjoyment of human rights and fundamental freedoms shall not be deemed measures of racial discrimination, provided however that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups, and that they shall not be maintained after the objectives for which they were taken have been achieved."

Following the suggestion of a number of representatives that a modified text of this joint amendment might serve as a basis for the text of the second paragraph of article II, this amendment was withdrawn as an amendment to article I, paragraph 2.

81. The amendment of India (E/CN.4/L.697) was to replace the paragraph by the following text:

"Measures taken with a view to achieving aims and objectives such as those set forth in paragraph 2 of article II shall not be deemed racial discrimination."

82. Subsequently India submitted a revised amendment (E/CN.4/L.697/Rev.1) to replace the paragraph by the following text:

"Special measures taken for the sole purpose of securing adequate development or protection of certain under-developed racial groups or individuals belonging to them in order to ensure to them equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination provided however that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups, and that they shall not be continued after the objectives for which they were taken have been achieved."

Issues discussed

Paragraph 1

83. The amendment of the representative of the United Kingdom of Great Britain and Northern Ireland, see paragraph 74 above, proposed a number of changes. With respect to these changes, it was pointed out that the Sub-Commission's text followed the wording contained in the ILO Convention Concerning Discrimination in Respect of Employment and Occupation and the UNESCO Convention Against Discrimination in Education.

84. The United Kingdom amendment further proposed the deletion of the words "inter alia" from the phrase "set forth inter alia in the Universal Declaration of Human Rights". The retention of these words, it was contended, introduced an element of uncertainty, giving the impression that there were instruments other than the Universal Declaration of Human Rights which were concerned with the prohibition of racial discrimination. It was argued that all aspects of human rights and fundamental freedoms which could be impaired by racial discrimination were set out in the Universal Declaration of Human Rights. Some representatives, however, felt that the deletion of the words "inter alia" was unacceptable, since these words were meant to refer to a broader range of human rights than was contained in the Universal Declaration of Human Rights, such as those set out in other international instruments or national constitutions and laws. Moreover, it would be difficult to enumerate exhaustively in the article all the relevant instruments. The representative of the United Kingdom agreed not to press his amendments to vote if the oral proposal of the Lebanese representative, see paragraph 75 above, to delete the whole phrase beginning with the words "set forth" to the end of the paragraph was accepted, since his objection was not to enlarging the scope of the paragraph but rather to using the vague term "inter alia" in a legal text.

85. The advisability of retaining the words "national or" in paragraph 1 was questioned. Some members expressed the view that while national origin was a possible pretext for discrimination, a fact recognized in the Universal

Declaration of Human Rights, its mention was procedurally wrong and confusing in a convention on the elimination of racial discrimination. It might be proper to include those words in a preambular paragraph reproducing the wording of article 2 of the Universal Declaration of Human Rights, as was done in the second preambular paragraph of the Convention, but inclusion of the words in the operative part of the Convention was undesirable since their meaning and scope were so vague as to lead to misinterpretation. Moreover, no similar words had been included in the Declaration on the Elimination of All Forms of Racial Discrimination. Other representatives felt, however, that the words should be retained, since the Convention should protect persons against discrimination on grounds of national origin, provided that their status was not governed by laws relating to aliens, bilateral agreements on nationality, or such international instruments as the Convention on the Reduction of Statelessness. It was also pointed out that the expression "national or ethnic origin", read in conjunction with article VIII of the Sub-Commission's draft, seemed to refer, not to nationality, but to country of origin (see also paras. 99-101 below).

86. There was little disagreement concerning the omission of the parenthetical phrase in the Sub-Commission's text providing that racial discrimination meant "in the case of States composed of different nationalities discrimination based on such differences". Although it was urged that the Sub-Commission's text dealt with a form of discrimination which was as serious as racial discrimination, it was felt that the Sub-Commission's text was out of place in the Convention, it was likely to give rise to ambiguous interpretations, and it might raise serious difficulties for multinational State or States which encouraged immigration.

Paragraph 2

87. Some representatives felt that the Sub-Commission's text of paragraph 2 required further clarification. The Polish, see paragraph 76 above, and the Lebanese amendment, see paragraph 77 above, as well as the amendment of Italy and the Netherlands, see paragraph 79 above, sought to make it clear that measures adopted solely for the adequate development or protection of individuals of racial groups should not be deemed preferential or discriminatory. The amendment of Lebanon also added a reference to "racial groups" in order that the Convention should protect groups as well as individuals. It was argued, however, that groups as such should not be stressed because the draft Convention should seek to accomplish the objective of the Universal Declaration of Human Rights - to promote the rights and freedoms of all human beings without distinction of any kind. The aim should not be to emphasize the distinctions between different racial groups but rather to ensure that persons belonging to such groups could be integrated into the community.

88. The amendment of Italy and the Netherlands also aimed at ensuring that the special measures which were adopted should not be maintained indefinitely. In this connexion, it was suggested that the paragraph should end by stating that the maintenance of separate rights should not be continued after the objectives sought were achieved, rather than that unequal rights should not be maintained. Measures designed to guarantee the enjoyment of certain rights to persons who had previously been deprived of them were designed to establish equality rather than create unequal rights.

89. In view of the basic similarity of ideas expressed in the various amendments, the representatives of Italy, Lebanon, the Netherlands and Poland submitted a

joint amendment, see paragraph 80 above. Some representatives felt that the use of the word "under-developed" in this amendment had some element of offence and therefore should be deleted. It was also felt that the word "under-developed" should be omitted since it merely made explicit what was already implicit in the text. A number of other suggestions were made to replace the word "under-developed" by other words, such as "which have not attained their full development,". It was pointed out also that article 2, paragraph 3 of the Declaration on the Elimination of All Forms of Racial Discrimination, which was similar to the amendments, did not use the term "under-developed".

90. After a brief discussion of this amendment the Commission agreed, on the suggestion of the representative of the Soviet Union, to postpone consideration of article I, paragraph 2, until a decision had been taken on the text of article II, paragraph 2, since it was thought better to decide first on what special measures States would be obliged to take to protect under-developed racial groups under article II, paragraph 2 so that it would not find itself bound by too narrow a definition in article I, paragraph 2.

91. When the consideration of article I, paragraph 2 was resumed it was suggested that in the light of the text of article II, paragraph 2, which the Commission had adopted it might be sufficient in article I, paragraph 2 to state in a general manner that measures such as those taken in accordance with article II, paragraph 2 should not be deemed racial discrimination. The amendment of the representative of India, see paragraph 81 above, based on this idea was, however, revised, see paragraph 82 above, to correspond closely to the text of article II, paragraph 2 as that was found to be the most acceptable text.

Adoption of article I

92. At the 786th meeting the Commission voted on the text of paragraph 1 of article I submitted by the Sub-Commission and on the amendment thereto (see paras. 99-101 below). Without objection, the Commission decided, on the proposal of the representative of the USSR, to vote on paragraph 2 of article I after it had voted on paragraph 2 of article II. The Commission, having voted on article II, paragraph 2, at its 787th meeting (see paragraphs 126 and 134 below), voted on article I, paragraph 2, submitted by the Sub-Commission and on the amendment thereto and on article I as a whole at its 788th meeting.

Paragraph 1

93. At the request of the representative of the United Kingdom, a separate vote was taken on the words "national or" in paragraph 1. The words were retained by 10 votes to 9, with 1 abstention.

94. At the request of the representative of Ecuador, a separate vote was taken on the parenthetic phrase in paragraph 1. The phrase was eliminated by 14 votes to 2, with 5 abstentions.

95. The Lebanese oral amendment to delete the words "set forth inter alia in the Universal Declaration of Human Rights" after the word "life" was adopted unanimously.

96. Paragraph 1, as amended, was adopted unanimously (see paras. 99-101 below).

Paragraph 2

97. The revised amendment to paragraph 2 of article I submitted by the representative of India, see paragraph 82 above, was adopted unanimously. Paragraph 2, as amended, was adopted unanimously.

Article I as a whole

98. Article I, as a whole, as amended, was adopted unanimously.

For the text of article I, see chapter XI, draft resolution I, annex.

Reconsideration of article I, paragraph 1

99. After the Commission had decided to delete article VIII of the draft Convention (see paragraph 256 below), the representative of France moved at the 809th meeting of the Commission to reconsider article I, paragraph 1, with a view to deciding whether the word "national" should be retained. This motion, which after prolonged discussion was voted on by roll-call at the request of the representatives of France and the USSR, was adopted by 8 votes to 6, with 7 abstentions. The voting was as follows:

<u>In favour:</u>	Denmark, France, Italy, Lebanon, Netherlands, Turkey, United Kingdom of Great Britain and Northern Ireland and the United States of America.
<u>Against:</u>	Chile, India, Liberia, Poland, Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics.
<u>Abstentions:</u>	Austria, Canada, Costa Rica, Dahomey, Ecuador, El Salvador and the Philippines.

100. During the consideration of the retention of the word "national" in article I, paragraph 1, it was pointed out that the deletion of article VIII only compounded the difficulties which had been referred to by some representatives in the Commission in the earlier discussion on that word, see paragraph 85 above. It was said that since the draft Convention no longer contained any interpretation of the meaning of that word, it was necessary to delete it, especially as its retention would cause doubts about the scope and meaning of certain provisions of the Convention and in particular of article V thereof. On the other hand, it was suggested that the difficulty arose out of the term "national" in the English and French languages, since in those languages the word was not necessarily related to country of origin but referred to citizenship, and nationals other than citizens could not enjoy political rights as provided in article V of the draft Convention.

101. While the various points of view expressed earlier, see paragraph 85, were reiterated there was a general desire to find a formula which would be acceptable without voting again on paragraph 1. After a number of textual suggestions had been made, the Commission agreed, at its 810th meeting, without

objection, on the suggestion of the representative of Denmark, to place the word "national" within square brackets and to place the following words, proposed by the representative of the USSR, also within square brackets, at the end of the paragraph: "In this paragraph the expression 'national origin' does not cover the status of any person as a citizen of a given State".

/For the text of article I, paragraph 1, see chapter XI, draft resolution I, annex./

ARTICLE V

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

"In compliance with the fundamental obligations laid down in article II, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms notably in the enjoyment of the following rights:

- (a) The rights to equality before the law and to equal justice under the law;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group or institution;
- (c) Political rights, in particular the rights to participate in elections through universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:
 - (i) the right to freedom of movement and residence within the border of the State;
 - (ii) the right to leave any country including his own, and to return to his country;
 - (iii) the right to nationality;
 - (iv) the right to marriage;
 - (v) the right to own property alone as well as in association with others;
 - (vi) the right to freedom of thought, conscience and religion;
 - (vii) the right to freedom of opinion and expression;
 - (viii) the right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
 - (i) the right to work, free choice of employment, just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration;
 - (ii) the right to form and join trade unions;
 - (iii) housing;

- (iv) public health, medical care and social security and social services;
 - (v) education and training;
 - (vi) equal participation in cultural activities;
- (f) Access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafes, theatres, parks."

190. The Commission considered this article at its 796th to 800th meetings, held from 4 to 6 March 1964.

Amendments submitted

191. Amendments were submitted by the representatives of Austria (E/CN.4/L.698), Poland (E/CN.4/L.699 and E/CN.4/L.699/Rev.1), the United Kingdom (E/CN.4/L.706) and France, Italy and Poland (E/CN.4/L.708).

Amendments to the introductory paragraph

192. The amendment of Poland (E/CN.4/L.699) proposed the redrafting of the introductory paragraph as follows: "In compliance with the fundamental obligations laid down in article II, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the rights of each citizen to equality before the law, notably in the enjoyment of the following rights:".

193. The revised Polish amendment (E/CN.4/L.699/Rev.1), taking account of suggestions made by the representatives of France and Lebanon, proposed the insertion after the words "racial discrimination in all its forms", the words "and to guarantee the right of every person to equality before the law, without distinction as to race, colour or ethnic origin".

194. The sub-amendment of the United Kingdom (E/CN.4/L.706) to the initial Polish amendment called for the transposition of the words "States Parties undertake", from their place, to follow the words "all its forms", deleting the word "and". This sub-amendment was withdrawn at the 798th meeting.

195. The Polish amendments were withdrawn, but the Polish revised amendment was reintroduced as a joint amendment of France and Poland, with certain modifications, to insert the words "and to guarantee, without distinction as to race, colour or ethnic origin, the right of everyone to equality before the law" after the words "racial discrimination in all its forms".

Amendments to paragraph (a)

196. The amendment of Austria (E/CN.4/L.698) called for the addition after the words "under the law" of the words "in particular to a fair trial". This amendment was withdrawn at the 799th meeting.

197. The amendment of Poland (E/CN.4/L.699 and E/CN.4/L.699/Rev.1) proposed the redrafting of paragraph (a) as follows: "(a) The right to equal justice under the law".

198. Subsequently, the Polish amendment was replaced by a joint amendment of France, Italy and Poland (E/CN.4/L.708) to replace paragraph (a) by the following: "(a) The right to a fair trial". This amendment was later revised orally to read as follows: "The right to equal treatment before the tribunals and all other organs administering justice".

Amendment to paragraph (d)

199. The amendment of Poland (E/CN.4/L.699) proposed to add: "(vi) the right to inherit" after paragraph (d) (v).

Issues discussed

200. Most of the representatives agreed that the structure and the drafting of article V was entirely satisfactory, although certain representatives were of the opinion that a general formulation might have been preferable to the detailed list of rights appearing in the article. It was emphasized that many of the rights proclaimed in the Universal Declaration of Human Rights had been left out but that the word "notably" preceding the list of rights implied that there had been a selection of the rights to which special attention should be accorded. On the other hand it was stated that the selection was so wide as to nullify this intention. One representative made a reservation concerning paragraph (d) (ii) as regards the return to their country of members of former royal families. Another representative pointed out that the draft Convention was not intended to refer to such cases.

Introductory paragraph

201. While approving of the text submitted by the Sub-Commission, many representatives felt that the Polish amendment, see paragraph 192 above, would improve the text, since it would be proper to include the right to equality before the law in the introductory paragraph, for that right set a general principle which the other rights listed merely served to illustrate.

202. The word "citizen" contained in the amendment was thought to be too restrictive in the context of the article and following an exchange of views, that word was replaced by the word "everyone" which was used in the Universal Declaration of Human Rights.

203. There was general agreement with the suggestion of the representatives of France and Lebanon to insert the words "without distinction as to race, colour or ethnic origin" after the word "guarantee", as that would emphasize the spirit of the Convention.

204. Some representatives supported the United Kingdom sub-amendment, see paragraph 194 above, to the Polish amendment because they considered that the proposed rearrangement of the words in the original Polish amendment, see paragraph 192 above, would clarify the relationship between article II and article V. Certain representatives objected to the United Kingdom sub-amendment on the ground that it introduced substantial changes in the text and that it limited the scope of the obligations to be assumed by States under the article. Furthermore,

they stressed that this was not a sub-amendment but an amendment since it referred only to that part of the Polish amendment which reproduced the text submitted by the Sub-Commission. In support of the sub-amendment it was pointed out that the existing text might appear to create a new obligation in terms different from those of article II, and that the purpose of the sub-amendment was to remove this apparent contradiction. Some representatives expressed their disagreement with this point of view.

205. After a procedural discussion, during which the Polish amendments and the United Kingdom sub-amendment were withdrawn, the representatives of France and Poland reintroduced the revised Polish amendment in a modified form (see paragraph 195 above) since there was a general feeling that the Sub-Commission's text would be improved by the joint amendment.

Paragraph (a)

206. The discussion centred on the expression "equal justice under the law" used in the text of the Sub-Commission as well as in the text of the Polish amendment, see paragraph 197 above, which in the view of many representatives was too vague and might be made more specific either by the addition proposed in the Austrian amendment, see paragraph 196 above, to add after the words "under the law", the words "in particular to a fair trial", or by the wording proposed in the amendment submitted jointly by France, Italy and Poland, see paragraph 198 above, to replace paragraph (a) by the following: "The right to equal treatment before the courts".

207. Misgivings were expressed, however, regarding the word "courts", which in the view of some representatives should be replaced by the word "tribunals". Several representatives proposed to add after the word "courts" or "tribunals" an expression which would cover the right to equal justice before administrative bodies. Many wordings were proposed to that effect by various representatives. Finally, general approval was voiced for the text of the revised joint amendment, see paragraph 198 above, which proposed that paragraph (a) should be redrafted to read: "The right to equal treatment before the tribunals and all other organs administering justice".

Adoption of article V

208. At the 798th meeting the Commission voted on the introductory paragraph of article V submitted by the Sub-Commission and the amendments thereto. At the 799th meeting the Commission voted on the rest of the article submitted by the Sub-Commission and the amendments thereto as well as on the article as a whole.

Introductory paragraph

209. The joint amendment of France and Poland, see paragraph 195 above, was adopted unanimously. The introductory paragraph, as amended, was adopted unanimously.

Paragraph (a)

210. The revised amendment of France, Italy and Poland, see paragraph 198 above, was adopted unanimously. Paragraph (a) as amended was adopted unanimously.

Paragraph (d)

211. The Polish amendment to paragraph (d), see paragraph 199 above, was adopted by 19 votes to none, with 2 abstentions.

Article V, as a whole

212. Article V as a whole, as amended, was adopted unanimously.

/For the text of article V, see chapter XI, draft resolution I, annex./

IX. PLACE OF MEETING OF THE COMMISSION'S NEXT SESSION

375. At its 812th meeting the Commission considered the question of the place at which its next session would be held. The representative of Italy proposed that the Commission should recommend the Economic and Social Council to decide that the twenty-first session of the Commission on Human Rights should be held at Geneva. That proposal was adopted unanimously.

X. ADOPTION OF THE REPORT

376. At its 813th and 814th meetings on 17 and 18 March 1964, the Commission examined the draft report on the work of its twentieth session (E/CN.4/L.709 and Add.1 to 11). The report was adopted unanimously.

XI. DRAFT RESOLUTIONS FOR ACTION BY THE ECONOMIC AND SOCIAL COUNCIL

I

Draft international convention on the elimination of all forms of racial discrimination 20/

The Economic and Social Council,

Recalling that the General Assembly in resolution 1780 (XVII) and 1906 (XVIII) requested the Commission on Human Rights to prepare a draft international convention on the elimination of all forms of racial discrimination,

Noting that the Commission on Human Rights has adopted at its twentieth session, in pursuance of the General Assembly's request, the substantive articles of a draft convention on the elimination of all forms of racial discrimination, on the basis of a preliminary draft prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Submits to the General Assembly for its consideration at its nineteenth session, the substantive articles prepared by the Commission on Human Rights, which are annexed to the present resolution, as well as the following documents which have not been voted upon by the Commission:

(a) The proposal for an additional article submitted by the United States of America in document E/CN.4/L.701/Rev.2, and the sub-amendment submitted thereto

20/ See paragraph 288.

by the Union of Soviet Socialist Republics in document E/CN.4/L.710/Rev.1, as well as the records of the discussions thereon in the Commission;

(b) Article X of the draft convention transmitted to the Commission on Human Rights by resolution 1 (XVI) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/873, para. 119) which deals with measures of implementation as well as the records of the discussion thereon in the Commission;

(c) The preliminary draft on additional measures of implementation transmitted to the Commission by resolution 2 (XVI) of the Sub-Commission (Annex I of the report of the Commission on Human Rights) as well as the records of the discussion thereon in the Commission;

(d) The working paper prepared by the Secretary-General for the final clauses of the draft convention on the elimination of all forms of racial discrimination (E/CN.4/L.679);

(e) The records of the discussion of this item by the Commission on Human Rights (E/CN.4/SR.774-810).

ANNEX

Provisions of the Draft International Convention on
the Elimination of All Forms of Racial Discrimination
adopted by the Commission at its twentieth session

The States Parties to this Convention,

Considering that the Charter of the United Nations is based on the principle of the dignity and equality inherent in all human beings, and that all States Members have pledged themselves to take joint and separate action in co-operation with the Organization for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 solemnly affirmed the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations,

Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination in theory or in practice anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples as evil racial doctrines and practices have done in the past,

Concerned by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

Resolved to adopt all necessary measures for eliminating speedily racial discrimination in all its forms and manifestations and to prevent and combat racist doctrines and practices in order to build an international community free from all forms of racial segregation and racial discrimination,

Bearing in mind the Convention on Discrimination in Respect of Employment and Occupation adopted by ILO in 1958, and the Convention Against Discrimination in Education adopted by UNESCO by 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

Article I

1. In this Convention the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, /national/ or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public field. /In this paragraph the expression "national origin" does not cover the status of any person as a citizen of a given State./

2. Special measures taken for the sole purpose of securing adequate development or protection of certain under-developed racial groups or individuals belonging to them in order to ensure to such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article II

1. States Parties to the present Convention condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms, and to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party shall take effective measures to review governmental and other public policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(c) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation if necessary, racial discrimination by any person, group or national organization.

2. States Parties shall take special concrete measures in appropriate circumstances for the sole purpose of securing adequate development or protection of certain under-developed racial groups or individuals belonging to them in order to ensure to such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms, provided however that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article III

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate, in territories subject to their jurisdiction, all practices of this nature.

Article IV

States Parties condemn all propaganda and organizations which are based on ideas or theories of the superiority of one race or group of persons of one colour or ethnic origin, or which justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to such discrimination, and to this end, inter alia:

(a) Shall declare an offence punishable by law all incitement to racial discrimination resulting in acts of violence, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin;

(b) Shall declare illegal and prohibit organizations or the activities of organizations, as appropriate, and also organized propaganda activities, which promote and incite racial discrimination;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article V

In compliance with the fundamental obligations laid down in article II, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (a) The right to equal treatment before the tribunals and all other organs administering justice;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group or institution;
- (c) Political rights, in particular the rights to participate in elections through universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:
 - (i) the right to freedom of movement and residence within the border of the State;
 - (ii) the right to leave any country including his own, and to return to his country;
 - (iii) the right to nationality;
 - (iv) the right to marriage;
 - (v) the right to own property alone as well as in association with others;
 - (vi) the right to inherit;
 - (vii) the right to freedom of thought, conscience and religion;
 - (viii) the right to freedom of opinion and expression;
 - (ix) the right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
 - (i) the right to work, free choice of employment, just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration;
 - (ii) the right to form and join trade unions;
 - (iii) housing;
 - (iv) public health, medical care and social security and social services;
 - (v) education and training;
 - (vi) equal participation in cultural activities;

(f) Access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafes, theatres, parks.

Article VI

States Parties shall assure to everyone within their jurisdiction effective protection and remedies through the competent national tribunals against any acts of racial discrimination 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.

Article VII

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 racial discrimination and to promote understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination.

II

Study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country ^{21/}

The Economic and Social Council,

Having considered resolution 4 (XX) adopted by the Commission on Human Rights at its twentieth session,

Requests the Secretary-General to make arrangements for the Special Rapporteur on the right of everyone to leave any country, including his own, and to return to his country, Mr. José D. Ingles, to attend the meetings of the Commission on Human Rights when it undertakes the consideration of his report.

III

Designation of 1968 as International Year for Human Rights ^{22/}

The Economic and Social Council,

Having considered chapter VII of the report of the Commission on Human Rights at its twentieth session,

^{21/} See paragraph 333 and annex III.

^{22/} See paragraph 370.

Annex 78

United Nations, *Official Records of the Economic and
Social Council, Commission on Human Rights,
Twentieth Session*, document E/CN.4/SR.809
(14 May 1964)

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/SR.809
14 May 1964

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

Twentieth Session

SUMMARY RECORD OF THE EIGHT HUNDRED AND NINTH MEETING

Held at Headquarters, New York,
on Friday, 13 March 1964, at 11 a.m.

CONTENTS

Draft international convention on the elimination of all forms of racial discrimination (A/5035, 5603; E/CN.4/865, 873; E/CN.4/L.679, L.693/Add.1; E/CN.4/Sub.2/234 and Add.1-4) (continued)

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PRESENT:

<u>Chairman:</u>	Mr. PONCE y CARBO	(Ecuador)
<u>Rapporteur:</u>	Mr. IGNACIO-PINTO	Dahomey
<u>Members:</u>	Mr. ERMACORA	Austria
	Miss AITKEN	Canada
	Miss KRACHT	Chile
	Mr. VOLIO	Costa Rica
	Mr. GRAULUND HANSEN	Denmark
	Mr. BENITES	Ecuador
	Mr. ALVAREZ VIDAURRE)	El Salvador
	Mr. VEGA-GOMEZ)	
	Mr. BOUQUIN	France
	Mr. S.K. SINGH	India
	Mr. SPERDUTI	Italy
	Miss TABBARA	Lebanon
	Mr. WILSON)	Liberia
	Mr. DOE)	
	Mr. BEAUFORT	Netherlands
	Mr. QUIAMBAO	Philippines
	Mr. RESICH	Poland
	Mr. PANCARCI	Turkey
	Mr. NEDEBALLO	Ukrainian Soviet Socialist Republic
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Sir Samuel HOARE	United Kingdom of Great Britain and Northern Ireland
	Mrs. TREE)	United States of America
	Mr. BILDER)	
<u>Also present:</u>	Mrs. TILLET	Commission on the Status of Women
<u>Observers from Member States:</u>		
	Mr. BARROMI	Israel
	Mrs. WILLIAMS	Jamaica

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PRESENT (continued):

Representatives of specialized agencies:

Mr. FARMAN-FARMAIAN	International Labour Organisation
Mr. BEHRSTOCK	United Nations Educational, Scientific and Cultural Organization
<u>Secretariat:</u>	
Mr. HUMPHREY	Director, Division of Human Rights
Mr. LANAU	Secretary of the Commission

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DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (A/5035, 5603; E/CN.4/865, 873; E/CN.4/L.679, L.693/Add.1; E/CN.4/Sub.2/234 and Add.1-4) (continued)

Article VIII (continued)

Mr. BOUQUIN (France) said that he had voted against deletion of the article because in the absence of the interpretation which it furnished, the reference to "national origin" in article I was ambiguous and the meaning of the convention was distorted. He could have supported the deletion of article VIII only if that reference had been eliminated. As matters now stood, States parties to the convention were being asked not to make any distinction between nationals and non-nationals, particularly in respect of political rights; they could hardly be expected to agree to such a provision.

Mr. SPERDUTI (Italy) stated that he too had been unable to vote for the deletion of the article for those reasons.

Mr. MOROZOV (Union of Soviet Socialist Republics) explained that he had voted to delete the article because it was sufficiently clear from the context of article I that the reference to national origin, which was a key element of the definition of racial discrimination, bore no relation to questions of citizenship. Consequently, there was no justification for deleting it from the definition and reversing the Commission's previous decision. Moreover, there was time, before the draft convention was considered by the General Assembly, for the Secretariat to resolve the difficulties encountered by certain delegations in accepting the words used in the English and French texts. Finally, it might even be advisable to insert a foot-note to article I, paragraph 1, explaining that "national origin" did not mean citizenship.

Sir Samuel HOARE (United Kingdom) said that he had abstained in the vote on the deletion of article VIII as on all proposals relating to that article. The difficulty which confronted his delegation arose from the retention of the phrase "national origin" in article I. Under United Kingdom law, nationality and citizenship were the same. The suggested foot-note would not remove that difficulty. Although the phrase had been used in the Universal Declaration of Human Rights, there had never been an authoritative interpretation of its scope and meaning; national origin had merely been cited as one of the grounds on which

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(Sir Samuel Hoare, United Kingdom)

discrimination was condemned. It could not be equated with nationality because in that event, States would be prohibited from distinguishing between nationals and non-nationals in the matter of political rights. If it meant the country of origin of nationals further ambiguities arose which would make it impossible for some States to undertake the obligations inherent in the convention.

Miss TABBARA (Lebanon) remarked that she had voted for the deletion of article VIII because the article might have cast some doubt on the scope of the convention. The convention should apply to nationals, non-nationals, and all ethnic groups, but it should not bind States parties to afford the same political rights to non-nationals as they normally granted to nationals. Indeed, the inclusion of the words "national origin" in article I might be ambiguous: if they meant "ethnic origin", they were superfluous; if they meant "citizenship", they were irrelevant. It would be noted that while the words "national origin" appeared in the preamble of the Declaration on the Elimination of all Forms of Racial Discrimination, they did not reappear anywhere in the body of the Declaration. Without article VIII to state the exception relating to the exercise of political rights by non-nationals, it was illogical to retain "national origin" in article I. She reserved her delegation's right to reopen the question in the General Assembly.

Mr. ERMACORA (Austria) recalled that he had proposed the deletion of article VIII. However, he fully understood the difficulties encountered by the French delegation. At the very least, a foot-note should be appended to article I in order to resolve those difficulties, or an interpretative paragraph should be included in the Commission's report. For its part, his delegation would also have no objection to reconsidering the question of retaining "national origin" in article I.

Mr. MOROZOV (Union of Soviet Socialist Republics) was categorically opposed to the suggestion that the Commission should reopen debate on any article of the convention which it had already adopted. On the pretext that the meaning of the words "national origin" was not absolutely clear, an attempt was being made to nullify one of the key elements of the convention.

Mr. S.K. SINGH (India) said that he appreciated the French delegation's difficulties and was in sympathy with the explanation given by the Lebanese representative. Clearly, the deletion of article VIII had created a substantive,

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(Mr. S.K. Singh, India)

problem with legal implications for some countries and that problem was not to be taken lightly. On the other hand, the seriousness of the Commission's approach to its work would be laid open to question if it should, at the concluding stage of its session, decide to reverse itself with respect to the content of article I. He protested vigorously against the move to reopen debate on the article, particularly since the text adopted by the Commission had still to be examined by the Third Committee, and was not the definitive text of the convention. Surely there were other ways to solve the difficulty: thus, the Commission might specifically request the Rapporteur to include a full statement of the views expressed by the various delegations with respect to the problem.

Mr. BOUQUIN (France) pointed out that by transmitting the draft convention to the Third Committee in its present state, the Commission would prove beyond a doubt that it did not approach its work seriously, for it would be approving a text which no reasonable State could ratify. Indeed, his delegation had voted in favour of article I as a whole, including the ambiguous reference to national origin, because it had confidently expected the Commission to retain the Sub-Commission's text of article VIII. Without that text to qualify the reference in article I, the draft convention was no longer acceptable.

In the circumstances, he formally moved that the Commission should reconsider the desirability of retaining the word "national" in article I (E/CN.4/L.693/Add.1) in the light of the deletion of article VIII.

Mr. QUIAMBAO (Philippines) moved the closure of the debate on the French proposal, and requested that it should be put to the vote forthwith.

Mr. MOROZOV (Union of Soviet Socialist Republics) objected on the ground that a motion for closure was contrary to the rules of procedure. The French proposal to eliminate a word from an article already adopted by the Commission would open the way for a reconsideration of other articles. It should be enough to add a foot-note to article I, paragraph 1, explaining that the word "national" in the English and French texts meant "belonging to a certain national group but not to citizenship".

The Philippine motion for closure of the debate was adopted by 9 votes to 5, with 6 abstentions.

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Mr. ERMACORA (Austria) explained that he had voted against the motion because the USSR proposal to add a foot-note had not been discussed.

Mr. S.K. SINGH (India) said that he had voted against the motion because it denied delegations an opportunity to seek alternative methods to the one suggested by the French representative.

The CHAIRMAN invited the members to vote on the French representative's proposal to reconsider the inclusion of the word "national" in article I as adopted by the Commission (E/CN.4/L.693/Add.1).

At the request of the USSR representative, a vote was taken by roll-call.

France, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: France, Italy, Lebanon, Netherlands, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Denmark.

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

Abstaining: Philippines, Austria, Canada, Costa Rica, Dahomey, Ecuador, El Salvador.

The proposal was adopted by 8 votes to 6, with 7 abstentions.

Mr. BOUQUIN (France) proposed the deletion of the word "national" before "or ethnic origin" in article I, paragraph 1, as adopted by the Commission.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that if the word was deleted in the Russian text it would mean that discrimination was tolerated when the victim belonged to a different national group. The deletion would so weaken article I that it might result in States being relieved of any obligation to implement the article. According to Webster's dictionary, nationality was not the same as citizenship. It seemed to him that what was called a linguistic difficulty was really a pretext to attenuate the obligations to be assumed by the signatory States. To meet the difficulties of the representatives of France and the United Kingdom, he suggested as a sub-amendment to the French proposal that a foot-note should be inserted to article I, as follows: "In this article, in the English and French languages the word 'national' means a person belonging to a

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(Mr. Morozov, USSR)

national group but not to citizenship". He recalled that in the debate on article VIII it had appeared that under French and United Kingdom legislation there were inequalities in citizenship and that new citizens did not enjoy the full rights of other citizens. Such distinctions were a legacy of colonialism. The countries which had formerly been colonies of the Western Powers should be particularly attentive to the danger of deleting the word "national" in article I.

Mr. BOUQUIN (France), in reply to the USSR representative, denied that French naturalization law was a heritage of colonialism. The naturalized persons to whom he had referred were mainly Europeans, and there was no discrimination against them on the grounds of race, religion or political ideology. They included White Russians and Spanish Republicans. The transitory provisions which he had mentioned earlier were not discriminatory measures. The naturalization policy pursued by his country was both liberal and progressive.

With regard to the foot-note proposed by the USSR representative, he recalled that English was the original language of the article in question, and suggested that the difficulty might conceivably be in the Russian translation. The definition of "national" proposed by the USSR representative was not satisfactory, and it still seemed unnecessary to refer to nationality in a convention on the elimination of racial discrimination.

Mr. S.K. SINGH (India) was opposed to the deletion of the word "national", since the Sub-Commission had in mind the plight of persons of Indian and Pakistani origin in the Republic of South Africa. Discrimination based on nationality and discrimination based on race sometimes merged, and that had been taken into account by the Sub-Commission in drafting articles I and VIII. In order that the representatives of France and the USSR might seek to reach agreement on their proposed amendments, he moved suspension of the meeting.

Mr. ECUQUIN (France) said that while he appreciated the argument advanced by the Indian representative, there was no way of knowing whether the Republic of South Africa would consider ratifying the convention.

The meeting was suspended at 12.35 p.m. and resumed at 1.5 p.m.

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Mr. MOROZOV (Union of Soviet Socialist Republics) said that, following informal consultations, he would propose the following foot-note to article I, paragraph 1: "In this paragraph the word 'national' in the English and French languages is not used to refer to citizenship of a given State."

Mr. BOUQUIN (France) remarked that the proposed definition was still unsatisfactory. It was not sufficient to say what the word "national" did not mean. It would be better to say what it did mean. Further consultations might prove beneficial.

Mr. GRAUJUND HANSEN (Denmark) proposed that the word "national" should be placed in square brackets when the draft convention was submitted to the Third Committee. In the meantime, delegations should consult with their Governments about deleting or retaining the word.

Sir Samuel HOARE (United Kingdom) supported that suggestion.

Mr. EFMACORA (Austria) also supported it, but proposed in addition that the first part of article VIII up to and including the word "non-nationals" should also be given in square brackets.

Mr. MOROZOV (Union of Soviet Socialist Republics) accepted the Danish proposal, but objected to any doubt being placed on the word in square brackets.

The meeting rose at 1.25 p.m.

Annex 79

United Nations, *Official Records of the Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Sixteenth Session, document E/CN.4/Sub.2/SR.427 (12 February 1964)*

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/Sub.2/SR.427
12 February 1964

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Sixteenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND TWENTY-SEVENTH MEETING

Held at Headquarters, New York,
on Tuesday, 28 January 1964, at 2.50 p.m.

CONTENTS

Draft international convention on the elimination of all forms of racial discrimination (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.309, L.314, L.320, L.322, L.325, L.329, L.333, L.337, L.340-L.344, L.347-L.349)
(continued)

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PRESENT:

<u>Chairman:</u>	Mr. SANTA CRUZ	(Chile)
<u>Rapporteur:</u>	Mr. CAPOTORTI	(Italy)
<u>Members:</u>	Mr. ABRAM	(United States of America)
	Mr. AWAD	(United Arab Republic)
	Mr. BOUQUIN	(France)
	Mr. CALVOCORESSI	(United Kingdom of Great Britain and Northern Ireland)
	Mr. CUEVAS CANCINO	(Mexico)
	Mr. INGLES	(Philippines)
	Mr. IVANOV	(Union of Soviet Socialist Republics)
	Mr. KRISHNASWAMI	(India)
	Mr. MATSCH	(Austria)
	Mr. MUDAWI	(Sudan)
	Mr. SAARIO	(Finland)
	Mr. SOLPYSIAK	(Poland)

Also present: Mrs. LEFAUCHEUX Commission on the Status of Women

Observers from Member States:

Miss KRACHT	Chile
Mr. SAJJAD	India
Mr. ROSENNE	Israel
Mr. SCHAAPVELD	Netherlands
Mr. QUIAMBAO	Philippines
Mrs. NASON	United States of America

Representatives of specialized agencies:

Mr. FARMAN-FARMAIAN	International Labour Organisation
Miss BARRETT	United Nations Educational, Scientific and Cultural Organization

<u>Secretariat:</u>	Mr. HUMPHREY	Director, Division of Human Rights
	Mr. LAWSON	Secretary of the Sub-Commission

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DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.309, L.314, L.320, L.322, L.325, L.329, L.333, L.337, L.340-L.344, L.347-L.349) (continued)

Article VIII (E/CN.4/Sub.2/L.340, E/CN.4/Sub.2/L.341, E/CN.4/Sub.2/L.347-L.349)
(continued)

Mr. CUEVAS CANCINO, introducing his draft for article VIII (E/CN.4/Sub.2/L.347), said that his text was an attempt to deal with the two problems raised in the lengthy discussion of article VIII at the 425th meeting. The first sentence made it clear that the draft convention did not place limitations on the treatment of aliens. The expression "social status" had been inserted to cover the denial to aliens of rights other than political rights.

In the second sentence, he had attempted to draw the fine distinction between the grant of rights to individuals from the denial of political rights to racial, ethnic and national groups as such. An example of that distinction was the Edict of Nantes, which had granted religious rights to a religious minority in France but at the same time had sought to keep that minority from disturbing the national unity of the State. In making that distinction, he had drawn upon paragraph 6 of the Declaration on the granting of independence to colonial countries and peoples, which stated that the Declaration did not justify any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country.

Mr. MUDAWI, introducing Mr. Krishnaswami's and his draft for article VIII (E/CN.4/Sub.2/L.348), said that the object of their text was to remove the difficulty arising from the use of the terms "nationality" and "national origin" in article I, as adopted (E/CN.4/Sub.2/L.322). The term "nationality", as used in the draft convention, referred to membership in a group within a nation. Because, however, in public international law that term referred to the relationship between a citizen and his country, the provisions of the draft convention might be interpreted as implying that nationals and non-nationals must be put on the same footing. The text he co-sponsored would prevent any such misinterpretation.

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Mr. KRISHNASWAMI added that the first part of that text was intended to stress that the draft convention did not affect the distinction between nationals and non-nationals, which was well established in public international law. The second part met Mr. Calvocoressi's and Mr. Capotorti's point that the draft convention should not make it compulsory for States to grant special rights to groups because of race, colour or ethnic origin. The Sub-Commission did not want the draft convention to be used as a lever to promote autonomy of such groups. The final clause of the draft met Mr. Ivanov's point that the established rights of such groups to autonomy should not be affected.

Mr. IVANOV said that, of the three new drafts of article VIII (E/CN.4/Sub.2/L.347, E/CN.4/Sub.2/L.348, E/CN.4/Sub.2/L.349), he preferred the Chairman's suggestion (E/CN.4/Sub.2/L.349), because it indicated clearly that the draft convention did not deal with the recognition or denial of political rights to non-nationals or to groups, those matters being entirely within the competence of the States concerned. For that very reason, article VIII might well be omitted; but if the Sub-Commission wished to include such a provision, it should adopt the Chairman's suggestion as the clearest text.

Mr. CALVOCORESSI thought that the Sub-Commission should be able to reach agreement on the basis of any of the three texts. The term "destroy" in the final clause of Mr. Cuevas Cancino's draft (E/CN.4/Sub.2/L.347) seemed rather strong. In Mr. Krishnaswami's and Mr. Mudawi's draft (E/CN.4/Sub.2/L.348), he would replace the words "impose a duty to grant" by the broader expression "affect the question of granting". However, he agreed with Mr. Ivanov that the Chairman's suggestion (E/CN.4/Sub.2/L.349) was the best.

Mr. MATSCH would prefer not to include a restrictive clause such as article VIII, because it might be interpreted as limiting the scope of the draft convention. Of the three new drafts before the Sub-Commission, he preferred Mr. Cuevas Cancino's (E/CN.4/Sub.2/L.347). The draft submitted by Mr. Krishnaswami and Mr. Mudawi (E/CN.4/Sub.2/L.348) might also be acceptable; but the Chairman's

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suggestion (E/CN.4/Sub.2/L.349), which referred to both the recognition and the denial of political rights, seemed to him wholly pointless.

The CHAIRMAN replied that his suggestion made it clear that the draft convention did not change the status quo ante with respect to the political rights of non-nationals or groups. By using the expression "groups of persons of a common ... national origin" rather than the expression "national group", he had avoided the problem of definition that the latter expression raised.

Mr. SAARIO, noting that the three drafts were similar in substance, expressed his preference for the Chairman's suggestion (E/CN.4/Sub.2/L.349) as the clearest and most concise. He did not think it sufficient, however, to refer only to political rights, since social and cultural rights granted to nationals might be denied to aliens. Moreover, it was legally inaccurate to refer to "political rights" as being recognized or denied to groups, since the political rights defined in article 21 of the Universal Declaration of Human Rights applied only to individuals. To meet those two objections, he would prefer to have the words "political rights or obligations to non-nationals nor to" in the Chairman's suggestion (E/CN.4/Sub.2/L.349) replaced by the words "a specific political or social status to aliens on their territory, nor recognizing or denying special status to".

Mr. ABRAM also preferred the Chairman's suggestion (E/CN.4/Sub.2/L.349) as the shortest and most neutral. That text best served the purpose of article VIII, namely, to prevent anything from being read into the term "nationality" in article I which that term was not intended to mean.

Mr. CAPOTORTI said that the text of article VIII must make it clear that the draft convention did not go beyond the aim set by the General Assembly of eliminating racial discrimination against individuals. He entirely supported Mr. Saario's view that the subjects of the draft convention were individuals, and not groups as such. The Chairman's suggestion (E/CN.4/Sub.2/L.349) came closest to that idea. He thought Mr. Saario's suggestions were sound, but could accept the text in its present form. The final clause of Mr. Cuevas Cancino's draft

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(E/CN.4/Sub.2/L.347) implied that the draft convention might be interpreted as granting political rights to racial, ethnic or national groups, so long as the grant did not destroy the national unity and territorial integrity of a State Party. He suggested that the final clause should read: "having regard to the requirements of the national unity and the territorial integrity of a State Party". He supported Mr. Calvocoressi's proposal to change the wording of the draft submitted by Mr. Krishnaswami and Mr. Mudawi (E/CN.4/Sub.2/L.348).

Mr. BOUQUIN remarked that, while he had no objection to any of the three drafts, he too preferred the Chairman's suggestion (E/CN.4/Sub.2/L.349).

Mr. INGLES said that, since article VIII was intended to be simply an interpretative article, members should bear in mind the provisions which it would interpret, namely, article II, paragraph 2, and article V, paragraph (c). The problem concerning the political rights of non-nationals would not have arisen if the Sub-Commission had not deleted the phrase "granted to any person in his own country" from article V, paragraph (c). All three drafts dealt satisfactorily with that problem. However, the Chairman's suggestion (E/CN.4/Sub.2/L.349) went beyond the required interpretation of article V, paragraph (c), by referring not only to political rights but also to political obligations; in his view, the words "or obligations" should be deleted. The expression "social status" suggested by Mr. Cuevas Cancino and by Mr. Saario could not be considered an explanation of article V, paragraph (c), but he would not object to the insertion of the words "or other" after the word "political" in the Chairman's text (E/CN.4/Sub.2/L.349).

The second parts of the three drafts were intended to exclude the possibility that article II, paragraph 2, might be interpreted as granting political rights to racial, ethnic or national groups. He agreed with Mr. Capotorti's criticism of the final clause of Mr. Cuevas Cancino's text (E/CN.4/Sub.2/L.347). The second part of the draft submitted by Mr. Krishnaswami and Mr. Mudawi (E/CN.4/Sub.2/L.348) did not seem to meet the problem of article II, paragraph 2. The purpose of the special measures authorized by that paragraph was to assist the individuals belonging to under-developed groups in securing the full enjoyment of human rights and fundamental freedoms; there was nothing in that paragraph to indicate that

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special measures could be taken because of the race, colour or ethnic origin of the groups concerned, or that such measures might or might not consist of special political rights. He thought that the second part of the Chairman's draft (E/CN.4/Sub.2/L.349) was as far as the Sub-Commission could go if it wished to prepare an interpretative, rather than a substantive, provision.

The CHAIRMAN agreed to the insertion of the words "or other" after the word "political" in his text. He explained that he had inserted the reference to obligations because he had noted, in his study of discrimination in the matter of political rights, that in certain States the right to have one's name inscribed on an electoral roll entailed the obligation to vote. He agreed, however, to delete the reference.

Mr. CUEVAS CANCINO and Mr. MUDAWI, speaking also on behalf of Mr. Krishnaswami, withdrew their drafts in favour of the Chairman's suggested text.

Mr. MATSCH requested that the two parts of that text should be put to the vote separately.

The first part of the Chairman's suggestion for article VIII (E/CN.4/Sub.2/L.349), including the word "non-nationals", was adopted unanimously.

The second part of the Chairman's suggestion for article VIII was adopted by 11 votes to 2, with 1 abstention.

The Chairman's suggestion for article VIII (E/CN.4/Sub.2/L.349) as a whole, with the amendments accepted by the sponsor, was adopted by 11 votes to none, with 3 abstentions.

Article X (E/CN.4/Sub.2/L.325)

The CHAIRMAN asked the members of the Sub-Commission to authorize him to request the Secretary-General, taking into consideration the final clauses of Conventions previously adopted by the United Nations and the specialized agencies, to submit to the Commission on Human Rights a series of alternative texts of final clauses of the draft convention on racial discrimination, including those proposed by members.

It was so decided.

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Mr. MUDAWI observed that although the articles already adopted suggested legislative measures for the eradication of racial discrimination, it was nowhere laid down that that aspect of life should be embodied not only in the ordinary law of countries but in their Constitutions or fundamental laws. In order to fill that gap, he felt that the convention should include an article making it obligatory for all countries in appropriate circumstances to embody in their Constitutions or fundamental laws a general provision prohibiting all forms of racial discrimination. He had included the words "as far as appropriate" because in some countries, such as the United Kingdom, which had no written Constitution, the inclusion in the ordinary laws of the principles adopted by the Sub-Commission would meet the case.

Mr. SAARIO agreed with the idea in substance but considered that it was out of place in the present article and that it should have been taken into consideration in dealing with article II.

He pointed out that in most Constitutions there was a provision to the effect that all were equal before the law. Article II of the convention provided for specific measures to be adopted by States to guarantee such equality.

Mr. CAPOTORTI said that, while understanding Mr. Mudawi's purpose in proposing his draft of article X, he had certain doubts on the subject. He wondered whether it was permissible in a general treaty to insist that States should take certain action with regard to their Constitutions. In a number of countries, including Italy, a much larger majority in the legislative body was required to amend the Constitution than to ratify a treaty. Difficulties in that connexion might hinder States from adopting the convention, or at least article X. Experience had shown that the inclusion of phrases such as "as far as appropriate" merely weakened a text, since in practice they left it to the States Parties to decide whether or not the proposed action was appropriate. Perhaps when adopting the convention the Sub-Commission might recommend that States should include such a provision in their Constitutions. Constitutional legislation was a delicate matter and directives on the subject from international organizations touched on a sensitive nerve.

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Mr. CUEVAS CANCINO associated himself with the remarks made by the previous speakers. Where Mexico at least was concerned, the proposed article X was superfluous. When a convention or treaty had been ratified by the executive branch of the Mexican Government it became part of the law of the country and all the courts were obliged to comply with its provisions. Moreover, article X repeated provisions that had already been adopted and would weaken rather than strengthen the convention.

Mr. INGLES recalled that the Sub-Commission had already discussed the insertion in the articles it had adopted of a provision that certain rights should be enshrined in the constitutional law of the States Parties. If the Contracting States undertook the obligation set forth in article X it might be suggested that they should incorporate in their Constitutions or fundamental laws prohibitions not only of racial discrimination but of discrimination on all the grounds covered in article 2 of the Universal Declaration of Human Rights.

From a practical point of view, inasmuch as the States Parties, by signing and ratifying the convention, would have already undertaken to prohibit racial discrimination by legislation, it would not matter whether that prohibition was embodied in an ordinary law or in a provision of the Constitution. The obligation of the Contracting States remained and they would be violating the provisions of the convention if they failed to prohibit racial discrimination.

For these reasons he did not think it advisable to insist that the prohibition of racial discrimination should be embodied in the Constitution or fundamental law of the Contracting Parties. If, however, it was desired to incorporate the idea in the convention, it could take the form of an alternative rather than a mandatory provision. He thought that perhaps in article II, paragraph 1(c) it might be possible to insert after the word "legislation" the words "or amendment of its Constitution or fundamental law".

Mr. IVANOV supported Mr. Mudawi's proposed text. The inclusion in Constitutions or fundamental laws of a prohibition of all forms of racial discrimination would be of great significance.

Mr. CALVOCORESSI pointed out that it would be incumbent on any State Party to bring its national law into conformity with the convention. In that

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(Mr. Calvocoressi)

way the permanent entrenchment of the provisions of the convention in the general law was secured without the need for specific provisions in the Constitutions, or fundamental laws of the States concerned. Strictly speaking, therefore, there was no need for the proposed article X, although it could serve a purpose as a sort of demonstration.

There was a second point which should be taken into consideration. It might be argued that compliance with a specific provision such as that proposed by Mr. Mudawi, and the introduction of a general and therefore not easily enforceable provision in the fundamental law, was sufficient and that there was no need to revise the whole body of national legislation. He himself would feel able to argue against such an argument, but it could be advanced, and for that reason the proposed article X could weaken the convention.

Mr. MUDAWI maintained that the point was important and that the convention would be incomplete if his proposed article X were not included. Ordinary laws were for ordinary matters; fundamental matters were dealt with in Constitutions or fundamental laws. The Sub-Commission would not be doing justice to the principles it had adopted if it kept silent with regard to their implementation and leave them to be dealt with by ordinary laws. He understood the practical difficulties which might be encountered in various countries; that was why he had included the phrase "as far as appropriate". The importance the Sub-Commission attached to the elimination of racial discrimination would be emphasized by a request that the principles approved by the Sub-Commission should be embodied in the Constitutions or fundamental laws of the States Parties.

The CHAIRMAN, speaking in his individual capacity, said that while he recognized the cogency of the argument that a provision such as that in article X might be unnecessary in view of the terms of article II, he felt that Mr. Mudawi's arguments carried much weight. In particular it should be borne in mind that a number of new countries were emerging which were working out their fundamental laws and that in those countries the problem of racial discrimination was of immense importance and required the enactment of strong and precise legislation. After listening to the debate he had come to the conclusion that article X should be adopted.

He invited the Sub-Commission to vote on that article.

Article X (E/CN.4/Sub.2/L.325) was adopted by 10 votes to none, with 1 abstention.

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Article XI (E/CN.4/Sub.2/L.325)

Mr. IVANOV said that he was not in favour of the inclusion of article XI. Such questions had been discussed in a number of United Nations bodies and representatives of some of the African countries had opposed similar texts on the grounds that colonialism must be brought to an early end and that articles of that kind might merely prolong its existence. He hoped that that fact would be taken into account when the Secretary-General was drafting the document for the Commission on Human Rights.

The CHAIRMAN stated that the proposed text of article XI would be included among the alternative proposals to be sent to the Commission on Human Rights.

Article XII (E/CN.4/Sub.2/L.325)

Mr. MUDAWI said that he had felt that some provision was needed for implementation and execution at the international or regional level. The regional organizations were of great assistance in promoting the principles laid down by the United Nations and the specialized agencies. Something of the nature of a court would have been desirable, but in the circumstances of the world today it was difficult to persuade States to submit to the rulings of a court. He had therefore decided to propose some form of supervisory organization which would be voluntarily accepted by the States concerned. An article such as he had proposed would establish machinery to promote the purposes and principles of the convention.

Mr. SAARIO expressed the view that the article dealt with implementation, and could be combined with the measures proposed by Mr. Ingles.

It was so decided.

Measures of implementation (E/CN.4/Sub.2/L.321)

Mr. INGLES, presenting his proposed text for measures of implementation, said that he had prepared them in response to the concern expressed by members of the Sub-Commission lest the absence of such measures should render the convention ineffective. He had based his text on the draft International Covenants on Human Rights prepared by the Commission of Human Rights at its tenth session (E/2573), with modifications inspired by the Protocol to the UNESCO Convention against Discrimination in Education (E/CN.4/Sub.2/234, annex III). The election of the

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(Mr. Ingles)

members of the Fact-Finding and Conciliation Committee was patterned after the UNESCO Protocol which provided for such a body to be elected by the General Conference of UNESCO. The Covenants on Human Rights provided for their election by the International Court of Justice but that required prior consent by Court. As was appropriate in an instrument produced under the auspices of the General Assembly, the Committee mentioned in his draft would be elected by the Assembly from among candidates nominated by States Parties to the Convention.

Under the proposed procedure, States Parties to the convention should first refer complaints of failure to comply with that instrument to the State Party concerned; it is only when they are not satisfied with the explanation of the State Party concerned that they may refer their complaint to the Committee. Direct appeal to the International Court of Justice, provided for in both the Covenants on Human Rights and the UNESCO Protocol, was also envisaged in his draft. But he had proposed the establishment of a Conciliation Committee because the settlement of disputes involving human rights did not always lend themselves to strictly judicial procedure. The Committee, as its name implied, would ascertain the facts before attempting an amicable solution to the dispute. Application could be made by the Committee, through the Economic and Social Council, for an advisory opinion from the Court on legal issues. If the Committee failed to effect conciliation within the time allotted, either of the parties may take the dispute to the International Court.

Another aspect of his proposal was the reporting procedure outlined in article 1. Under resolution 1905 (XVIII) the General Assembly had invited the Governments of Member States, the specialized agencies and the non-governmental organizations concerned to inform the Secretary-General of action taken by them in compliance with the Declaration on the Elimination of All Forms of Racial Discrimination and he felt that such a procedure would be even more appropriate in the case of the convention. In addition, the reporting procedure in a convention should enable the General Assembly, the Economic and Social Council, the Commission on Human Rights and the specialized agencies concerned to make general recommendations to State Parties to ensure the fulfilment of the Convention.

He emphasized that under article 18 of his text, States Parties to the convention were entirely free to resort to "other procedures" to settle their

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disputes. Those other procedures might well include those established by regional organizations envisaged in Mr. Mudawi's draft article XII (E/CN.4/Sub.2/L.325), for example the Court on Human Rights established by the European Convention.

The convention should not only contain strong substantive provisions - it must enable them to be enforced, and he thought that the machinery he had proposed which was not a new idea would serve that purpose.

Mr. CUEVAS CANCINO noted that the UNESCO General Conference had secured authorization to request advisory opinions from the International Court of Justice, as it might be required to do under article 18 of the Protocol. Article 96 of the Charter provided that the only United Nations organs which could request an advisory opinion were the General Assembly and the Security Council, and he asked if the Economic and Social Council had been authorized to do so as well.

Mr. INGLES thought the Economic and Social Council had already received such authorization when the Commission on Human Rights was drafting the International Covenants on Human Rights.

The CHAIRMAN announced that the Secretariat would submit a paper on that subject next day.

Mr. MATSCH, referring to article 1, paragraph 1 of Mr. Ingles's text (E/CN.4/Sub.2/L.321), suggested that States might be allowed two years to report on the measures they had taken to give effect to the provisions of the convention; one year seemed too short, especially if they were expected to make changes in their Constitutions. With reference to article 16, he would also suggest that, in view of the heavy work load of the Secretariat, reports might be submitted every two years rather than annually.

Mr. BOUQUIN agreed with Mr. Ingles that a convention without measures of implementation would be a dead letter. The measures now proposed were, first the transmission of reports and, secondly, a conciliation committee. The idea of reporting had appeared in the draft Covenants, and was very valuable. It also appeared in Mr. Mudawi's article XII (E/CN.4/Sub.2/L.325). But, in view of the large number of reports already required from the Members of the United Nations, he wondered whether, after the first year, such reports could not be

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(Mr. Bouquin)

included in the periodic reports on human rights. Also, the Protocol to the UNESCO Convention against Discrimination in Education (E/CN.4/Sub.2/234, annex III) provided for a Conciliation and Good Offices Commission, whereas Mr. Ingles provided for a fact-finding and conciliation committee. He preferred the approach taken in the Protocol. Examining Mr. Ingles' proposal, he showed that it went beyond the Protocol inasmuch as it borrowed some of its parts from the draft convention, in particular for its article 16.

It was important to take into account the machinery already existing for dealing with cases of discrimination, such as that laid down in the Protocol and in the ILO Convention concerning Discrimination in respect of Employment and Occupation. In particular, the procedure agreed upon by the Economic and Social Council and the ILO concerning infringements of freedom of association provided an interesting precedent. Complaints from Governments or from workers' or employers' organizations against States members of the ILO were automatically transmitted by the Economic and Social Council to the Governing Body of the ILO, which decided whether they should be forwarded to the Fact-Finding and Conciliation Commission. Similar complaints received by the United Nations from States Members of the United Nations but not members of the ILO were transmitted to the Commission through the Governing Body, with the consent of the Economic and Social Council and of the Government concerned. In accordance with a decision of the Governing Body, complaints had formerly been submitted in the first instance to that body, for preliminary examination. It had later decided to set up a special nine-member Committee on Freedom of Association to make a preliminary examination of complaints of infringements of that freedom, before they were transmitted to the Governing Body.

Mr. SOLTYSIK observed that it was a fundamental principle of international law that by ratifying a treaty, convention or agreement States undertook to implement all its provisions and to bring their national laws into conformity with the instrument. It was not the practice to provide for special implementation machinery in every case, since there were already enough suitable organs, both in and outside the United Nations. Furthermore, the provisions of the Charter and other treaties could be invoked in case of any violation. For those reasons the International Law Commission, when debating the draft articles

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(Mr. Soltysiak)

of the law of treaties, had not provided for machinery to supervise the implementation of obligations which were binding upon the Contracting States. The procedure proposed by Mr. Ingles might create problems for many Governments, which might feel that the Fact-Finding and Conciliation Committee superseded existing institutions. There were already many means of settling international disputes between States in connexion with the implementation of international conventions or agreements. Some of them were listed in Article 33 of the Charter, and according to Article 34 the Security Council could investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, and had done so in connexion with the policies of apartheid of the Government of South Africa. It was impossible to decide beforehand what would be the most suitable procedure in any dispute that might arise in connexion with the elimination of racial discrimination. In some cases negotiation might be sufficient; in others arbitral or judicial procedure might be necessary; in yet others action by the Security Council might be called for. Moreover, the procedure envisaged by Mr. Ingles would be lengthy and might lead to inaction where action was most needed. He therefore felt strongly that, instead of setting up separate machinery, the maximum use should be made of that which already existed.

He did not intend to imply that none of Mr. Ingles's proposals were of any value. Article 1 contained provisions which would appear to be generally acceptable. The proposed system of reports was particularly useful. It was essential that the reports should not be relegated to the archives, but be carefully studied and acted upon.

Mr. IVANOV observed that, owing to the length of the document under discussion and the delay in providing the Russian text, he had not had an opportunity to examine it thoroughly. He would therefore be in favour of transmitting the text to the Commission on Human Rights without the Sub-Commission's taking a decision on it.

Mr. INGLES said he was quite aware that some Governments would favour the inclusion of strong provisions in the draft convention, as long as it did not contain effective measures of implementation.

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(Mr. Ingles)

With regard to Mr. Matsch's comment concerning the time within which Governments would be required to report he could see no reason why they should not be required to report within one year, especially as there was some indication that some Governments might want to bring their national legislation in line with the convention before ratifying it. He did not think, however, that Governments should be required to report annually on the subject and that was why subsequent reports were made discretionary with the Economic and Social Council.

Mr. Bouquin had drawn attention to the difference between the name of the body to be set up under his text and that set up under the UNESCO Protocol. He himself felt that the difference was one of terminology only - conciliation was bound to involve fact-finding, and the main desideratum was that the facts should be ascertained before the Committee could intelligently lend its good offices.

There was, of course, no reason why existing machinery for dealing with cases of racial discrimination should not be used - equally, there was no reason for not setting up more. The fact that the ILO already had such machinery had not been considered sufficient reason why UNESCO should not set up the Commission it had created under the Protocol. It was simply due to the fact that they had different fields of competence. The machinery he proposed would not prevent recourse to any other procedures, including arbitration, which might be considered appropriate; in fact, he had made express provision for such cases. Where the dispute involved racial discrimination in education, the Commission established by the UNESCO could be availed of if the parties concerned were also parties to the UNESCO Protocol. Similarly, if racial discrimination in employment and occupation was in question, parties might prefer the ILO implementation machinery. But there was no reason why the prohibition of racial discrimination in other fields should not be as strictly enforced.

The CHAIRMAN, speaking in his personal capacity, said that in the fifteen years in which he had been concerned with human rights a majority opinion had developed that the matter was properly the subject of international law. Respect for human rights and human dignity had been consecrated by the United Nations Charter. The General Assembly's decision to sponsor a convention

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(The Chairman)

on the elimination of racial discrimination had put the full weight of the United Nations behind the struggle to combat that heinous violation of human rights. Racial discrimination was not only morally detestable; it was an obstacle to friendly relations among States. That being so, a strong convention was required, and it would hardly be logical for it not to include some measures of implementation. He did not feel that the implementation of the convention could be left entirely to Governments. He would accordingly be in favour of any serious measures of the kind, even if they went further than the text proposed by Mr. Ingles, which none the less struck him as very judicious and expressing the views of most Members of the United Nations. He would agree to transmitting that text as it stood to the Commission on Human Rights.

The meeting rose at 6.10 p.m.

Annex 80

United Nations, *Official Records of the General Assembly,*
Twentieth Session, Third Committee,
document A/C.3/SR.1299 (11 October 1965)

United Nations
**GENERAL
ASSEMBLY**

TWENTIETH SESSION

Official Records



**THIRD COMMITTEE, 1299th
MEETING**

Monday, 11 October 1965,
at 3.5 p.m.

NEW YORK

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Chairman: Mr. Francisco CUEVAS CANCINO
(Mexico).

AGENDA ITEM 58

Draft International Convention on the Elimination of All Forms of Racial Discrimination (A/5803, chap. IX, sect. I; A/5921; A/C.3/L.1208-1212, L.1216-1226; E/3873, chap. II and annexes I and III)

1. The CHAIRMAN said that the item which the Third Committee was now taking up was a most important one. In 1963 the General Assembly had adopted (resolution 1904 (XVIII)) the United Nations Declaration on the Elimination of All Forms of Racial Discrimination unanimously; he hoped that the draft Convention, submitted by the Economic and Social Council in its resolution 1015 B (XXXVII) and set out as an annex to the note by the Secretary-General (A/5921), would also be adopted unanimously.

2. The Committee had before it a number of amendments (A/C.3/L.1208-1212, A/C.3/L.1216-1226), all relating to matters of substance. So far as the final clauses were concerned, he suggested that the officers of the Committee should together with the Secretariat prepare a preliminary draft which would be submitted to the Committee at a later meeting.^{1/}

It was so decided.

3. The CHAIRMAN reminded the Committee that it had decided not to hold a general debate on the present item.

4. Miss WILLIS (United States of America) said it was gratifying that at the present early stage in its work the Third Committee was taking up the draft Convention on the Elimination of All Forms of Racial Discrimination, which the United States delegation supported in its present form and which could make a

significant contribution to the advancement of human rights.

5. The United States Government assigned the highest priority to the objectives of the draft Convention, and was demonstrating by deeds that it was determined to put an end to racial discrimination. While it did not claim to have completed that task, it believed that it had taken decisive steps in the fight for freedom and the struggle against discrimination, ignorance, poverty, fear and prejudice.

6. Over the past few years the United States Congress had adopted three highly important laws. The Civil Rights Act of 1964 established the right of everyone, without regard to race, colour, religion or national origin to the full use of certain places open to the public, such as hotels, restaurants, theatres, sports arenas and the like; and the fact that such matters were being dealt with by Federal and not state legislation was a break with the past. The Act guaranteed freedom of access to Federal jobs and employment of every kind throughout the United States, and established conciliation and enforcement machinery to prevent discrimination in employment on the basis of race, colour, religion or national origin.

7. While the Civil Rights Act of 1964 had strengthened earlier legislation on the right to vote, it had remained for the Voting Rights Act of 1965 to guarantee the prompt enfranchisement for all United States citizens. The Act prohibited the use of tests for voting qualifications where those had been a means of discrimination against Negroes in the registration of voters; in addition, it authorized the Federal Government to intervene if the state authorities which had responsibility for registering voters failed to observe the guarantees in the United States Constitution. The number of Negroes enrolled as voters had already risen by about 150,000.

8. Lastly, the Economic Opportunity Act of 1964, which aimed at the elimination of poverty, was of great importance for the implementation of the equality objectives of the Civil Rights and Voting Acts providing aid programmes for the rural and depressed urban areas in which 75 per cent of the Negro population lived. The Act had created more job opportunities for minorities and had resulted in the establishment of new industries in towns and villages where employment had been shrinking or technological change had displaced workers, the formation of a domestic Peace Corps, called VISTA, which was sending volunteers to help the people in slum neighbourhoods, and the setting up of a Job Corps to train young people who had drifted away from school before they had acquired an elementary education.

^{1/} Subsequently circulated as document A/C.3/L.1237.

9. It was worthy of note in that connexion that the number of Negroes in schools of higher learning in the United States had almost doubled in fifteen years, that the number of non-white professional workers had more than doubled in ten years, and that among women college graduates the median income of Negroes exceeded that of whites. Progress had also been made in the lower schools; as the result of the Civil Rights Act of 1964, school authorities seeking Federal aid had to prove that they made no distinction on the grounds of race in the conduct of their schools. A recent count showed that only 65 of the approximately 25,000 school districts in the United States had not met the requirements.

10. Independently of its commitment to the eradication of racial discrimination at home, the United States Government wished to join with others in international action towards the same end, and felt that the draft Convention before the Committee was a step in the right direction. The United States delegation was sponsoring two amendments to the text. The first (A/C.3/L.1211), which it was submitting jointly with Brazil, proposed an additional article condemning anti-Semitism; its object was to strengthen the text. The second (A/C.3/L.1212), which it was submitting jointly with France, was aimed at clarifying the meaning of the expression "national origin" by specifying that there was nothing in that expression to prevent States from making a distinction between their treatment of their own citizens and nationals and their treatment of aliens.

11. Mr. RESICH (Poland), referring to his delegation's first amendment (A/C.3/L.1210), said that in the original text of the preamble the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in order to illustrate what pernicious doctrines and racial practices were to be condemned, had included a reference to nazism, which was the most violent and conspicuous form of racial discrimination. The Polish delegation felt, with all due respect for those who held that the Convention should be turned towards the future and not the past, that in an instrument such as that before the Committee nazism should not be passed over in silence. Moreover, since the object of the preamble was to set forth the principles and purposes of the Convention and the historical reasons for drafting it, and since, in addition, the preamble was of great importance for the interpretation of the substantive articles, there was every justification for including such a reference—which would also constitute a warning that the Polish delegation regarded as by no means redundant.

12. Mr. ZOHRAH (New Zealand) said that there could be few, if any, moral issues of greater consequence to the international community than that of racial prejudice and discrimination. Nor was there any doubt that the United Nations should devote itself to studying the causes of such prejudice and discrimination and to initiating measures that would focus world-wide attention on the problem and help to overcome it.

13. As a multiracial society New Zealand had a natural interest in race relations. While discrimination had no place in his country, he thought that no people could claim to be entirely free of prejudice. That was a world-wide problem, concerning the individual in his

personal relationships, societies in terms of their own well-being, and countries in their relations with one another, particularly where a country practised discrimination as a conscious act of policy. That was why the international community was so preoccupied with the situation in Southern Rhodesia.

14. The Third Committee had special responsibility in the field of human rights; through its work on basic instruments it had played its part in making Governments and peoples aware not only that there were still many areas of the world where performance fell far short of fundamental standards but also that even in those countries that could claim with justification to live traditionally by those standards, their unflinching observance could not be taken for granted.

15. In considering racial prejudice and discrimination the Committee must remember that it was acting in a field where individual attitudes were in the last resort as important as the official policies of Governments. It must therefore bear in mind that the Convention would be significant for the influence it would have on individuals as much as on the Governments to which it was addressed and which would assume the legal obligations; it should accordingly be couched in strong and unequivocal terms. His delegation felt that the preamble and substantive articles drawn up by the Sub-Commission constituted a good and strong text; improvements could no doubt be made and further work was of course needed on the implementation provisions and final clauses, but as it stood the text combined strength with flexibility and was generally acceptable to his delegation. One advantage of the Commission's text was that it recognized that solutions to problems of discrimination were to be found by a variety of means. That flexibility would encourage Governments to approach the question of adherence with responsibility and thus enhance the chances of obtaining the maximum number of ratifications. For it was only if a significant number of Member States adhered to the Convention that it would be truly effective.

16. With regard to the organization of work on the draft Convention, his delegation considered that the Committee might begin by studying the preamble as a whole and then proceed to discuss each article in turn.

17. Miss TABBARA (Lebanon) said that her delegation had participated in the work of the Commission on Human Rights and would approve the articles as adopted by that body. It was also prepared to support any amendments which might strengthen or clarify the text.

18. In order to bring the text of the Convention into line with that of the Declaration, which had been adopted unanimously, her delegation wished to introduce some amendments and would submit them later in writing. In the first preambular paragraph the word "principle" should be put in the plural since both the principle of dignity and that of equality were concerned. In the seventh preambular paragraph, the word "Concerned" should be replaced by "Alarmed", which was stronger (A/C.3/L.1222).

19. Mr. AL-RAWI (Iraq) welcomed with great satisfaction the draft International Convention on the Elimination of All Forms of Racial Discrimination and said that there was no racial, national or religious

discrimination in his country, whose Constitution guaranteed equal rights and privileges to all citizens.

20. His delegation was on the whole satisfied with the draft Convention before the Committee but might make some comments on it later if it found it necessary to do so.

21. Mr. OLCAY (Turkey) said that his delegation fully endorsed the principles on which the draft Convention was based.

22. In Turkey discrimination had never given rise to any problems, nor did it do so at the present time. The principle of equality was embodied in the Turkish Constitution and was scrupulously respected in practice.

23. With regard to the text of the Convention itself, he was gratified that the amendment submitted by the United States and French delegations (A/C.3/L.1212) provided some clarification regarding the application of the Convention. He observed that the text of the draft Convention made no reference to legal persons; that he considered a deficiency. With regard to article V, his delegation felt that the list of rights the enjoyment of which must be guaranteed was either too long or too short; of the rights mentioned, a number needed to be made more precise. So far as procedure was concerned, the text did not indicate the date on which the Convention was to enter into force, nor who was to be the depository.

24. His delegation would have some comments to make when the Committee discussed the text article by article and accordingly reserved the right to speak at that time.

25. Mr. NSENGIYUMVA (Rwanda) stressed the importance his delegation attached to the work of the Third Committee, whose task it was to identify the great social and human trends in the world today and to record the aspirations of mankind. Rwanda endorsed the resolutions adopted by the Committee since they were on the same lines as its own legislation. The Rwandese Constitution gave great importance to the question of human rights; it guaranteed to all citizens the enjoyment of fundamental rights.

26. His delegation welcomed the fact that the United Nations was working on an international convention on the elimination of all forms of racial discrimination. It had no criticism to make of the text of the Convention and was prepared to adopt it as it stood, while reserving the possibility of supporting any amendment which might improve its form or substance.

27. Mr. K. C. PANT (India) said that since its accession to independence India had never ceased supporting the principles enunciated in the draft international Convention on the Elimination of All Forms of Racial Discrimination and had participated in the drafting of the text in the Commission on Human Rights; it could only welcome the fact that the question was being studied by the Third Committee which, it was to be hoped, would soon succeed in producing a final text. The adoption of the Convention would be a landmark in the history of the work of the Third Committee and in the history of mankind. It was not, of course, to be expected that the Convention would eliminate overnight racial prejudices so deeply and so long rooted in the

customs of many countries, and even in the policies of their Governments. But it was to be hoped that it would exert on countries a moral pressure whose effects would be felt over the long term. In addition, it would propose a number of standards for the civilized countries and for that reason it must be drafted with extreme care and caution.

28. He recalled that the Indian Constitution guaranteed equality to all Indian nationals, without discrimination of any kind. Article 15.2 related more particularly to freedom of access to public places; article 16.2 prohibited discrimination in employment; article 17 abolished untouchability in all its forms. That form of discrimination, which was peculiar to India, had already been condemned by the 1950 Constitution. Article 29, paragraph 2, prohibited discrimination in education and in the granting of aid to educational institutions. Lastly, the Constitution provided for special treatment for the underprivileged groups of India, a special form of discrimination designed to undo the wrong done to those groups in the past.

29. Introducing his delegation's amendments (A/C.3/L.1216) he explained that the first one, relating to article I, was intended to meet the objections raised by many delegations to the words "national origin".

30. The second amendment, concerning article V, made the original text more flexible and, through the deletion of the words "the right of everyone" left States free to decide for themselves whether the same guarantees should be afforded to aliens and nationals. Many delegations had stressed and criticized the text's ambiguity on that point.

31. Mrs. MAKSIMENKO (Ukrainian Soviet Socialist Republic) said that her delegation's intention, in proposing (A/C.3/L.1208) that article IV, subparagraph (a) should state specifically that the provision of any assistance to racist activities, including the financing thereof should constitute an offence punishable by law, was to strengthen the text.

32. Mr. GARCIA (Brazil) said that in proposing jointly with the United States delegation (A/C.3/L.1211) that anti-Semitism should be expressly condemned his delegation was remaining faithful to the Brazilian Government's traditional liberalism.

33. Mr. KOCHMAN (Mauritania) said that he supported the amendments in documents A/C.3/L.1208, 1209 and 1212. He would be unable to support the amendments in documents A/C.3/L.1210 and 1211 unless the references to anti-Semitism and nazism were deleted, as the task of the Third Committee was to prepare a convention and not a detailed study of discrimination.

34. Mrs. WARZAZI (Morocco) asked what specific meaning was to be attached to the word "anti-Semitism" in document A/C.3/L.1211.

35. Mr. BECK (Hungary) requested an explanation of the distinctions between "national origin", "nationality" and "citizenship" drawn in the second amendment to article I submitted by France and the United States (A/C.3/L.1212).

36. Mr. COMBAL (France) said that he had intended to provide further explanations at a later stage of the

discussion, but would give immediately the explanation requested by the Hungarian representative.

37. The word "nationality" had a stricter and more specific meaning in French legal terminology than in that of other countries. It was understood to cover all that concerned the rules governing the acquisition or loss of nationality and the rights derived therefrom. His delegation, together with that of the United States, had submitted the amendment in order to ensure that no difficulties would be created in France and other countries using similar definitions by mistaken interpretation of the word "nationality".

38. Mr. ZOU PANOS (Cyprus) asked the sponsors of the amendment in question to explain any difference there might be between nationality and ethnic origin.

39. Miss WILLIS (United States of America) said that an individual's national origin might be different from his ethnic origin and that one might very well be a citizen of a country without belonging to the largest ethnic group in that country.

40. Princess NAKATINDI (Zambia) said that she unreservedly supported the idea of a convention on the elimination of all forms of racial discrimination; she reserved the right to comment later on the amendments.

41. The Constitution of Zambia granted equal rights to all citizens without any discrimination whatsoever. Every citizen had access to employment of every kind and children of different races attended the same schools, which had not been the situation when Zambia had been a colony. Women had the right to vote; they had access to employment of all kinds and some of them occupied important posts in the administration.

42. Mr. RIOS (Panama) said that his country unreservedly supported the draft Convention before the Committee; that instrument would not of course cause the chronic scourge of racial discrimination to disappear overnight but it would mark an important milestone on the way to equality between all peoples and all races.

43. In his delegation's opinion article VII was among the most important articles of the Convention, for the principles acquired in childhood were retained throughout maturity and old age; efforts to eliminate racial prejudice should therefore begin in the schools.

44. His country's legislation guaranteed all the rights enumerated in article V of the draft and the Government ensured that no Panamanian national or alien was deprived of his individual or collective rights.

45. His delegation, together with others, had submitted the amendments in document A/C.3/L.1226, one of which was intended to emphasize, in the sixth preambular paragraph, that discrimination between human beings was capable of disturbing the harmonious coexistence of persons even within the same State and to draw attention to the fact that the racial prejudice which set individuals against each other was one of the most difficult forms of prejudice to eradicate and was still very much alive in many States. In that connexion he pointed out that although in the Latin American countries racial discrimination did not exist in law, the situation was quite different in practice.

That was because racial prejudices had their origin in a combination of geographic, cultural, social and religious factors. Nevertheless, no matter how complex the reality was, the Convention should propose an ideal of racial equality.

46. The CHAIRMAN observed that the debate was becoming somewhat confused; some delegations were submitting amendments to one or another article of the Convention while others were reviewing the history of the Convention and others again were requesting explanations of various amendments.

47. He proposed that, beginning the next day, the Committee should take up the preamble as a whole, after the sponsors of amendments had presented their texts.

48. The Committee would then consider articles I to VII after which it would take up the new substantive articles. It would then begin consideration of the articles on measures of implementation and, lastly, take up the final clauses as a whole.

It was so decided.

AGENDA ITEM 62

Elimination of all forms of religious intolerance:

(a) Draft Declaration on the Elimination of All Forms of Religious Intolerance (A/5803, chap. IX, sect. II; A/5925; A/C.3/L.1215, L.1227; E/3873, paras. 294, 296, 303; E/3925 and Corr.1 and Add.1-5);

(b) Draft International Convention on the Elimination of All Forms of Religious Intolerance (A/3939, A/6003, chap. XIII, sect. I; A/C.3/L.1215, L.1227; E/4024, chap. II)

49. The CHAIRMAN observed that, as the Secretary-General's note (A/5925) made clear, in spite of the considerable efforts made by the Economic and Social Council, the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Third Committee, it had not been possible, for lack of time, to complete a draft declaration on the elimination of all forms of religious intolerance.

50. With regard to the draft Convention, document A/5939 recalled that the Commission on Human Rights, at its twenty-first session, had adopted a preamble and four articles on the basis of a preliminary draft submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

51. He drew attention to the fact that Greece should be added to the list of sponsors of the draft resolution before the Committee (A/C.3/L.1215).

52. Mr. COMBAL (France) said that the Third Committee found itself in a somewhat special situation, as the Commission on Human Rights, because of its very heavy agenda, had been able to complete only the beginning of the draft Convention which the General Assembly, at its seventeenth session (resolution 1781 (XVII)), had requested it to prepare.

53. As a substantive discussion would be rather difficult in these circumstances, the Committee should merely decide to invite the Commission on Human Rights to complete its work. That was the object of

the draft resolution (A/C.3/L.1215). The preamble of that draft merely recalled the various decisions already taken by the General Assembly, the Economic and Social Council and the Commission on Human Rights concerning the draft Convention and draft Declaration on the elimination of religious intolerance. In addition it thanked the Commission for the work already accomplished.

54. The three very short operative paragraphs were purely procedural in nature and contained nothing new. Paragraph 3, which merely reaffirmed the wish already expressed by the General Assembly, suggested that the two drafts should be given priority consideration at the twenty-first session.

55. The draft resolution was purely formal in nature, and his delegation hoped that it would be adopted unanimously. It would give useful encouragement to the Commission on Human Rights and the Economic and Social Council, and would stimulate them to more rapid completion of the two documents, in accordance with the decision taken at the seventeenth session of the General Assembly.

56. Mrs. BEN-ITO (Israel) said that it was unfortunate that there had not been time to complete the preparation of the draft Declaration and the draft Convention, which the General Assembly and various other bodies had been discussing for three years. In view of the importance of the question, it would be only logical if, when the documents were completed, the General Assembly gave them priority at the following session.

57. It was unnecessary for her to emphasize the interest which the Israel delegation took in the question of discrimination. It was common knowledge that the Jewish people had been subjected, over the centuries, to all forms of religious and racial discrimination. They had been the victims of holy wars, the Inquisition and pogroms. They had been confined in ghettos and had very often had to practice their religion in secrecy. Indeed, such persecution was continuing in certain countries at the present time.

58. Therefore, wishing to see the work on the draft Convention and the draft Declaration completed as quickly as possible, her delegation suggested that the Committee should close the debate and refer the question to the Commission on Human Rights so that the General Assembly might consider the drafts at its twenty-first session.

59. Mr. RIDLEY (Australia) said that he fully supported the draft resolution. He recalled that Australia, in keeping with the spirit of tolerance which informed its policy and with which its people was imbued, had always afforded a refuge to the victims of religious or other persecutions and that the Australian Constitution explicitly prohibited all discrimination, including religious discrimination.

60. As the Australian delegation had stated on several occasions, it regarded discrimination as an aberration and sincerely hoped that measures would be taken to educate the public and to teach it to practise tolerance.

61. Mr. SAKSENA (India) observed that although three years had passed since the subsidiary organs of the United Nations had been asked to draft texts concerning

the elimination of all forms of religious intolerance, his delegation found no reason to be critical of the delay in the submission of a final draft by the Commission. The instruments on religious intolerance involved serious problems of a philosophical and conceptual nature. His delegation, as a member of the Commission, knew that there had not been the slightest slackness in the work. He hoped that the work on that subject would soon be brought to a successful conclusion. He therefore regretted the use of the word "Regrets" in operative paragraph 1 of the draft resolution (A/C.3/L.1215); except for that, his delegation would support the draft resolution.

62. He recalled that religious intolerance was an evil that was practically unknown in India, where Zoroastrianism, Judaism, Buddhism, Hinduism, Islam, Christianity and other religions flourished side by side. He quoted excerpts from one of the Edicts of Asoka, some 2,300 years old, to show that religious tolerance had always been practised in India.

63. Mr. AL-RAWI (Iraq) said that religious tolerance was a Moslem and Arab tradition and was one of the essential conditions for freedom of conscience and religious freedom. The Constitution of Iraq guaranteed to all citizens the right to practise their religion whatever it might be.

64. Nevertheless, the Declaration and the Convention should state the right of everyone freely to practise his religion, in so far as it was compatible with public order and morality in general.

65. Miss WILLIS (United States of America) felt that the elimination of religious intolerance was an item of the utmost importance. Such intolerance was entirely at variance with the traditions of her country.

66. The United States delegation had hoped that the work on the draft Declaration and Convention would be carried on simultaneously with the work on the elimination of racial discrimination, and regretted that it had not been possible to do so. In view of the urgency of the problem, the General Assembly should ask the Economic and Social Council to invite the Commission on Human Rights to complete the preparation of the instruments in question in time for the Economic and Social Council to consider them at its March session, and should take up the instruments as a matter of priority at its twenty-first session. The world should know where the United Nations stood on the question of religious intolerance.

67. Mr. BAROODY (Saudi Arabia) expressed surprise that anyone should consider drafting a declaration and a convention on the elimination of religious intolerance simultaneously. The drafting of a convention was an extremely delicate undertaking which gave rise to endless controversy. Conventions were not always ratified by a sufficient number of countries and, furthermore, many articles remained a dead letter. He therefore thought it unfortunate that in the draft resolution a number of countries proposed that the Commission on Human Rights should be requested to prepare a draft convention. In his view, the question of the desirability of drafting a convention should be decided and the contents of such an instrument discussed only after the Declaration had been completed.

68. In addition to the great religions which had millions of adherents, there were thousands of other religions which had an equal right to be protected. Religious tolerance consisted in guaranteeing freedom of conscience to everyone, including free-thinkers. But however necessary it might be to guarantee religious freedom, the adoption of a convention could, in certain cases, create unforeseen difficulties. For example, some religions required their faithful to observe special dietary rules which, if generally applied, could have economic repercussions with which certain States might be unable to cope. The Committee should also guard against the danger of yielding to pressure from certain groups, which viewed the proposed Convention as a means of protecting their own interests.

69. The Saudi Arabian delegation would like the text of the draft resolution to be reworded so as to refer only to the Declaration.

70. Mr. KOCHMAN (Mauritania) asked the co-sponsors of the draft resolution to delete operative paragraph 1—as he felt that it was not for the Committee to blame anyone—and paragraph 3, which was unnecessary in view of paragraph 2.

71. Mr. SAKSENA (India) supported the Mauritanian representative's request for the deletion of paragraph 1.

72. Mr. PARDOS (Spain) requested that the texts on the elimination of religious intolerance should be given priority, not only at the twenty-first session of the General Assembly, but also in the Economic and Social Council.

73. The spirit of tolerance had presided over the birth of the international community, but it was necessary to strengthen that spirit by positive measures and to guarantee freedom to all persons in the matter of religion. Spain, which was profoundly catholic, respected religious freedom and had provided a refuge for thousands of victims of racial and religious persecution. The Spanish delegation would therefore give full support to the draft Declaration and the draft Convention.

74. Mr. FUENTES IBAÑEZ (Bolivia) said that his country's Constitution guaranteed complete freedom of religion and his delegation was therefore prepared to support the draft Declaration and, in due course, the draft Convention, on the elimination of all forms of religious intolerance.

75. Mrs. IDER (Mongolia) agreed with the Mauritanian representative that there was no reason to retain paragraph 3 after paragraph 2 of the draft resolution.

76. She shared the Saudi Arabian representative's view that the Declaration on the elimination of all forms of religious intolerance should be adopted before any work was started on the Convention.

77. Mr. COMBAL (France) said that he had taken note of the various suggestions which had been made concerning the draft resolution. However, since he could speak only on behalf of his own delegation, it might be preferable to allow the fourteen co-sponsors time to consult one another.

78. Mr. BAROODY (Saudi Arabia) submitted two formal amendments (A/C.3/L.1227). He proposed that in operative paragraph 2 of the draft resolution (A/C.3/L.1215) the words "on the two drafts" should be replaced by "of the draft Declaration" and the word "they" before "may be submitted" should be replaced by the word "it".

79. He also proposed that operative paragraph 3 should be replaced by a new text whereby the General Assembly would decide to postpone the question of completing the preparation of the draft Convention until it had adopted the draft Declaration.

80. Mrs. VILLGRATTNER (Austria) said that the question of the preparation of a declaration and a convention on the elimination of all forms of religious intolerance and, in particular, the question of the order in which they should be taken up, had been debated at length in the past. In her view it was far more the responsibility of the Commission on Human Rights than of the Third Committee to enter into details and to consider the religious, ideological and legal aspects of the problem. Since the draft resolution was already the result of a compromise, she felt that it and the amendments should be voted on immediately.

81. Mr. CHK'IKVADZE (Union of Soviet Socialist Republics) said that it would be desirable to allow delegations time to think the matter over. A number of very important questions had been raised concerning both substance—the position of the United Nations in the campaign against religious intolerance and the advisability of drafting a convention at the present time—and form. Accordingly he proposed that the meeting should be adjourned.

82. The CHAIRMAN observed that, under rule 120 of the rules of procedure, a motion for adjournment had precedence over a motion for the closure of the debate.

The motion to adjourn the meeting was adopted by 57 votes to 14, with 12 abstentions.

The meeting rose at 6.15 p.m.

Annex 81

United Nations, *Official Records of the General Assembly,*
Twentieth Session, Third Committee,
document A/C.3/SR.1304 (14 October 1965)

United Nations
GENERAL
ASSEMBLY

TWENTIETH SESSION

Official Records



THIRD COMMITTEE, 1304th
MEETING

Thursday, 14 October 1965,
at 10.45 a.m.

NEW YORK

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Chairman: Mr. Francisco CUEVAS CANCINO
(Mexico).

AGENDA ITEM 62

Elimination of all forms of religious intolerance
(concluded):

- (a) *Draft Declaration on the Elimination of All Forms of Religious Intolerance (concluded)*;
(b) *Draft International Convention on the Elimination of All Forms of Religious Intolerance (concluded)*

1. Mrs. VILLGRATTNER (Austria) said that, had her delegation been able to attend the previous meeting, it would have voted against the first Saudi Arabian amendment (A/C.3/L.1227) to operative paragraph 1 of the draft resolution (A/C.3/L.1215) and in favour of the oral amendment submitted by India and of operative paragraph 1 as a whole, as amended. It would also have voted against the second Saudi Arabian amendment to operative paragraph 2; it would have abstained in the vote on the deletion of the words "and draft Convention"; and it would have voted in favour of operative paragraph 2 as a whole, and of the draft resolution as a whole, as amended.

AGENDA ITEM 58

*Draft International Convention on the Elimination of All Forms of Racial Discrimination (continued)** (A/5803, chap. IX, sect. I; A/5921; E/3873; chap. II and annexes I and III; A/C.3/L.1208 to L.1212, L.1216 to L.1225, L.1226 and Corr.1, A/C.3/L.1228, L.1231 and Corr.1)

2. The CHAIRMAN observed that the Committee had considered the preamble thoroughly. Negotiations

* Resumed from the 1302nd meeting.

were taking place with a view to settling certain points in dispute and it would be preferable to await their outcome before voting. He therefore suggested, with the agreement of the Committee, that it begin consideration of article I.

ARTICLE I

3. Mr. RESICH (Poland) recalled that, because of the reservations expressed in the Commission on Human Rights during its discussion of article I of the draft International Convention on the Elimination of All Forms of Racial Discrimination (A/5921, annex), the Commission had left it to the General Assembly to decide whether there was a need for a distinction to be made between ethnic and national origin. His delegation felt that that distinction should be preserved and had submitted an amendment (A/C.3/L.1210) calling for the retention not only of the word "national" in the first sentence of article I, but also of the last sentence of paragraph 1 of that article, which explained the precise meaning to be attached to that word. Such an explanation was necessary because of the deletion of article VIII from the text originally submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (see E/3873, paras. 242-256).

4. Since the Convention was to be of universal application, the Committee should bear in mind the fact that in many languages and cultural systems "national origin" meant something different from "ethnic origin" and that distinction might serve as a basis for discrimination. That distinction had been recognized by the Slavic countries in their legal texts. The draft Convention mentioned two other similar concepts: race and colour. In English and French, "race" represented a sociological concept and "colour" an anthropological one, while in other languages, such as Polish, "race" and "colour" were concepts of physical anthropology exclusively.

5. A "nation" was created when persons organized themselves politically on the basis of a common culture, common traditions or other factors. There were nations that were made up of different ethnic groups, such as Switzerland. But there were also situations in which a politically organized nation was included within a different State and continued to exist as a nation in the social and cultural senses even though it had no government of its own. The members of such a nation within a State might be discriminated against, not as members of a particular race or as individuals, but as members of a nation which existed in its former political form. The deletion of the word "national" from the Convention would imply that the Committee rejected the principle

that all persons should be protected from any type of racial discrimination.

6. The difficulty to which the French representative had referred at the 1299th meeting could be overcome by the inclusion of the second sentence of paragraph 1. The French and United States amendments (A/C.3/L.1212), however, went too far.

7. He understood the six-Power amendment (A/C.3/L.1224) to imply the retention of the word "national" in article I and the insertion of a new paragraph 2 to explain it. If that was correct, his delegation could accept the amendment. If, on the other hand, the amendment, like the first Indian amendment (A/C.3/L.1216), implied that ethnic origin included national origin, he could not accept it.

8. The fifth amendment submitted by the sixteen Powers (A/C.3/L.1226 and Corr.1) and the first Brazilian amendment (A/C.3/L.1209) referred only to States composed of different nationalities; in his delegation's opinion, all States were made up of different nationalities, although the proportion of any one to the total might be very small.

9. In reply to a question by Mr. TSAO (China), Mr. DAYRELL DE LIMA (Brazil) said that the word "nationalities", as used in his delegation's first amendment (A/C.3/L.1209) referred to citizens of different ethnic and cultural origins.

10. Mr. VERRET (Haiti) observed that article I merely reflected the Universal Declaration of Human Rights. He favoured the deletion of the word "national", not because a State could not be made up of different nationalities—there was, for example, the case of States which were federations—but because it was superfluous, since after joining the federation, all citizens acquired the same nationality, the nationality of the federation. The Roman Empire, for example, had been composed of many nationalities, as were the Union of Soviet Socialist Republics and Switzerland today.

11. His delegation would support the fifth amendment submitted by the sixteen Powers (A/C.3/L.1226 and Corr.1) which strengthened article I by recalling once again principles which all Members had already accepted.

12. Miss AGUTA (Nigeria) said that in the amendment of which her delegation was one of the sponsors (A/C.3/L.1225) the replacement of the word "underdeveloped" in article I, paragraph 2, by "underprivileged" had been proposed because the application of the former term to a racial group could only have a derogatory connotation. The former word was more applicable to economies or geographical areas than to people.

13. Mr. VILLGRATNER (Austria) urged the retention of the word "national" in article I of the draft International Convention. For half a century the terms "national origin" and "nationality" had been widely used in literature and in international instruments as relating, not to persons who were citizens of or held passports issued by a given State, but to those having a certain culture, language and traditional way of life peculiar to a nation but who lived within another State. The former Austro-Hungarian monarchy

had ruled over a number of nationalities, not all of which were of different ethnic origin, but each of which belonged to a different national group. She did not believe that the word "national" as used in article I was likely to be misunderstood, particularly since the United Nations itself had organized a seminar on the multinational society in June 1965. Deletion of the word might lead to uncertainty concerning the rights of certain groups and perhaps, eventually, to their denial.

14. Mrs. PONCE DE LEON (Colombia) suggested that the word "nationalities" in the first Brazilian amendment (A/C.3/L.1209) should be replaced by "ethnic and cultural communities".

15. Mr. COMBAL (France) observed that it was not surprising that the term "national origin" had given rise to difficulties, since it could be interpreted in two entirely different ways. In the Brazilian amendment it was used in a sociological sense, but it might also be equated with the word "nationality", which in many countries had a very specific legal meaning. If the term was to be used in the draft International Convention, some explanation of its meaning must be given. The explanation provided in the amendments submitted by France and the United States of America (A/C.3/L.1212) was the minimum that would serve and was by no means the perfect formula. His delegation would prefer to find a different way of defining the notion which it was sought to include in article I, and the first Indian amendment (A/C.3/L.1216) represented an interesting approach. He hoped that the sponsors of the various amendments would be able to agree on a text that would eliminate the ambiguity involved in the use of the word "national".

16. Mr. GUEYE (Senegal) noted that the expression "national origin" had given rise to controversy, apparently because some delegations feared that its use would confer on aliens living in a State equality of rights in areas, political or other, which under the laws of the State were reserved exclusively to nationals. His delegation believed that the expression should nevertheless be retained, since it would offer protection to persons of foreign birth who had become nationals of their country of residence and who in some cases suffered from discrimination, as well as foreign minorities within a State which might also be subjected to persecution. It had therefore co-sponsored an amendment (A/C.3/L.1224), the effect of which was virtually the same as that of the amendments submitted by France and the United States of America (A/C.3/L.1212). He hoped that a text satisfactory to all delegations would be found.

17. Mr. KOCHMAN (Mauritania) said that his delegation supported the French-United States amendments, which were very clear. In his view, the six-Power amendment (A/C.3/L.1224) was open to misinterpretation.

18. Mr. MACDONALD (Canada) saw little difference between the many amendments which had been submitted, so far as their substantive consequences were concerned. He agreed with previous speakers that the sponsors should meet and attempt to select the clearest and least complicated expressions of their ideas, among which the texts submitted by

France and the United States of America (A/C.3/L.1212) and by India (A/C.3/L.1216) were perhaps the best.

19. Mr. SAKSENA (India) noted that the Commission on Human Rights and the Third Committee were generally agreed that the purpose of the draft International Convention was to eliminate all forms of racial discrimination which might exist between the inhabitants of a given State; no delegation had suggested that the rights guaranteed and the duties imposed under national constitutions should be extended to aliens. The difficulty confronting the Committee in connexion with article I was the lack of agreement on the meaning of the word "national", which had been included in the text of article I as drafted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, subject, however, to the qualification contained in draft article VIII (E/3873, para. 242), subsequently deleted by the Commission on Human Rights. His delegation had submitted an amendment (A/C.3/L.1216) in an attempt to overcome the difficulty, but it agreed that an attempt should be made to find a formulation acceptable to the largest possible number of delegations.

20. While appreciating the motives and purposes underlying the first amendment submitted by Mauritania, Nigeria and Uganda (A/C.3/L.1225), his delegation understood the word "privileges" to mean the existence of special rights for some particular section of the community, and denial of the same to others. In legal terms, "privilege" was the negation of equality before law. Therefore, the word "under-privileged" would be inappropriate in a legal document such as the one before the Committee. The situation in India was that the "scheduled castes", to whom article I, paragraph 2, would apply, were not under-privileged, as like any other citizen they enjoyed equality before law. In addition, they had been granted some extra facilities, such as in the field of education, for the purpose of securing their adequate development and for levelling of the social order.

21. Mr. BECK (Hungary) said he had learnt from informal discussions with various delegations that the term "national origin" was open to different interpretations, even among countries speaking the same language. Most European countries, and especially those which had once formed part of the Austro-Hungarian Empire, knew from experience the importance of mentioning national origin in article I of the draft International Convention; however, the quite legitimate misgivings of many delegations could not be overcome either by translation changes or by the definition given in the French-United States amendments (A/C.3/L.1212). He hoped that the sponsors of the various amendments, when attempting to arrive at a generally acceptable text, would bear in mind the need to find a clear formulation prohibiting discrimination against persons who were full citizens of a State but had a different nationality, in the sense of another mother tongue, different cultural traditions, and so forth.

22. Mr. AL-RAWI (Iraq) said that the term "national" had the same meaning in his language as it did in English and French, and he would therefore have difficulty in accepting it in the context of article I.

Wording should be found which would be clear and unambiguous in all languages.

23. Miss WILLIS (United States of America) said that she would like to clarify her delegation's understanding of the differences in meaning between "national origin" and other terms used in article I and in the amendments to that article co-sponsored by France and the United States (A/C.3/L.1212). National origin differed from nationality in that national origin related to the past—the previous nationality or geographical region of the individual or of his ancestors—while nationality related to present status. The use of the former term in the Convention would make it clear that persons were protected against discrimination regardless of where they or their ancestors had come from. National origin differed from citizenship in that it related to non-citizens as well as to citizens; she noted in passing that the laws of her country concerning racial discrimination applied to both. National origin was narrower in scope than ethnic origin; the latter was associated with racial and cultural characteristics and inclusion of a reference to it would not necessarily cover the case of persons residing in foreign countries where their national origins were not respected.

24. Her delegation had borne those distinctions in mind in co-sponsoring the amendments submitted in document A/C.3/L.1212. The purpose of the amendments was to ensure that the Convention applied to racial discrimination in all its forms, while allowing certain accepted distinctions between citizens and non-citizens to be made by States.

25. Miss AGUTA (Nigeria) supported the first Indian amendment (A/C.3/L.1216), which avoided the word "national", and the six-Power amendment (A/C.3/L.1224), which provided for a distinction between citizens and non-citizens. She could not agree with the Indian representative's views on the word "under-developed". A large proportion of the world's population was underprivileged, while no group of human beings could justifiably be called under-developed.

26. Mrs. BANGOURA (Guinea) supported the six-Power amendment (A/C.3/L.1224) and the replacement of "under-developed" by "underprivileged". Paragraph 2 of article I dealt with the vital question of protecting racial groups or individuals who were the victims of under-development. Such groups and individuals were to be found in all countries, not only in the developing ones. It should be clearly understood, however, that it was not the individuals or groups but their condition that was under-developed.

27. Mr. WALDRON-RAMSEY (United Republic of Tanzania) considered the word "under-developed" entirely inappropriate in the present context. In matters of economics and trade, the word had acquired a clear and valid meaning in the United Nations. But to transfer the word to human beings was unjustifiable and dangerous. It would open the Convention to insidious interpretations which would expose certain groups to the very treatment against which the Convention was supposed to protect them. Those who discriminated against others often chose to call them under-developed, in order to justify their own attitudes and actions. Surely the Committee did not wish to provide legal support for that practice.

There was no question that the term "under-developed", which could be legitimately applied to countries in an economic context, was not valid in connexion with human beings. He strongly supported the use of the word "underprivileged". It suggested the very situation for which the Convention was most needed—the situation in which one group suffered disabilities at the hands of another, dominant group.

28. Mr. CHKHIKVADZE (Union of Soviet Socialist Republics) agreed with previous speakers that the term "under-developed" was not applicable to people and that "underprivileged" was the appropriate word. If certain colonial peoples were denied education, for example, the fault lay not with them but with the colonialists, and the victims were not under-developed, but underprivileged.

29. He believed that a reference to national origin must be included in the Convention. Discrimination against national groups had been and still was widely practised and should be explicitly prohibited by the Convention.

30. Mrs. SEKANINOVA (Czechoslovakia) said that her delegation's amendment to article I (A/C.3/L.1220) was directed against racial persecution. Persecution of racial groups was a serious and wide-spread practice to which specific reference should be made in the article that defined racial discrimination.

31. Mr. RIOS (Panama) said that the draft Convention had been very carefully drawn up by experts in human rights, sociology, international relations and law. The Committee should not alter its basic terminology without first making certain that the changes were legally, sociologically and politically acceptable. Otherwise, the Convention might fail to obtain the support hoped for.

32. Mr. GOUDARZANIA (Iran) said that he supported article I with the exception of the word "national", which when translated into his language, would give rise to some confusion.

33. Lady GAITSKELL (United Kingdom) agreed with the Tanzanian representative's remarks, although she felt that "underprivileged" was open to the same abuse as "under-developed". She suggested, instead of either word, "groups or individuals discriminated against in any way".

34. Mr. JATOI (Pakistan) said that the words enclosed in square brackets would give rise to varying interpretations and might raise serious difficulties in States interested in immigration. His delegation would support any amendment which would remove the ambiguity. It would also support the replacement of "under-developed" by "underprivileged".

The meeting rose at 12.30 p.m.

Annex 82

United Nations, *Official Records of the General Assembly,*
Twentieth Session, Third Committee,
document A/C.3/L.1237 (15 October 1965)

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
LIMITED

A/C.3/L.1237
15 October 1965

ORIGINAL: ENGLISH



Twentieth session
THIRD COMMITTEE
Agenda item 53

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF
ALL FORMS OF RACIAL DISCRIMINATION

Suggestions for final clauses submitted by
the Officers of the Third Committee

I. SIGNATURE AND RATIFICATION

1. The present Convention is open for signature by any State Member of the United Nations or of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the Convention.

2. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

II. ACCESSION

1. The present Convention shall be open to accession by any State referred to in paragraph 1 of article 1.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

III. ENTRY INTO FORCE

1. The present Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or instrument of accession.

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English

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2. For each State ratifying the Convention or acceding to it after the deposit of the twentieth instrument of ratification or instrument of accession, the present Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

IV. TERRITORIAL APPLICATION

1. The present Convention shall apply to all non-self-governing, trust, colonial and other non-metropolitan territories for the international relations of which any State Party is responsible. Subject to the provisions of paragraph 2 of this article, the Party concerned shall, at the time of signature, ratification or accession, declare the non-metropolitan territory or territories to which the Convention shall apply ipso facto as a result of such signature, ratification or accession.

2. In any case in which the previous consent of a non-metropolitan territory is required by the constitutional laws or practices of the Party or of the non-metropolitan territory, the Party concerned shall endeavour to secure the needed consent of the non-metropolitan territory within the period of twelve months from the date of signature of the Convention by the metropolitan State, and when such consent has been obtained, the Party shall notify the Secretary-General. This Convention shall apply to the territory or territories named in such notification from the date of its receipt by the Secretary-General.

3. After the expiry of the twelve-month period mentioned in the preceding paragraph, the States Parties concerned shall inform the Secretary-General of the results of the consultations with those non-metropolitan territories for whose international relations they are responsible and whose consent to the application of this Convention may have been withheld.

V. FEDERAL STATE

In the case of a Federal or non-unitary State, the following provisions shall apply:

(a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States;

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(b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;

(c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

VI. RESERVATIONS

1. At the time of signature, ratification or accession, any State may make reservations to any article in the present Convention.

2. If any State makes a reservation in accordance with paragraph 1 of the present article, the Convention, with the exception of those provisions to which the reservation relates, shall have effect as between the reserving State and the other Parties. The Secretary-General of the United Nations shall communicate the text of the reservation to all States which are or may become Parties to the Convention. Any State Party to the Convention or which thereafter becomes a Party may notify the Secretary-General that it does not agree to consider itself bound by the Convention with respect to the State making the reservation. This notification must be made, in the case of a State already a Party, within ninety days from the date of the communication by the Secretary-General; and, in the case of a State subsequently becoming a Party, within ninety days from the date when the instrument of ratification or accession is deposited. In the event that such a notification is made, the Convention shall not be deemed to be in effect between the State making the notification and the State making the reservation.

3. Any State making the reservation in accordance with paragraph 1 of the present article may at any time withdraw the reservation, in whole or in part, after it has been accepted, by a notification to this effect addressed to the Secretary-General of the United Nations. Such notification shall take effect on the date on which it is received.

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VII. DENUNCIATION AND ABROGATION

A Contracting State may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

VIII. SETTLEMENT OF DISPUTES

Any dispute between two or more Contracting States over the interpretation or application of this Convention, which is not settled by negotiation, shall at the request of any of the parties to the dispute be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

IX. REVISION

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General. The General Assembly shall decide upon the steps, if any, to be taken in respect of such a request.

X. NOTIFICATIONS

The Secretary-General of the United Nations shall inform all States referred to in paragraph (1) of article I of the following particulars:

- (a) Signatures, ratifications and accessions under articles I and II;
- (b) The date of entry into force of this Convention under article III;
- (c) Communications and ratifications received in accordance with articles IV, V and IX;
- (d) Reservations and denunciations under articles VI and VII.

XI. AUTHENTIC TEXT

1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

/...

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2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in paragraph (1) of article I.

Annex 83

United Nations, *Official Records of the General Assembly,*
Twentieth Session, Third Committee,
document A/C.3/SR.1307 (18 October 1965)

United Nations
**GENERAL
ASSEMBLY**

TWENTIETH SESSION

Official Records



**THIRD COMMITTEE, 1307th
MEETING**

*Monday, 18 October 1965,
at 10.45 a.m.*

NEW YORK

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Agenda item 58:

Draft International Convention on the Elimination of All Forms of Racial Discrimination (continued)

Articles I to VII (continued) 95

*Chairman: Mr. Francisco CUEVAS CANCINO
(Mexico).*

AGENDA ITEM 58

Draft International Convention on the Elimination of All Forms of Racial Discrimination (continued) (A/5803, chap. IX, sect. I; A/5921; E/3873, chap. I) and annexes I and III; A/C.3/L.1208 to L.1212, L.1216 to L.1225, L.1226 and Corr.1, A/C.3/L.1228, L.1231 and Corr.1, A/C.3/L.1236 to L.1238)

ARTICLES I TO VII (continued)

1. Miss **TABBARA** (Lebanon), on behalf of the sponsors, introduced a compromise amendment to article I of the draft International Convention (A/5921 annex), sponsored by the delegations of Ghana, India, Lebanon, Mauritania, Morocco, Nigeria, Poland and Senegal (A/C.3/L.1238). The sponsors had used the words "national origin" in paragraph 1 rather than the words "place of origin" used in the first Indian amendment (A/C.3/L.1216) because the former expression had been used in the Universal Declaration of Human Rights and in some national constitutions and had a special meaning in some economic systems. The amendment made it clear that the Convention would not apply to non-citizens or effect legislation on nationality, citizenship or naturalization, provided that there was no discrimination against any particular nationality.

2. Lady **GAITSKELL** (United Kingdom), in explanation of her delegation's vote on the draft Convention and amendments thereto, said that the original text of the Convention was strong and clear and some of the amendments merely lengthened the text without strengthening it. For example, the second Brazilian amendment (A/C.3/L.1209) weakened the force of the Convention, whose articles already imposed upon States the obligation to discourage racial discrimination. She therefore appealed to the Brazilian representative to withdraw his delegation's amendment.

3. The third Polish amendment (A/C.3/L.1210) would oblige a State to adopt legislation prohibiting racial discrimination whether or not such legislation was necessary; but racial discrimination might persist even after the adoption of such legislation. The General

Assembly should not attempt to dictate to States, particularly since the nature and size of the problem varied from country to country. Her delegation would therefore oppose that amendment.

4. The phrase "and to discourage anything which tends to strengthen racial division" at the end of the fourth amendment submitted by Brazil, Colombia and Senegal (A/C.3/L.1217) was, in her view, too weak and too general, particularly when contrasted with the positive prohibitions and injunctions placed on Governments in other parts of the Convention; it would weaken rather than contribute to the force of the Convention.

5. Similarly, the new sub-paragraph 1 (d) of article II, proposed on the sixth of the Latin American amendments (A/C.3/L.1226 and Corr.1) only served to weaken the Convention; it almost implied that Governments were not going to observe the positive injunctions laid upon them elsewhere. Finally, she could see no difference of substance between the seventh Latin American amendment and the original text and hoped that the Committee would adopt the latter.

6. The **CHAIRMAN** said that the Committee would now proceed to vote on the draft articles at present before the Committee.

7. Miss **TABBARA** (Lebanon) suggested that explanations of vote on each article and on the amendments thereto should be made immediately before or after the voting on the article and amendments in question.

It was so agreed.

Article I

8. Mr. **COMBAL** (France) said that the text submitted in document A/C.3/L.1238 was entirely acceptable to his delegation and to that of the United States of America which therefore withdrew their own amendments (A/C.3/L.1212).

9. Mr. **BELTRAMINO** (Argentina) suggested that the meeting should be suspended in order to allow other sponsors to decide whether to withdraw their amendments to article I.

It was so agreed.

The meeting was suspended at 11 a.m. and resumed at 11.15 a.m.

10. The **CHAIRMAN** announced that the delegations of Poland and India, having co-sponsored the text contained in document A/C.3/L.1238, had withdrawn their own amendments to article I: the second amendment in document A/C.3/L.1210 and the first in document A/C.3/L.1216, respectively. Kuwait had become a sponsor of the new text.

11. Mr. K. C. PANT (India) added that his delegation had withdrawn its amendment on the understanding that the text contained in document A/C.3/L.1238 was intended to replace only paragraph 1 of the article.

12. Mrs. SEKANINOVA (Czechoslovakia) withdrew her delegation's first amendment (A/C.3/L.1220), Mr. LAMPTEY (Ghana) withdrew the six-Power amendment (A/C.3/L.1224) and Mr. BELTRAMINO (Argentina) withdrew the fifth Latin American amendment (A/C.3/L.1226 and Corr.1).

13. The CHAIRMAN said that he would first put to the vote, as a replacement for article I, paragraph 1, of the original text (A/5921, annex), the amendment contained in document A/C.3/L.1238. After article I, paragraph 1, had been disposed of, the Committee would vote on the oral amendments to article I, paragraph 2, proposed at the preceding meeting by the representatives of the Ivory Coast and India, and on the first amendment submitted by Mauritania, Nigeria and Uganda (A/C.3/L.1225).

14. Mr. BELTRAMINO (Argentina) suggested that, in the interest of uniformity in the text of the draft International Convention, an amendment to article I, paragraph 2, similar to the seventh Latin American amendment (A/C.3/L.1226 and Corr.1) to article II, paragraph 2, should be put to the vote.

15. Mr. K. C. PANT (India) recalled that his delegation had expressed its willingness to consider any proposal concerning article I, paragraph 2, which was consistent with the provisions of the Indian Constitution; however, his delegation would require time to study the suggestion just made by the representative of Argentina.

16. The CHAIRMAN said that, in his view, there was a basic difference between article I, paragraph 2, and article II, paragraph 2, in that the former set forth an exception to the definition of racial discrimination contained in article I, paragraph 1, while the latter imposed a specific obligation on States parties. If the sponsors of the seventh Latin American amendment wanted him to put that text to the vote as an amendment to article I, paragraph 2, he would do so, but he saw no incompatibility between that text, as it would read if the Indian amendment was adopted, and that of article II, paragraph 2, proposed by the Latin American countries.

17. Mr. BELTRAMINO (Argentina) said that, in order not to delay the Committee's work, his delegation would not press its suggestion; however, he felt that it might be desirable to have the text of the draft Convention, as eventually adopted, reviewed by a drafting committee for the purpose of eliminating any inconsistencies.

The amendment contained in document A/C.3/L.1238 was adopted unanimously.

18. The CHAIRMAN said that he would next put to the vote the Ivory Coast oral amendment proposing the deletion of article I, paragraph 2, of the original text.

19. Mrs. WARZAZI (Morocco) pointed out that, according to the wording of document A/C.3/L.1238,

the new text adopted by the Committee replaced the whole of article I.

20. The CHAIRMAN drew attention to the comment made by the representative of India in connexion with the withdrawal of his amendment, to which no objection had been raised, and said that he himself had been most careful to explain the order of voting on article I. He therefore considered that paragraph 1 had been replaced by the text contained in document A/C.3/L.1238, and that the Committee must now vote on paragraph 2 and the amendments thereto.

21. Mr. SANON (Upper Volta) and Mr. KEITA (Mali) said that, in view of the wording of document A/C.3/L.1238, the vote on article I should be considered completed and the Committee should proceed to vote on article II.

22. The CHAIRMAN pointed out that delegations which opposed the inclusion in article I of any provision other than those set out in document A/C.3/L.1238 could support the Ivory Coast proposal for the deletion of paragraph 2.

The Ivory Coast oral amendment to article I, paragraph 2, of the original text was rejected by 52 votes to 14, with 20 abstentions.

The Indian oral amendment to article I, paragraph 2, of the original text was adopted by 34 votes to 20, with 36 abstentions.

Article I, paragraph 2, of the original text as a whole, as amended, was adopted by 67 votes to 10, with 15 abstentions.

Article I, as a whole, as amended, was adopted by 89 votes to none, with 8 abstentions.

23. Miss AGUTA (Nigeria) said that she had voted in favour of the article as a whole but against paragraph 2 (new paragraph 4). That paragraph as amended was much weaker than the original text, because it would leave it to the authorities which might be responsible for racial oppression to decide whether or not special measures were necessary.

24. Lady GAITSKELL (United Kingdom) said that she had voted in favour of the article as a whole because it probably represented the best attainable compromise on the different wordings proposed. The word "nationality" was obviously interpreted in different ways in different countries; her delegation understood the word "nationality" as used at the end of the new text (A/C.3/L.1238) which now replaced the original paragraph 1, to mean persons of a particular national origin.

25. Mrs. WARZAZI (Morocco) said that she considered paragraph 2 (new paragraph 4) to be superfluous since a virtually identical provision appeared in the more suitable context of article II. Desiring to avoid needless repetition of the same clause, she would vote against article II, paragraph 2.

26. Mr. CHKHIKVADZE (Union of Soviet Socialist Republics) said that his delegation would have preferred the original text of article I (A/5921, annex) with the square brackets removed, but had accepted the amended version in a spirit of compromise. It was most anxious that the articles of the Convention

should be adopted unanimously in order to secure the widest possible acceptance by States.

27. Miss KING (Jamaica) said that she had abstained in the vote on the Indian amendment, as she considered it less precise than the wording suggested by the representative of Nigeria. Despite her misgivings concerning the term "national origin" she had voted in favour of the compromise text (A/C.3/L.1238) replacing the original paragraph 1.

28. Mr. MACDONALD (Canada) said that he had voted in favour of article I because the text adopted made it clear that individuals could have a nationality on the basis of race as well as of citizenship. He welcomed the new clause (new paragraph 3) which had been proposed in document A/C.3/L.1238.

29. Mr. LAMPTEY (Ghana) said that he had abstained in the vote on the article as a whole, because he considered the first amendment submitted by Mauritania, Nigeria and Uganda (A/C.3/L.1225) preferable to the Indian amendment to the original paragraph 2. However, his abstention would not prejudice his attitude towards the Convention as a whole.

30. Mr. MUMBU (Democratic Republic of the Congo) said that although his delegation had originally opposed a reference to "national origin", it had nevertheless voted in favour of the compromise text; it had some reservations, however, concerning the last clause of that text (new paragraph 3). It had abstained in the vote on the article as a whole because the voting procedure had been somewhat confused and because of the adoption of the Indian amendment.

Article II

31. Mr. SAPOZHNIKOV (Ukrainian Soviet Socialist Republic) said that his delegation would vote in favour of the third Polish amendment (A/C.3/L.1210) because the original text implied, by the words "if necessary", that it would be left to States—including those that practised racial discrimination—to decide whether or not to take legislative measures against discrimination. The Polish amendment would greatly strengthen the text.

32. Miss TABBARA (Lebanon) said that she would vote in favour of the third amendment submitted by Brazil, Colombia and Senegal (A/C.3/L.1217), which expressed an idea that she hoped to see incorporated in both the preamble and the articles of the Convention. The second Brazilian amendment (A/C.3/L.1209) and the text proposed for a new sub-paragraph (d) by the Latin American countries in their sixth amendment (A/C.3/L.1226 and Corr.1) were basically the same. She considered them unnecessary, since they took a negative and weak approach to a matter which was dealt with positively and strongly in other provisions of the draft Convention. She would vote in favour of the sixth Latin American amendment concerning sub-paragraph (b), which was clear and precise, and she would support

an earlier suggestion that the amendment concerning sub-paragraph (c) should be limited to the deletion of the word "national". She would support the fourth amendment submitted by Brazil, Colombia and Senegal, the first Bulgarian amendment (A/C.3/L.1218), and the Indian delegation's oral amendment to article I, paragraph 2, of the original text, if it was reintroduced in connexion with article II, paragraph 2. She asked the Polish representative whether his delegation's third amendment (A/C.3/L.1210) would mean that in a country such as hers, where racial discrimination was not practised and where no distinction among citizens was allowed under the Constitution, special legislation against racial discrimination would have to be enacted.

33. Mr. RESICH (Poland) said that the object of his delegation's third amendment was to ensure that racial discrimination was prohibited by law in any State where it might exist. If such legislation already existed, there was no need for adoption of any new legislation.

34. Mr. BELTRAMINO (Argentina) said that on the sixth of the Latin American amendments (A/C.3/L.1226 and Corr.1) it had been proposed to delete the word "national" and add the words "of any kind" in article II, sub-paragraph 1 (c), in order to ensure that any organization, whether foreign or national, would be prosecuted for fomenting racial discrimination. However, since the words "of any kind" raised problems for some delegation, the sponsors would limit the amendment to the deletion of the word "national".

35. In reply to a question by Mr. KOCHMAN (Mauritania), the CHAIRMAN said that the rules of procedure imposed no limitations on the submission of oral sub-amendments. Under rule 131 of the rules of procedures, he was required to put to the vote first the amendment furthest removed in substance from the original proposal. In the case of article II, paragraph 2, that would be the Ethiopian and Indian oral amendment.

36. Mr. LEA PLAZA (Chile) said that his delegation would vote in favour of the third of the amendments submitted by Brazil, Colombia and Senegal (A/C.3/L.1217) because it was consistent with one of the fundamental principles of Chilean law. His delegation would vote against the third Polish amendment because it departed from the intent of the original provision. There might in fact be no need for new legislation because legislation already existed. His delegation would vote in favour of the sixth and seventh Latin American amendments, of which it was co-sponsor.

37. Mr. K. C. PANT (India), supported by Mr. ABDEL-HAMID (United Arab Republic), moved the adjournment of the meeting.

The motion was adopted

The meeting rose at 12.45 p.m.

Annex 84

United Nations, *Official Records of the General Assembly,*
Twentieth Session, Third Committee,
document A/C.3/SR.1313 (21 October 1965)

United Nations
GENERAL
ASSEMBLY

TWENTIETH SESSION

Official Records



THIRD COMMITTEE, 1313th
MEETING

Thursday, 21 October 1965,
at 10.45 a.m.

NEW YORK

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Chairman: Mr. Francisco CUEVAS CANCINO
(Mexico).

AGENDA ITEM 58

Draft International Convention on the Elimination of All Forms of Racial Discrimination (continued) (A/5803, chap. IX, sect. I; A/5921; E/3873, chap. II and annexes I and III; A/C.3/L.1208, L.1210, L.1217, L.1219 to L.1223, L.1225, L.1226 and Corr. 1, A/C.3/L.1228, L.1237, L.1239, L.1241 to L.1243)

CONSIDERATION OF DRAFT RESOLUTIONS
(continued)

1. Lady GAITSKELL (United Kingdom), speaking in explanation of the votes cast by her delegation at the preceding meeting, said that the United Kingdom had opposed both the motion for the closure of debate on the Greek-Hungarian draft resolution (A/C.3/L.1244) and the draft resolution itself, because they unreasonably limited freedom of expression in the Committee. A discussion of the Brazilian-United States amendment (A/C.3/L.1211) would have been of cardinal importance, since anti-Semitism was a particularly virulent and persistent form of racial discrimination. It was true that nazism had caused the death of millions during the Second World War, but, whereas others had died in a war of conquest, the Jews had been the victims of an avowed attempt to exterminate them. Her delegation deprecated the attempt to evade the issue by equating all forms of racial discrimination, some of which were worse than others, and it did not share the fear of the representative of Saudi Arabia that new forms of discrimination which might arise in the future would not be covered by the Convention. The fact that anti-Semitism apparently still existed in some countries, and the legacy of myth and guilt attached to the Jewish people throughout the centuries, justified the inclusion in the draft Convention of a specific reference to anti-Semitism, which would in no way prejudice efforts to eliminate all forms of racial discrimination existing at the present time or in the future.

2. Mr. JERNSTROM (Finland) said that his delegation had hoped for an opportunity to express its views on the substance of the question in the proper context of a debate on the various amendments. As

the effect of the Greek-Hungarian draft resolution was to deprive members of the Committee of that right, his delegation had abstained from voting on the question of giving it priority and had been unable to support the draft resolution itself.

3. Mrs. VILLGRATTNER (Austria) said that her country was most interested in seeing the draft Convention adopted and regretted having been unable, owing to the closure of the debate and the decision not to hear explanations of vote before the voting, to state that it would be glad to co-operate in any way in preventing future manifestations of anti-Semitism, which was one of the worst forms of racial discrimination. Her delegation was not familiar with the type of obstructionist manoeuvres which had taken place at the preceding meeting and which had no place in modern parliamentary practice. Problems could not be solved by preventing discussion of them, and her delegation had therefore abstained from voting on the question of giving priority to the Greek-Hungarian draft resolution and had voted against the draft resolution itself.

4. Mr. TABOR (Denmark) said that his country, to which racial discrimination was entirely alien, fully appreciated the motives underlying the proposals to include references to specific forms of racial discrimination in the draft Convention. However, the Committee's task was to prepare a legal text, which should be as clear as possible, and, since many forms of racial discrimination were not well defined or clearly understood everywhere in the world, Denmark generally favoured the exclusion of any mention of them. Nevertheless, if the individual amendments had been put to the vote, his delegation would have supported the inclusion of references to those forms which were clearly understood by the Danish people, and it had some doubts concerning the procedure which had made it impossible to vote on the amendments.

5. Mr. OLCAY (Turkey) observed that his country could not fail to oppose anti-Semitism which, like other forms of discrimination, was unknown in Turkey. However, since it was impossible to include in the draft Convention an exhaustive list of specific forms of racial discrimination, and since the omission of some forms might give the impression that they were acceptable, his delegation preferred that the text should be drafted in general terms, and it had therefore supported the draft resolution.

6. Miss HART (New Zealand) said that her delegation had voted in favour of the draft resolution as it considered that the Convention should be a timeless one, applicable without any qualification to every kind of racial discrimination. The inclusion of a reference

to any specific form of discrimination, however evil and pernicious, could only weaken the text.

7. Mr. ZULOAGA (Venezuela) explained that his delegation had abstained from voting on the question of giving priority to the draft resolution (A/C.3/L.1244) and on the draft resolution itself because the procedure adopted had prevented a discussion of the substance of the various amendments. Venezuela did not agree that specific forms of racial discrimination should not be mentioned in the draft Convention, since reference was made to apartheid in article III, which had already been adopted (see A/C.3/L.1239), and colonialism was mentioned in the third preambular paragraph of the text transmitted by the Economic and Social Council (A/5921, annex). His delegation had previously expressed support for the first Polish amendment (A/C.3/L.1210), which would have introduced a reference to nazism in the preamble, and it would have voted in favour of the Bolivian amendment (A/C.3/L.1236).

8. Mr. LAMPTEY (Ghana), recalling the statement made by the representative of Uruguay at the preceding meeting, said that the Ghanaian delegation would always defend the right of representatives to speak in the Committee; nevertheless, it regarded as an essential concomitant of that democratic right the principle that the wishes of the majority must not be frustrated by the minority, and it had therefore made a procedural motion in the interest of the entire Committee and in the light of the consensus which had existed. The drafters of the rules of procedure must have anticipated situations which would require their use, and to invoke the rule relating to closure was not a novelty.

9. The course of the debate had strengthened his delegation in the conviction, which it had expressed at the 1306th meeting, that the use of controversial terminology would make the Convention less acceptable. The Afro-Asian group, in appealing to delegations to withdraw their amendments relating to specific forms of racial discrimination, had not been oblivious of the right of any country to have its proposals considered and acted upon, but had been motivated by the belief that the original text was adequate to the purposes sought by the sponsors of the amendments and by the anticipation of strong disagreement in the General Assembly if the amendments were adopted by the Committee.

10. All members were aware that an attempt had been made to inject a highly political issue into the Committee's deliberations. There were many countries where racial discrimination in some form might exist, despite official abhorrence and efforts to eliminate it, and while Member States had a duty, as individual nations and as a community, constantly to urge the Governments of such countries to take more effective action, it was clear that the proposed amendments would not have had the desired effect but would have destroyed the Convention. He did not agree that the inclusion of a reference to apartheid in article III made the adoption of the amendments logical, for the South African Government's claim that apartheid was not racial discrimination made it essential that the unanimous opinion to the contrary should be clearly stated in the Convention.

11. Ghana's opposition to the adoption of the amendments could not be taken as evidence of a lack of anti-racialism on its part, nor did it mean equating Zionism with nazism. The references proposed in the amendments were simply out of place in the Convention, and, since it was claimed that the formula "all forms of racial discrimination" would cover any new manifestation which might arise in the future, there was no reason why it should not be considered adequate to cover anti-Semitism, nazism, and so forth. His delegation believed that all members of the Committee were agreed in principle, and it was determined to see the formulation and adoption of a convention that would serve as a dynamic instrument in the battle for the elimination of racial discrimination in all its forms.

12. Mr. CABANAS (Spain) said that the various amendments aimed at including in the draft Convention references to specific forms of racial discrimination would have obscured, rather than promoted, the objectives set out in article III already adopted by the Committee. The Convention should set out general principles of lasting significance, rather than specifying certain temporary manifestations and forms of racial discrimination while omitting others which might be equally important. For those reasons and because the adoption of the Greek-Hungarian draft resolution was conducive to the rapid completion of the draft Convention, his delegation had voted in favour of the draft resolution.

13. Miss KING (Jamaica), speaking in explanation of her delegation's vote on the Greek-Hungarian draft resolution, said that racial harmony had reached no higher level of practical expression than in Jamaica, where anti-Semitism was virtually unknown and Nazi theories were totally alien. Nor was any other sort of discrimination, be it anti-negro or anti-caucasian, tolerated. She regretted that the demand for the inclusion of a reference to anti-Semitism had been pressed to a vote, despite the fact that a clear majority was opposed to its specific mention; the result of the voting would no doubt be seized upon by the enemies of the United Nations as evidence that the Third Committee did not fully endorse the elimination of anti-Semitism. The draft Convention had been submitted to the Committee after careful consideration by experts of many backgrounds in the Commission on Human Rights, whose judgement should be respected. The Convention was intended to condemn and provide against not only the present forms of racial discrimination but any future forms as well. In the view of her delegation all forms of racial prejudice and discrimination were covered in the fullest and widest possible sense in the existing text. It was impossible to catalogue all forms of discrimination, and to specify particular forms of the evil would merely weaken the Convention. For those reasons, her delegation had voted in favour of the draft resolution.

14. Mr. DE REGE (Italy) said that his delegation had abstained from voting on the draft resolution with great reluctance, racial discrimination being so serious a problem that no one could fail to take a position on it. The original text of the draft Convention had been drafted by eminent jurists in a very clear

form which left no doubt that all manifestations of racial discrimination would be prohibited under its terms. Although his delegation had been prepared to support the inclusion of a reference both to anti-Semitism, as an act of moral reparation for the evils of the past, and to other forms of racial discrimination, it had felt that the inclusion of a list of specific forms of discrimination would weaken the impact of the draft Convention and would introduce political considerations. It had abstained from voting also because the procedure followed for the adoption of the draft resolution had prevented some delegations from presenting their views; while the closure of debate was sometimes necessary and useful, it should not be applied until it was clear that all delegations had had an opportunity to consider the meaning and the scope of the measure submitted to the Committee.

15. Mr. RESICH (Poland) said that his delegation had voted in favour of the draft resolution, bearing in mind that the record of the discussion on the first Polish amendment (A/C.3/L.1210) and on related amendments would make it amply clear that delegations had vigorously condemned nazism as one manifestation of racial discrimination.

16. Miss AGUTA (Nigeria) said that she had voted in favour of the draft resolution because she favoured a convention that employed general language in condemning all racial discrimination. It would be a mistake to dilute the text with references that had political undertones. Anti-Semitism and nazism were scourges which had affected the whole world, but the first consideration in the Committee should be the success of the Convention in combating every form of racial discrimination without exception, and that could be best achieved by adopting a generally worded and generally acceptable text.

17. Her vote certainly did not imply any support for anti-Semitic practices. She simply considered that a reference to anti-Semitism would lead to the mention of other forms of discrimination and ultimately to a convention which was more a political propaganda sheet than an attack on racial discrimination. Many instances could be cited of instruments which had failed to have their intended effect because of the political elements introduced into them. The draft Convention must be saved from that fate, and that had been the purpose of the draft resolution.

18. It had been claimed that the reference to apartheid in article III, already adopted, justified explicit references to other forms of racial discrimination. But apartheid was not only racial discrimination of the most violent kind, it differed from other forms in that it was the official policy of a State Member of the United Nations. The South African Government had never denied the existence of that flagrant form of racial discrimination. Moreover, apartheid had been condemned on many occasions by various bodies of the United Nations and its nature and consequences were no longer a matter of controversy. Since no other country had instituted that form of racial discrimination, the reference to apartheid was directed exclusively to the Government of South Africa.

19. Mr. JATOI (Pakistan) said that he had voted in favour of the draft resolution because his country

was unalterably opposed to racial discrimination. The Brazilian and United States amendment (A/C.3/L.1211) had presented his delegation with difficulties because it confined itself to the question of discrimination against a single race. Anti-Semitism, although a most abhorrent form of discrimination, was not the only form in existence today. Ideas of race supremacy and the practice of oppressing racial minorities were still widespread. His delegation opposed all such ideas and all such practices and had supported the draft resolution because it precluded the singling out of any one of them.

20. Mr. CHAMMAS (Lebanon) endorsed the remarks of the Ghanaian representative. His delegation had voted in favour of the draft resolution because it considered that the Convention, as a binding international instrument, should be universal in character and applicability. Reference to specific forms of discrimination would call forth reservations from parties and open the way to misunderstandings and controversy. The ideologies proposed for mention in the draft Convention did not carry the same meaning for all, regardless of the efforts of some to define them in accordance with their own desires and political purposes.

21. His delegation did not shy away from the discussion of any subject, but it had felt that the proposed amendments would lead the Committee into a discussion aimed more at political gain than at the safeguard of human rights. The Israel representative at the previous meeting had described the horrors the Jews had suffered in the past and had offered the Committee certain definitions. The delegation of Lebanon emphasized that the Lebanese people had always been free from racial prejudice and particularly from feelings of anti-Semitism; their history proved that without a shadow of doubt. He therefore felt justified in saying that the Israel representative had been less than fair or objective in a number of his statements. It was misleading, for instance, to assert that anti-Semitism was an evil social phenomenon. The truth was that it was an evil Western social phenomenon. It was also misleading to speak of the Jews as a single people. Jews were nationals of their respective countries even though they shared a certain faith. Their right to observe that faith was undeniable, but their treatment as one people regardless of where they lived was contrary to history and logic. An article in that day's issue of The New York Times stressed the gap in Israel between Jews from the West and from the East. Only the Jews from the West had suffered discrimination, and the price for that suffering had been paid by the Arabs. The Committee would of necessity have had to discuss the fate of the Arab victims of the Jews if the Brazilian and United States amendment had come under discussion.

22. The Israel representative had referred to Jews in the USSR but instead of urging that the purposes of the draft Convention should be given effect in that country, as elsewhere, had suggested that the USSR should encourage emigration to Israel. Indeed it was part of the State policy of Israel to regard Jews everywhere as exiles abroad and not as nationals of their respective countries. The implication was that anti-Semitism was practised wherever Jews were

found and that the only solution was their emigration to Israel.

23. He was forced to conclude from the Israel representative's statement that anti-Semitism was being used in the Committee as a political instrument. He had voted in favour of the draft resolution in order to avoid political manoeuvring, and he welcomed the overwhelming support which the resolution had received.

24. He endorsed the remarks of the Nigerian representative on the subject of apartheid. The latter was a legally enforced policy of discrimination which could not be equated with other existing discriminatory practices.

25. Mr. ABDEL-HAMID (United Arab Republic) said that racial discrimination or segregation had never been practised in his country, where the people had always lived in an atmosphere of mutual respect. He had voted in favour of the draft resolution because he believed that the introduction of cold war issues would undermine the work in which the Committee was engaged. The only purpose of those who tried to divert the Committee from its proper task was to make the United Nations an instrument of their internal policies and create division and confusion.

26. The Convention should condemn every form of racial discrimination. The Commission on Human Rights had been justifiably concerned about references to particular forms of racial discrimination in the draft Convention and had rejected an article which would have had the effect of creating a sort of discrimination among different forms of discrimination.

27. The United States delegation wished to single out anti-Semitism. He wondered if that meant that other forms of discrimination were less serious in the United States. Apartheid had been bitterly condemned in the United Nations, but despite the unprecedented acts of discrimination of the South African Government the United States delegation in the United Nations had stubbornly resisted the application of economic sanctions against South Africa. The Arabs had suffered loss of life and property with the establishment of Israel, yet some who claimed to oppose discrimination still supported that country. To the Arabs, Zionism was synonymous with racial discrimination and nazism; the same position was taken by no less a scholar than the historian Arnold Toynbee, in his *A Study of History*.

28. Racism was rampant in Southern Rhodesia, too. He would have expected the United Kingdom representative to request a special reference to racism in Southern Rhodesia, if she favoured any specific references at all. It was noteworthy that colonialism was responsible for all the cases of discrimination he had mentioned, except that of the United States.

29. He had supported the Greek-Hungarian draft resolution because, while he was always ready to open the issues he had cited as examples, it was best to avoid them if the Committee was to fulfil its humanitarian task.

30. Mr. RASHI (Iran) said that his country had always been free from prejudice and had in fact served as a haven for victims of discrimination. His

delegation's vote on the draft resolution confirmed its satisfaction with the text as drafted by the Commission on Human Rights. The general condemnation in that text of all forms of racial discrimination was sufficiently strong to oblige States parties to guarantee the safeguards which the opponents of the draft resolution had wished to demand in specific terms. The effectiveness of any international treaty depended on the spirit in which its signatories committed themselves to the application of its provisions. If the Convention was adopted without reservation by Member States, then the existing provisions of the text would suffice.

31. Mr. K. C. PANT (India) welcomed the adoption of the draft resolution primarily because it brought the Committee nearer to its goal of adopting the historic instrument before it. Some had argued that no opportunity had been allowed for discussion of the amendments themselves, but he hoped that by now it had become clear that the object of the Afro-Asian group in supporting the draft resolution had not been to stifle debate, which in a sense had been going on since the vote on the draft resolution, but to save the Committee from a long and bitter discussion after which voting might have become more contentious and produced more bitterness.

32. The Commission on Human Rights, an expert body which studied in great detail the subjects referred to it, had decided to omit any reference to particular forms of racial discrimination. He believed that the Committee should respect the Commission's decision. The question of specific references had confronted the Committee in various ways from the start, and the best course had been to face it squarely and with the minimum loss of time. The draft resolution had served that purpose. It reflected the general consensus which had developed in the Committee and provided a way out of the impasse. The avoidance of polemics was essential, particularly since the principles of the draft Convention were acceptable to every delegation present.

33. The Convention was an instrument which would set standards not only for the present but for the future. The text already condemned all forms of racial discrimination and nothing could be gained from the inclusion of examples, which would associate the definition of racial discrimination with certain known forms and would thus limit the instrument's scope.

34. He understood the desire to mention particular types of discrimination, for Indians, too, had been victims of discriminatory practices. India had always taken a strong position on the question and it was worth noting, in that connexion, that the leaders of the Indian independence movement had rebuffed Nazi overtures in which sympathy for the movement had been expressed. With respect to anti-Semitism, the small Jewish population in India lived in full harmony with others and suffered no discrimination. In fact, without implying any criticism, he drew attention to the fact that many Jews who had left India for Israel had returned, a matter of some pride to Indians. Of course, India condemned anti-Semitism and any form of nazism. His delegation had voted in favour of the draft resolution in order to strengthen the fight

against those and all other kinds of racial discrimination, by securing the largest possible acceptance of the Convention by States.

35. Mr. SHARAF (Jordan) said that the Chairman was to be commended for the wisdom and objectivity he had shown in conducting the Committee's debate on the subject. His delegation was satisfied with the result of the vote taken at the previous meeting. In adopting the Greek-Hungarian draft resolution the Committee had shown that it understood the danger implicit in a suggestion that appeared legitimate but was not so in fact.

36. The Arabs, who constituted 95 per cent of the world's Semites, condemned anti-Semitism practised against any members of the three great Semitic religions and, particularly against the Jews. Such tolerance was an integral part of their heritage and culture. However, the Brazilian and United States amendment was something different. His delegation regretted that the United States representative had not heeded the wishes of the African and Asian countries, the many appeals addressed to him, and the good example of the sponsors of other amendments who had agreed to withdraw their proposals if the United States amendment was withdrawn. His delegation was puzzled by Brazil's association with that amendment. Since there was no doubt that all members of the Committee condemned anti-Semitism, the submission of the amendment could only be a manoeuvre designed to delay the adoption of the Convention, or an essay in local vote-seeking. The United States Press had distorted the reasons why the Third Committee had adopted the Greek-Hungarian draft resolution. The USSR delegation had shown a wise and understanding attitude in agreeing to withdraw its request for reference to particular manifestations of racial discrimination if the United States delegation would do the same. His own delegation too had felt that reference to other forms of racial prejudice was desirable. For example, Zionists, like Fascists, regarded all other races as inferior. Zionism was based on racial exclusiveness and used methods similar to fascism and nazism. The Arabs of Palestine knew to their sorrow the political and racial consequences of Zionism.

37. Nevertheless, despite its strong feelings, his delegation would have withdrawn its proposal made at the 1301st meeting that the draft should make specific reference to Zionism, had it not been for the negative attitude shown by the United States delegation. When, therefore, the Greek-Hungarian draft resolution had been submitted, his delegation had supported it whole-heartedly.

38. Mr. DAYRELL DE LIMA (Brazil), referring to observations which had been made concerning Brazil's co-sponsorship of the amendment in document A/C.3/L.1211, observed that his delegation had had no chance either to explain its reasons for co-sponsoring the amendment, discussion of which had been precluded even before the amendment had been introduced, or to express its views before the vote on the Greek-Hungarian draft resolution.

39. He did not agree with those who had said that the draft amendment was inopportune. Everyone agreed

that anti-Semitism was one of the most brutal forms of race prejudice ever known in the developed countries and had been the source of nazism, which, directly or indirectly, had caused the deaths of millions of human beings. Moreover, that phenomenon did not disappear with economic and social advancement as recent history had showed. The United Nations itself had been established as a result of the holocaust that had been caused by anti-Semitism and nazism. How could the Committee fail to mention that fact? His delegation had had no ulterior political motive in sponsoring the amendment, was not acting under the pressure of any racial minority or outside force and did not wish to intervene in any political drama being played out anywhere on earth. But Brazil realized that anti-Semitism carried the seeds of war. By what sophistry could the Committee justify a failure to recognize that fact? Moreover, all members of the Committee, even those who had opposed the amendment, were opposed to anti-Semitism.

40. Many representatives had objected to reference in the Convention to any specific forms of racial discrimination; but the draft already included a reference to apartheid. In that connexion, his delegation would have supported the Bolivian amendment (A/C.3/L.1236) had it been put to the vote.

41. His delegation also wished to commend the Chairman for the admirable manner in which he had conducted the debate on the matter.

42. Mrs. DABCEVIC KUCAR (Yugoslavia) said that, since her country was opposed to all forms of racial discrimination, it would have had no difficulty in supporting any amendment specifying any particular form.

43. In view of the statements made during the debate, the appeal for the withdrawal of all such amendments and the Committee's goal of achieving the unanimous adoption of the Convention, her delegation had voted in favour of the Greek-Hungarian draft resolution.

44. Mr. MACDONALD (Canada) said that his delegation had voted against the draft resolution and against the motion for closure, firstly, for the sake of consistency with the position it had taken in the past and, secondly, because it wished to have more time in which to discuss a stubborn, deep-rooted and particularly pernicious form of discrimination, to express its detestation of that divisive phenomenon and to pay a tribute to the vitality, creativeness and discipline of a people who, despite the scourge of anti-Semitism, had contributed substantially to the common heritage of mankind. A debate on the amendment would have enabled his delegation to inform the Committee of the efforts being made in Canada at the federal and provincial levels to find a legal formula to cope with the problem.

45. However, the majority of representatives felt that an extended debate would be counter-productive. Although his own delegation held a different view, it would support the accommodation which had been reached. It wished to join in the tributes paid to the Chairman.

46. Mrs. BANGOURA (Guinea) said that her delegation had voted in favour of the draft resolution, not in

order to put an end to what might have proved to be an interminable debate, but because it was fully satisfied with the original text. To make that text more explicit would be to limit it. New and even worse forms of racial discrimination might arise in the future and it would then be necessary to add them to the list.

47. Mr. GARCIA (Philippines) said that his Government opposed all forms of racial discrimination and had demonstrated that fact by giving refuge to 3,000 Jewish refugees in 1939.

48. The real issue in the discussion had not been anti-Semitism as such, or any other manifestation of racial discrimination, but the advisability of including in the Convention a reference to any particular form of racial discrimination. His delegation had supported the Greek-Hungarian draft resolution for objective and technical reasons: it considered that the Convention should be couched in clear, legal terms. Any enumeration of specific forms of racial discrimination would never be exhaustive and would merely detract from the general acceptability of the Convention. Moreover, since there was no generally recognized definition of anti-Semitism, fascism or nazism, the use of such terms in the Convention would be legally meaningless.

49. His delegation took exception to a reference made at the previous meeting to the position taken by the Philippines in connexion with the question of Palestine, the relevance of which to a discussion on racial discrimination was difficult to see. His country followed an independent foreign policy and was accountable to only its own people for its actions.

50. Mr. INCE (Trinidad and Tobago) said that his delegation's vote in favour of the Greek-Hungarian draft resolution should not be interpreted as a belittlement of, or failure to comprehend, the vicious-

ness of any "ism". His delegation condemned racial discrimination in whatever form it might appear, but did not believe that its manifestations should be itemized because such a list would be very long indeed. Anti-Semitism was as abhorrent as any other "ism" which caused human beings to be persecuted on account of their race. However, the matter was adequately dealt with in the draft Convention for its wording was broad enough to cover all forms of racial discrimination.

51. Princess NAKATINDI (Zambia) commended the Chairman for his able and impartial guidance of the Committee's debate. She had voted in favour of the draft resolution because she opposed the introduction for political motives of specific references to particular forms of racial discrimination. While her delegation was not blind to the seriousness of such practices as anti-Semitism, it felt that the peoples of the world had a right to be protected also from the many practices that were not mentioned in the draft.

52. Mrs. WARZAZI (Morocco) expressed the satisfaction of the Afro-Asian group with the result of the voting at the two previous meetings and its gratitude to the delegations of Greece and Hungary for the valuable contribution they had made to the Committee's work. It was thanks to their initiative that the Committee had been saved from becoming embroiled in dissension as a result of the submission of a controversial proposal. She also thanked the USSR representative for his spirit of understanding and co-operation. The Afro-Asian group opposed anything that tended to weaken the Convention; that was why it had rejected a disturbing element which could only produce discord instead of unanimity. She also expressed the group's appreciation of the Chairman's impartiality and patience.

The meeting rose at 1.10 p.m.

Annex 85

United Nations, *Official Records of the General Assembly,*
Twentieth Session, Third Committee,
document A/C.3/L.1272 (1 November 1965)

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
LIMITED

A/C.3/L.1272
1 November 1965

ORIGINAL: ENGLISH

Twentieth session
THIRD COMMITTEE
Agenda item 58

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF
ALL FORMS OF RACIAL DISCRIMINATION

Poland: amendments to the suggestions for final clauses submitted
by the Officers of the Third Committee (A/C.3/L.1237)

(1) I. Signature and Ratification

Replace paragraph 1 by the following text:

"1. The present Convention is open for signature by all States".

(2) II. Accession

Replace paragraph 1 by the following text:

"1. The present Convention is open to accession by any State which has not signed it".

(3) IV. Territorial Application

Delete the whole article.

(4) V. Federal State

Delete the whole article.

(5) VI. Reservations

Replace the entire text of this article by the following:

"1. At the time of signature, ratification or accession, any State may make reservations to the present Convention with the exception of articles I, II, III, IV and V.

2. Any State Party which has made reservations in accordance with paragraph 1 of the present article may at any time withdraw them by written notification to this effect to the Secretary-General of the United Nations. Such notification shall take effect on the date on which it is received."

65-26829

/...

2p.

A/C.3/L.1272

English

Page 2

(6) VIII. Settlement of Disputes

In the third line of this article, replace the word "any" by "all".

(7) XI. Authentic Text

At the end of paragraph 2, delete the words "belonging to any of the categories mentioned in paragraph (1) of article I".

Annex 86

United Nations, *Official Records of the General Assembly,*
Twentieth Session, Third Committee,
document A/C.3/SR.1344 (16 November 1965)

United Nations
GENERAL
ASSEMBLY

TWENTIETH SESSION

Official Records



THIRD COMMITTEE, 1344th
MEETING

Tuesday, 16 November 1965,
at 3.10 p.m.

NEW YORK

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Chairman: Mr. Francisco CUEVAS CANCINO
(Mexico).

AGENDA ITEM 12

Reports of the Economic and Social Council (A/5803, chaps. VIII, (sects. I, II and V), IX and X (sects. I, IV, V and VII); A/6003, chaps. XII (sects. I, III and IV), XIII and XIV (sects. I, III and V) (concluded)

1. Lady GAITSKELL (United Kingdom), in explanation of her vote at the previous meeting on the draft resolution concerning advisory services in the field of human rights (A/C.3/L.1282/Rev.1, as amended), said that while it recognized the logic in the present political climate of the Committee's decision to give priority to the seminar on apartheid over the seminar on the status of women, her delegation thought that during the debates the rights of women had been brushed aside by some representatives, especially the Saudi Arabian representative. She considered that the United Nations programme concerning the status of women had suffered badly as a result of the decision which the Third Committee had taken at the previous meeting. Her delegation reserved the right to try to rehabilitate the programme for the status of women at some future date.
2. Her delegation regretted that the wise suggestion of the Netherlands delegation had been greeted with suspicion and considered by some to be tainted with colonialism. She would point out that the purpose of a seminar should not be just to condemn apartheid; it should seek to achieve the multi-racial society envisaged by the Netherlands delegation in which all citizens would be able to live in liberty, fraternity and equality. It was on that understanding that her delegation had voted in favour of the resolution for the holding of such a seminar.
3. Mrs. MANTZOULINOS (Greece) and Miss TABBARA (Lebanon) said that had they not been

compelled to be absent at the time of the vote on the resolution for the holding of a seminar on apartheid, they would have voted in its favour.

4. Miss LUMA (Cameroon) wished to dispel any doubts that her statement at the previous meeting might have created in the minds of some delegations concerning her delegation's position on the question of the status of women. The Government of Cameroon championed the cause of the emancipation of women as strongly as it deplored apartheid. Furthermore, her delegation, which had voted for the holding of a seminar on apartheid, had also voted for the resolution concerning the emancipation of women.

5. The sole purpose of her intervention at the previous meeting had been to prevent a postponement of the seminar on apartheid, whose importance and urgency in the present circumstances were obvious to everyone, even if that meant foregoing, for the time being, one of the seminars on women, which, incidentally, unlike the seminar on apartheid, could be held at the national level.

6. In reply to those delegations which had said that by voting for the seminar on apartheid the Committee appeared to have gone back on its vote on the resolution concerning the emancipation of women, she pointed out that that was only a secondary consideration because in cases of urgency decisions might have to be reversed.

7. She was gratified that the matter had been entrusted to the Secretary-General and that the Committee had merely indicated what order of priority should be followed.

8. Mrs. MBOLJANA (Uganda), speaking on behalf of the sponsors of the draft, wished to thank the members of the Committee for having adopted the resolution. The sponsors had appreciated the arguments advanced in support of its adoption, all of which reflected the importance that the Committee attached to the matter.

9. The Guinean representative had eloquently explained the principles underlying the draft resolution. He had also made it clear that the point raised by the Netherlands representative, namely the concept of a multi-racial society, would be included in the agenda of the seminar.

10. Mr. MUMBU (Democratic Republic of the Congo) welcomed the decision taken by the Committee in adopting the resolution. The Congo, which considered the struggle against apartheid and the cause of the emancipation of women to be equally important, hoped that it would be possible to hold the seminars on both matters in 1966. Agreeing on that point with

the Chairman and with the representatives of Madagascar and the Soviet Union, among others, he had not felt that, by voting for the international seminar on apartheid, he had been going back on the decision that had been taken in regard to the seminars concerning women.

11. Mr. ELMENDORF (United States of America) said that while he was gratified at the Committee's unanimous vote in favour of the seminar on apartheid, he would have liked the Secretary-General to have been given greater latitude with regard to the financing of the seminar.

12. He was glad that the Committee's report would reflect the general desire of the representatives to maintain the fellowship program *etc.*

AGENDA ITEM 58

Draft International Convention on the Elimination of All Forms of Racial Discrimination (*continued*)* (A/5803, chap. IX, sec. I; A/5921; E/3873, chap. II and annexes I and III; A/C.3/L.1221, L.1239, L.1241, L.1249, L.1251, L.1262, L.1266, L.1268, L.1270 to L.1273, L.1274/Rev.1, L.1278)

ARTICLES ON MEASURES OF IMPLEMENTATION

13. The CHAIRMAN reminded the Committee that it had already adopted the preamble and the substantive articles of the draft International Convention on the Elimination of All Forms of Racial Discrimination (A/C.3/L.1239, L.1241, L.1249, L.1262). It now had to consider the measures of implementation and the final clauses. In view of the importance of those provisions, he agreed with the suggestion made by the French and Italian representatives, among others, that the Committee might concentrate on the measures of implementation. In that regard, the Committee had before it the proposals submitted by the Philippines (A/C.3/L.1221) and the amendments thereto submitted by the United Kingdom (A/C.3/L.1266), the Latin American countries (A/C.3/L.1268), the Netherlands (A/C.3/L.1270), the United States of America (A/C.3/L.1271), Tunisia (A/C.3/L.1273) and Ghana (A/C.3/L.1274/Rev.1). The Committee also had before it statements of the financial implications submitted by the Secretary-General (A/C.3/L.1251, L.1278).

14. Mr. GARCIA (Philippines) recalled that in the substantive articles of the Convention which had been approved by the Committee, provision had been made for the measures to be taken by each State Party within its jurisdiction to comply with its legal obligations under the Convention. The Philippine proposals would further provide for means of implementation beyond the national level in respect of States Parties, persons, groups of individuals and non-governmental organizations in order to strengthen the Convention and make it an effective instrument.

15. Article 1 of the proposals (A/C.3/L.1221) would call for reports on legislative or other measures adopted by States Parties to be submitted through the Secretary-General to the Economic and Social Council for transmission to the Commission on Human Rights or the specialized agency concerned for information, study and recommendations.

*Resumed from the 1318th meeting.

16. Articles 2 to 18 would provide for the establishment of a good offices and conciliation committee to which States Parties might complain on grounds of non-implementation of the Convention, but only after all domestic remedies had been exhausted. If a solution could not be reached, the committee would draw up a report on the facts and indicate its recommendations. Eventually the States Parties could bring the case before the International Court of Justice.

17. Article 16 would allow the committee to receive petitions from persons, groups of individuals and non-governmental organizations in consultative status with the Economic and Social Council, provided that the State Party concerned had recognized the committee's competence to receive such petitions.

18. Article 19 provided for the submission to the International Court of Justice of any dispute involving the interpretation or application of the Convention.

19. Reviewing the background of the Philippine proposals, he recalled that with the exception of article 16, which had been inserted shortly before the submission of the proposals, the texts of all the articles were the same as the texts of the documents mentioned in the note by the Secretary-General (A/5921, paras. 5 (b) and (c)), namely article X of the draft Convention transmitted to the Commission on Human Rights by resolution 1 (XVI) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/3873, para. 281) and the preliminary draft of additional measures of implementation transmitted to the Commission on Human Rights by resolution 2 (XVI) of the Sub-Commission (E/3873, annex I).

20. With the exception of article 16, all the articles in the Philippine proposals had been drafted and introduced in the Sub-Commission by Mr. J. D. Ingles, the Philippine expert serving on that body. He had taken as the basis of his draft the relevant provisions of the draft covenant on civil and political rights and on the Protocol to the UNESCO Convention against Discrimination in Education. Article 16, concerning the right of petition, had been based on a similar provision in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

21. The Philippine proposals consisted essentially of two measures—the reporting procedure provided for in article 1 and the establishment of implementation machinery in the form of a good offices and conciliation committee (articles 2 to 18). Within the framework of the second measure, article 16 provided for a third means—the right of petition by persons, groups of individuals and non-governmental organizations.

22. The original article 1 of Mr. Ingles's preliminary draft, considered by the Sub-Commission, had become article X of the draft Convention submitted to the Commission on Human Rights. That article had now become article 1 of the Philippine proposals. The remainder of the preliminary draft—articles 2 to 15 and 17 to 19 of the Philippine proposals—had been transmitted by the Sub-Commission to the Commission on Human Rights as an expression of the general views of the Sub-Commission.

23. Owing to lack of time, the Commission at its twentieth session had been unable to vote on article X of the draft Convention, although that article had been discussed and had appeared to meet with no objection, or on the remainder of the preliminary draft, and it had decided to refer all the provisions relating to measures of implementation to the General Assembly.

24. Thus, the measures proposed by the Philippines were not new or radical and represented a logical next step for the completion of the Convention. Moreover, although the Convention on the Elimination of All Forms of Racial Discrimination was an entirely separate instrument, those measures, excepting article 16 on petitions, were similar to the measures of implementation in the draft Covenant on Civil and Political Rights. In other words, the many debates and studies to which the latter had given rise in various United Nations bodies and particularly the Commission on Human Rights, the Economic and Social Council, the Third Committee and the Secretariat, as well as the comments of Governments, could usefully be consulted in the consideration of the Philippine proposal.

25. Even article 16, which was an addition to the original draft, was not new since it had been discussed in the Commission on Human Rights some fifteen years ago.

26. The last time that the General Assembly had dealt with the draft International Covenants on Human Rights, at its eighteenth session in 1963, it had also considered the question of implementation, and had adopted resolution 1960 (XVIII). In that resolution it had stated that the measures of implementation were vital for the adoption and effectiveness of the Covenants, which of course applied equally well in the case of the Convention on the Elimination of All Forms of Racial Discrimination. He trusted that Member States, to which the Secretary-General had transmitted the documents on implementation in pursuance of resolution 1960 (XVIII), were now in a position to decide on the matter of implementation with regard to both the Covenants and the Convention.

27. During the debates in the Committee on the substantive articles of the Convention, his delegation had been deeply impressed by the universal desire of members to complete the consideration of the Convention quickly in order to secure an effective means of eliminating racial discrimination, which was clearly an important and urgent problem. Nevertheless, his delegation wondered whether the Convention in its present form, although the product of much hard work, was very different from the United Nations Declaration on the Elimination of All Forms of Racial Discrimination adopted by the General Assembly in 1963 (resolution 1904 (XVIII)). The Convention would acquire meaning and substance only if it was accompanied by effective measures of implementation; such measures were the very core of the instrument and without them it would remain a dead letter.

28. As a country which had actively taken part in the promotion of human rights since the birth of the United Nations, the Philippines was most anxious that a Convention able to serve that cause effectively should be adopted.

29. In view of the fact that the debates on the Convention had revealed a wide range of opinions, that compromises had been reached on many controversial issues because of the desire of members to hasten the Convention's adoption, and that many provisions might give rise to conflicting interpretations, it was important to establish procedures for safeguards and conciliation.

30. During the past few years the protection of human rights, including those threatened by the practice of racial discrimination, had become a fundamental concern of international law. He believed it should be emphasized that the Convention was an international legal instrument and where implementation was concerned, should be viewed solely from the legal standpoint. It should also be pointed out that the Convention was the first major international agreement on human rights to emerge from the United Nations, and the first to be preceded by a declaration. Accordingly, in considering the implementation of the Convention, the Committee was in fact blazing a trail and paving the way for similar measures in instruments of a like nature. The question of implementation had been before the General Assembly long enough for a decision on the matter to be taken in regard to the Convention, especially in the light of the recommendation of the Commission on Human Rights (see Economic and Social Council resolution 1015 E (XXXVII)) that several such conventions should be adopted and opened for ratification and accession before the International Year for Human Rights in 1968.

31. His delegation believed that the time had now come to consider and possibly decide upon the measures of implementation. It was clear from the summary record of its 810th meeting that the Commission on Human Rights had intended to refer the matter of implementation measures in the Convention to the Assembly for a decision (see E/3873, para. 283). The Third Committee was well qualified to undertake that task in order to complete the Convention, possibly at the present session.

32. Those were the reasons which had led his delegation to submit its proposals on implementation before the 11 October deadline for the submission of amendments, in order to bring the question of implementation to the fore. Had the proposals not been submitted, the Committee might perhaps have thought that it had concluded its consideration of the Convention, whereas it would not have taken up the measures of implementation which, to his delegation, were of the utmost importance.

33. His delegation would pay the closest attention to all comments, suggestions and advice which members might put forward. It realized the difficulty of drawing up implementation provisions which would be acceptable to all States. But any measure of agreement which might be reached in that matter would eloquently demonstrate the progress made by the United Nations in the field of human rights. The achievements of the Organization in that sphere over the past twenty years had been substantial, but the road had not been easy nor progress rapid enough. In order to translate the principles of human rights into concrete legal provisions, which was the

only way of achieving the objectives of the United Nations, new ground must be broken and many obstacles overcome. His delegation was certain that the Committee would prove equal to the challenge.

34. Lastly, he hoped that the spirit of understanding and the sense of urgency which had prevailed so far in the Committee would continue to prevail in the deliberations on the question of implementation.

35. He might have occasion to speak again on the substance of the proposals he had just introduced.

36. Mr. LAMPTEY (Ghana) said that his delegation, having listened attentively to the various opinions expressed during the discussion and having studied all aspects of the problem, was now convinced that the Third Committee should neither leave it to the Commission on Human Rights to prepare draft articles on measures of implementation for the Convention or be satisfied to adopt one or two harmless measures now and ask the Commission on Human Rights to draft the remainder. Since the schools of thought in the Commission and the Committee were more or less the same, the deliberations of the former would overlap with those held subsequently in the latter, which would moreover find itself confronted with a flood of amendments when it took up the draft. It was thus the Committee's task to prepare and adopt the measures of implementation at the current session, which it could do in as friendly an atmosphere as prevailed in the Commission on Human Rights.

37. It had been said that certain opponents of the draft Convention had called for implementation measures in order to block its adoption. Even if that was true, those who had been sincere in their support of the draft Convention during the general debate should take care not to fall into the trap by postponing a decision on the measures of implementation.

38. It had also been said that the Afro-Asians had not been very anxious for the immediate adoption of implementation measures, but no one could believe such talk after hearing their statements and observing their actions on behalf of the Convention. Each of them had emphasized the necessity and urgency of the instrument, and it would be the height of hypocrisy for them now to recant. Nor was the argument that the Convention could be adopted by the Assembly and ratified by States even before implementation clauses were prepared very convincing, since without such clauses the draft Convention could be but a declaration, which would contribute nothing new to the world.

39. Some had spoken of the lack of time, but that argument also carried little weight; for no matter how lengthy the implementation articles might be, only a few clauses should be the subject of controversy. Moreover, the members of the Committee had already demonstrated that they were capable of a high degree of statesmanship and genuine co-operation in reaching acceptable compromises without abandoning principle. His delegation, in revising its original text, had sought to produce one which could command a large majority. The need to observe the time-limit for submission of amendments had obliged it to submit the text in its own name, so that at least a second document on the question would

be before the Committee and the growing campaign to delay a decision could be halted.

40. Introducing his delegation's amendments (A/C.3/L.1274/Rev.1) to the Philippine draft (A/C.3/L.1221), he said that the committee of eighteen members elected by States Parties to the Convention, which would be responsible for receiving reports from States and overseeing the effective application of the Convention, would not be sufficiently independent and impartial to be able to serve as a conciliation body in the event of a dispute between parties. Provision might be made for a permanent conciliation body, but that solution, apart from being too costly because of the condition of United Nations finances, would have many other disadvantages; experience had shown that bodies of that nature often created more problems than they solved, that sooner or later they were dominated by one ideological group, and that their authority might be challenged by the majority of States, which already found it difficult to accept the jurisdiction of the International Court of Justice. It had therefore been considered wiser to provide for the creation, on an ad hoc basis, of a conciliation commission of relative impartiality, by the unanimous consent of the parties to the dispute, with the assistance of the chairman of the committee of plenipotentiaries. A similar formula had been adopted and used quite effectively by the International Labour Organisation.

41. With reference to the actual provisions of his delegation's draft articles, he observed that, as the Convention obliged States to undertake legislative, judicial and administrative measures to eliminate racial discrimination, it was only natural that they should be asked to report on the measures they had taken to implement the Convention. It had been thought best to confer the responsibility for reviewing the reports on a body consisting solely of representatives of States parties to the Conventions. Similarly, under article I, paragraph 6, the committee could request explanations from States Parties and make recommendations to the General Assembly, but only after consulting the States Parties concerned, so that in the event of the committee's being dominated by any State or group of States the atmosphere of agreement surrounding the conclusion of the Convention might be maintained.

42. For similar reasons, article VI provided that, when any matter arising out of article III was being considered by the Committee, the Governments in question should, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the committee, but without voting rights. Article VII contained provisions designed to ensure the impartiality of the members of the conciliation commission, who were not to be nationals of the States parties to the dispute. The form of solemn declaration which members of the conciliation commission would have to sign was modelled on the basic ILO texts.

43. With respect to article IX, the International Law Commission had formulated draft provisions on the question of arbitration which, however, had not been accepted by all Member States. His delegation, being anxious to obtain the agreement of a large majority,

had abandoned its original idea and had made the common consent of the parties the essential condition for the submission of the dispute to the International Court of Justice. Nevertheless, his delegation was of the opinion that, once States had given such consent, they were obliged to accept the decision of the Court. As the Convention would be adopted under the auspices of the United Nations, article X, as proposed by his delegation, provided that the committee might ask the General Assembly or the Security Council to secure compliance with the recommendations of the conciliation commission or the decisions of the International Court of Justice.

44. Article XII was based, with some changes, on the amendment submitted by Saudi Arabia to article 40 of the draft Covenant on Civil and Political Rights (A/C.3/L.1267) on the question of petitions by individuals. The article was an important one, since racial discrimination affected individuals, rather than sovereign States. With respect to article XIII, many United Nations agencies already had arrangements for the settlement of disputes, which should be dealt with by the most appropriate procedures.

45. The Third Committee must seize the opportunity afforded by the tide of public opinion against racial discrimination in order to finish its work in that field. Racial hatreds had occasionally erupted between certain peoples, sometimes to a degree of unbelievable savagery. For centuries, however, the black people had suffered most. For that reason, his delegation was resolutely determined to see the Committee complete its work.

46. Mr. LEA PLAZA (Chile) said that the Latin American countries had approached the study of the Convention realistically and constructively. On behalf of those countries he introduced the amendments (A/C.3/L.1268) to the articles relating to measures of implementation submitted by the Philippines.

47. The first proposal was for the insertion, in article 1 of a new paragraph 3, the text of which was taken from the draft Convention submitted to the Commission on Human Rights by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

48. He pointed out, in connexion with that text, that racial discrimination was seldom elevated to the status of an official policy. It was usually the work of certain groups of society, and was practised independently of and in spite of State legislation. The draft submitted by the Philippine delegation provided for periodic reporting on legislative or other measures adopted by Governments to implement the provisions of the Convention. Under that procedure, reports would be forwarded to the Economic and Social Council and the Commission on Human Rights by the State itself. The Latin American countries had submitted their amendments in order to provide racial groups subjected to discrimination with a means of direct recourse and to allow them to inform world opinion of the discriminatory measures directed against them. The procedure proposed was similar to that which had been established for the purpose of securing respect for human rights. Persons suffering from racial discrimination would be

able to address a communication to the Secretary-General. The State of which complaint was made would also be allowed to state its views. The Economic and Social Council could transmit those communications and the replies of the States to the Commission on Human Rights or any other competent body for information and study. It would not be required to do so, however, since the Council would be responsible for judging how serious or justified were the complaints received. In the second proposal, which followed from the first, the sponsors requested the addition, at the end of the existing paragraph 3, which would become paragraph 4, of a sentence allowing the States Parties directly concerned to make observations also on any recommendations that might be made in accordance with the new paragraph 3 of article 1.

49. Unless individuals were given an opportunity to inform international bodies of the discrimination to which they were subjected, States would be forced to go to the defence of persons or groups of persons in another State, and that would involve interference in the domestic affairs of States which the countries concerned would be unable to accept.

50. The delegations of the Latin American countries believed that the clauses they were proposing would broaden the scope of the Convention and they would welcome any suggestions for improving the text.

51. Lady GAITSKELL (United Kingdom) observed that the question which the Committee was now taking up—that of implementation measures—was one of the most important aspects of its work since it meant considering how to do something really practical about human rights.

52. With reference to the remarks of the representative of Ghana, she was astonished that after years of progress and effort some representatives still favoured passing the subject back to the Commission on Human Rights. That attitude seemed to indicate either that certain delegations feared that racial discrimination was too politically thorny a subject, that they were not awake to the urgency of the problems—although they had adopted a resolution calling for the organization of a seminar on apartheid—or that they considered it safer to back down when it came to implementing proposals which they themselves had originally warmly supported.

53. The instruments so far adopted by the United Nations were certainly useful, if only because they gave an idea of the measure of agreement reached on principles. However, agreement on principles was not enough. States were indeed obliged to go further, under the obligations expressed in the Preamble and in Articles 55 and 56 of the Charter, and see that the United Nations was given a practical and active role in the promotion of human rights.

54. Unlike the representatives who had denied during the discussions that any racial discrimination existed in their countries, she admitted that such discrimination did exist in the United Kingdom, where it had been aggravated by a large influx of new immigrants. The unfettered United Kingdom Press had made no attempt to hide that fact from world public opinion. Her country was dealing with its problems of racial dis-

crimination and welcomed the fact that the United Nations was interesting itself in them also. It was precisely because her delegation regarded racial discrimination as an extremely complex problem—it was only necessary to look at the way in which men distorted facts and invented theories to prove their superiority—that it considered legislation alone to be of doubtful value in eradicating it. In her opinion, using legislation by itself was like cutting down a noxious weed above the ground and leaving the roots intact.

55. Moreover, there came a point when legislation encroached on freedom of speech and association. The United Kingdom had always sought to keep a balance between repressive legislation and freedom of expression. It might well be that that attitude was displeasing to certain delegations—the same ones which never failed to search the free Press of the United Kingdom for arguments which they could use against that country. Nevertheless her delegation could not express strongly enough its belief in free speech, free communication and free association, to say nothing of the freedom to come and go across frontiers, which it considered to be the most valuable way of revealing and eliminating racial discrimination wherever it existed.

56. The United Kingdom delegation was sure that the same delegations which had strongly supported legislative action by the United Nations would be just as ready to tackle boldly the question of implementation and thus prove to the world that they were ready to translate their words into deeds.

57. Mr. CAPOTORTI (Italy) welcomed the proposals made by the representatives of the Philippines and Ghana, which both had the same aim of arming the substantive articles of the convention with effective implementation clauses.

58. Quite apart from the fact that a convention consisting solely of provisions of a legislative or judicial nature left each State free to interpret the convention in its own way and to decide to what extent the convention was binding upon it, it was absolutely vital, in view of the inadequacy of the remedies which could be sought in existing international law when a right was violated, to establish special international guarantees designed to prevent abuses and possible violations of the principles of the convention by States which, even if they had ratified the convention in good faith, might be induced by force of circumstances or by reasons of internal policy to betray it and thus compromise the achievement of its objectives. Periodic reports could obviously be useful, but they were not sufficient, as they did not make it possible to intervene at the time when a violation took place. It was true that the Charter—which had been conceived in an outmoded spirit of conservatism since it seemed to acquiesce in the continuance of the system of trusteeship—provided only for periodical reports on dependent Territories, but, since the drawing up of the Charter, changes had taken place and the need for resort to direct testimony had been realized. In the case of the present convention, which was designed to protect individuals against racial discrimination and provide for their defence, the victims of such discrimination should be able to make themselves

heard at the international level by presenting petitions.

59. Obviously, States desired to remain free and to retain the power of judgement which they regarded as an attribute of their sovereignty, and the very expression "international control" seemed suspect to them. When, as often happened, however, an urgent situation arose in which they were not themselves involved, they were the first to call for intervention by international organizations; but, unfortunately, once the situation had become critical it was already too late to take action. The wisest course, therefore, was to take precautions in advance by adopting the implementation provisions which were essential if legal obligations rather than mere moral obligations were to be imposed on States. The difference between legal and moral obligations was that the former carried means of enforcement. There was nothing in the proposals before the Committee that jeopardized the sovereignty of States, for those proposals called merely for the institution of good offices and conciliation machinery.

60. Mr. MOMMERSTEEG (Netherlands) considered that the implementation provisions of the draft International Convention on the Elimination of All Forms of Racial Discrimination which were under discussion in the Committee and in connexion with which a number of proposals had been made, particularly by the Philippines (A/C.3/L.1221) and Ghana (A/C.3/L.1274/Rev.1), formed an integral part of the whole work of the United Nations in promoting respect for human rights and fundamental freedoms. Any decision on them should therefore be taken in the context of the broad framework of United Nations activities in the field of human rights and particularly the implementation of the draft international covenants.

61. Numerous international instruments—conventions, declarations and recommendations—dealing with human rights had been formulated in order to satisfy the desire of the international community for basic legal standards and were now incorporated in international law. However, the proclamation of such standards was not generally considered to provide a sufficient guarantee of their observance, and the creation of effective safeguards to ensure the protection and enjoyment of the rights proclaimed was recognized as an indispensable part of the task of the United Nations in the fields of human rights and fundamental freedoms. It appeared to be that consideration which had prompted the delegations of the Philippines and Ghana each to take the valuable initiative of proposing a set of articles relating to measures of implementation for addition to the provisions of the draft Convention.

62. There did already exist international machinery for the implementation of international instruments: a case in point was the system of periodic reports based on the Universal Declaration of Human Rights, which was not only a source of information and a valuable incentive to Governments' efforts to protect human rights and fundamental freedoms, but also a yardstick of the progress made while awaiting the adoption and entry into force of the Covenants on Human Rights. There was also the example of the

United Nations Fact-Finding Mission to South Viet-Nam established by the General Assembly at its eighteenth session to investigate the alleged violations of human rights by the Government of the Republic of Viet-Nam in its relations with the Buddhist community of that country; in his delegation's view fact-finding was one of the most effective means of dealing with violations of human rights. However, the drafts before the Committee provided for the establishment of new machinery: thus, in the case of the draft Covenant on Civil and Political Rights it was proposed to establish a system of periodic reporting and to set up a human rights committee to which States Parties might submit complaints concerning failure to give effect to any provisions of the Covenant; in the case of the draft Covenant on Economic, Social and Cultural Rights it was proposed to set up a system of periodic reports from States Parties, and in the case of the draft Convention on the Elimination of All Forms of Racial Discrimination there were the proposals made by the delegations of the Philippines (A/C.3/L.1221) and Ghana (A/C.3/L.1274/Rev.1), while the proposal of the delegation of Costa Rica (A/5963) calling for the creation of the post of United Nations High Commissioner for Human Rights (agenda item 98) should also be mentioned in that connexion. He wondered whether it was really desirable to establish several similar institutions each designed to ensure the implementation of a separate international instrument. Was there not a danger, in view of the growing number of international instruments, that that might lead to organizational complications, and would not it be preferable to consider the possibility of creating only one single machinery for the implementation of all the international instruments in the field of human rights, which raised the same problems of application? The Netherlands delegation was aware, of course, that the concentration and co-ordination of implementation activities, however desirable it might be in theory, might not be attainable at present.

63. Broadly speaking, it appeared that the measures of implementation involved three different techniques, each of which had its merits: the system of periodic reports provided for in the Philippine and Ghanaian texts was undoubtedly the least controversial method but was of only limited value, since reports submitted by States tended to paint too rosy a picture. The system of complaints proposed by the Philippines (A/C.3/L.1221) and Ghana (A/C.3/L.1274/Rev.1) provided that, if a matter was not adjusted to the satisfaction of both the complaining State and the State complained against, either by bilateral negotiations or by any other procedure open to them, either State should have the right to refer the matter to a committee, which in the Philippine text was a good offices and conciliation committee and in the Ghanaian text a fact-finding committee, conciliatory powers being vested in an *ad hoc* commission appointed by the chairman of the committee. Under that system, the case might be referred to the International Court of Justice as a last resort; his delegation could not but approve such a provision but it would be effective only if the State complained of or the State lodging a complaint could submit the dispute to the Court without first having to obtain the consent of the

other State. However useful that system might be, it was not entirely satisfactory, for intervention by States to redress violations of human rights was usually of a political nature, and its value and effectiveness suffered accordingly.

64. The last system—that of petitions from individuals, groups and non-governmental organizations—was in his delegation's opinion the most valuable and effective. He therefore welcomed the provision in article 16 of the Philippine text (A/C.3/L.1221) empowering the good offices and conciliation committee to receive petitions addressed to the Secretary-General from any person or group of individuals claiming to be the victims of a violation of the Convention by any State Party, or from any non-governmental organization in consultative status with the Economic and Social Council. He approved the optional nature of the article, which made it a condition for the receipt of petitions by the committee that the State Party complained of should declare that it recognized the competence of the committee to receive such petitions. He hoped that, in due course, many States would be convinced of the great merits of the right of individual petition. His delegation had submitted an amendment (A/C.3/L.1270) which did not affect the principle laid down in the Philippine article 16 but which would make it possible to screen the petitions and eliminate those that were ill-founded or that constituted an abuse of the right of petition. The original Ghanaian text had included provisions on the right of petition which had largely corresponded to his delegation's ideas, but the revised version of that text had considerably changed the proposed procedure in the matter.

65. In conclusion, he wished to express clearly the firm hope of his delegation that at the current session the Committee would complete the Convention on the Elimination of All Forms of Racial Discrimination, including the measures of implementation, without which a convention could hardly amount to anything more than a declaration.

66. Mr. KOCHMAN (Mauritania) said that his delegation could not yet give a final opinion on any of the amendments, since the measures of implementation were still purely theoretical. However, it unreservedly supported article 1 of the Philippine proposals (A/C.3/L.1221).

67. He might have occasion to speak again later.

68. Mr. KIRWAN (Ireland) said that, in his delegation's opinion, an instrument as important as the draft International Convention on the Elimination of All Forms of Racial Discrimination should incorporate strong and meaningful articles of implementation. His delegation acknowledged the validity of the argument that articles of implementation were superfluous, since in ratifying the Convention the States Parties *ipso facto* undertook to implement its provisions; but it considered that the United Nations should not hesitate to provide the additional safeguard of an international guarantee by establishing suitable collective machinery to ensure that the rights and freedoms prescribed in the Convention were respected. By so doing it would make a formidable advance, and would be following the lead of other

international organizations which recognized the principle of an international guarantee; the Constitution of the ILO, for instance, provided for a system of periodic reports, a complaints procedure, and the possibility of referring certain disputes to the International Court of Justice.

69. The proposals put forward by the Philippines (A/C.3/L.1221) were best calculated to make the Convention a meaningful instrument, although there was room for revision on points of detail; his delegation would also take into account the amendments submitted by the delegation of Ghana (A/C.3/L.1274/Rev.1).

70. Mr. CHKHIKVADZE (Union of Soviet Socialist Republics) expressed the keen hope that the Committee would equip the International Convention on the Elimination of All Forms of Racial Discrimination with effective measures of implementation as quickly as possible. His delegation had always done its utmost towards the final elimination of colonialism, of which racism was one of the most atrocious expressions. It had been very glad to hear certain delegations, especially that of the United Kingdom, state during the discussion of the substantive articles of the Convention that they attached great importance to its speedy adoption.

71. Yet the adoption of a convention, however, perfect it might be, was not enough. Experience had shown that the effectiveness of such instruments depended on the measures laid down for their implementation at the international level. So long as the economic and social conditions that gave rise to racism persisted in certain States, manifestations of racial discrimination were only to be expected. If all States adopted practical measures wherever they were needed to eliminate the conditions that gave rise to racism, mankind would see that monstrous and shameful aberration gradually disappear. It was essential that the General Assembly should adopt at its current session the measures of implementation for the Convention on the Elimination of All Forms of Racial Discrimination, and all delegations must do their best to that end. In that connexion, his delegation had been somewhat surprised to hear the Ghanaian representative say that some delegations did not wish the measures of implementation to be adopted at the present stage.

72. His delegation's position on the subject of the measures of implementation was clear and consistent: it considered that those were the articles which would ensure respect for the Convention, which was based on the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Declaration on the Elimination of all Forms of Racial Discrimination.

73. The articles of implementation must be clear and precise, and must raise no difficulties likely to delay their adoption. Furthermore they should be of reasonable length, so as not to unbalance the Convention. They should be based on respect for the principle of the sovereignty of States and the principle of non-interference in the domestic affairs of States, both of which were embodied in the United Nations Charter. His delegation advocated the establishment

of a special organ composed of States Parties to the Convention, which should work in a spirit of international co-operation to enforce the Convention. It was in favour of a system of reports from the States Parties to the Convention on the legislative, administrative, legal, economic and social measures taken to ensure the elimination of all forms of racial discrimination. Disputes arising out of the application of the Convention should be settled in the same spirit as all international disputes, i.e., with due regard for the views of States and for their sovereignty.

74. His delegation might have occasion to submit amendments at a later stage. It was prepared to co-operate with all delegations, particularly the sponsors of amendments, and hoped that all delegations would be moved by the same spirit of conciliation so that the General Assembly might adopt unanimously, at its twentieth session, the entire Convention on the Elimination of All Forms of Racial Discrimination.

75. Mr. BAROODY (Saudi Arabia) said that he wished to state his delegation's general position on the measures of implementation of the Convention on the Elimination of All Forms of Racial Discrimination. It would be tempting but unrealistic to leave it to States to make their own arrangements for safeguarding the rights of their nationals. Racial discrimination existed even in States which had reached a very advanced stage of development and whose constitutions proclaimed the equality of all men. He agreed with the USSR representative that care must be taken not to encroach upon the sovereignty of States, and that a multilateral treaty must avoid any interference in the domestic affairs of States.

76. In a world still beset by the cold war there were certain dangers involved in giving each signatory State the freedom to lodge a complaint against another signatory State. A complaint from a private individual, whether well-founded or not, might serve as a pretext for one State to accuse another, and for interference in the affairs of other countries. His delegation had given thought to the problem and had mentioned its apprehensions to the Ghanaian delegation, which had taken them into account in its draft article XII. That article was designed to protect, not so much the individual injured by another individual—who could in principle resort to the law courts, although that possibility was sometimes problematical—as the individual whose rights were violated by the authorities, especially in multi-racial societies. Under that article, the injured individual could complain to the national committee which would be set up in every signatory State and which would be composed of independent persons having no official connexion with the Government. Those national committees would submit to the Secretary-General certified copies of their registers, and would protect the rights of private persons. On the other hand, he opposed the establishment of the eighteen-member committee provided for in the Ghanaian amendment. Without a screening system, the committee might be overwhelmed by an avalanche of complaints; moreover it might be unfamiliar with the various social systems prevailing in the different signatory States and, for all its goodwill and conscien-

tiousness, would probably not be able to satisfy all complainants, however well-founded their complaints. Lastly, its eighteen members might give way to pressure or to political feeling. In his opinion the proposed national committees offered an adequate guarantee, and to increase the number of organs and remedies might mean reducing the number of accessions to the Convention. In any case, the mere existence of the national committees would have the effect of making Governments more respectful of the rights of their nationals, for they would not wish their reputations to be sullied by reports to the

Secretary-General. Thus States in which coloured people suffered discrimination in such matters as housing, employment or remuneration would be keen to put matters right before their nationals complained to the national committees and the latter reported to the Secretary-General.

77. He would speak again later in order to submit some amendments to the draft measures of implementation.

The meeting rose at 6.20 p.m.

Annex 87

United Nations, *Official Records of the General Assembly,*
Twentieth Session, Third Committee,
document A/C.3/SR.1345 (17 November 1965)

United Nations
GENERAL
ASSEMBLY

TWENTIETH SESSION

Official Records



THIRD COMMITTEE, 1345th
MEETING

Wednesday, 17 November 1965,
at 10.45 a.m.

NEW YORK

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Chairman: Mr. Francisco CUEVAS CANCINO
(Mexico).

AGENDA ITEM 58

Draft International Convention on the Elimination of All Forms of Racial Discrimination (continued) (A/5803, chap. IX, sect. I, A/5921; E/3873, chap. II and annexes I and III; A/C.3/L.1221, L.1237, L.1239, L.1241, L.1249, L.1251, L.1262, L.1266, L.1268, L.1270 to L.1273, L.1274/Rev.1, L.1278)

ARTICLES ON MEASURES OF IMPLEMENTATION
(continued)

1. Mrs. BERRAH (Ivory Coast) expressed her delegation's regret that, despite intensive efforts, the Afro-Asian group had been unable to consolidate the Philippine draft articles relating to measures of implementation (A/C.3/L.1221), to be added to the provisions of the draft International Convention on the Elimination of All Forms of Racial Discrimination (A/C.3/L.1239, L.1241, L.1249, L.1262) with the amendments thereto submitted by Ghana (A/C.3/L.1274/Rev.1).

2. From the statements which had been made it was clear that the Third Committee was determined to submit to the General Assembly at its present session a proposal for measures to implement the Convention. Her delegation welcomed that determination because without such measures the Convention would be like a body without a head or a worker without tools, and unless the Committee adopted such measures at its present session, its work would be only half-done.

3. Her delegation suggested that the Committee should dispense with a general debate and should immediately commence consideration on the Philippine draft articles, that text having chronological priority. The draft should be considered article by article, the amendments submitted being dealt with in conjunction with the article to which they related. That procedure would save time and effort and would leave members free to submit sub-amendments if they so desired.

4. A spirit of realism should guide the Committee's deliberations. The Convention, as a multilateral treaty, was subject not only to ratification, but also to reservations, notwithstanding article XIV of the Ghanaian amendments (A/C.3/L.1274/Rev.1). The Committee might jeopardize everything by trying to achieve too much. If positions were too rigid, the measures in the Convention might remain a dead letter. The debate had shown the importance which each State attached to its national sovereignty, and no State would tolerate any interference by another in its domestic affairs. In that context article XII of the Ghanaian text seemed to her delegation to be particularly well advised.

5. Her delegation would have been willing to adopt a more uncompromising position if it had felt that the States now violating the most elementary human rights would thereby be brought to reason. Those States were South Africa, Portugal, and the illegal government of Ian Smith, which were turning their backs on history, morality and justice.

6. The alternative to her delegation's suggestion as to procedure would be for the Committee to put to the vote as a whole the draft submitted by the Philippines on the one hand and the amendments submitted by Ghana on the other. Her delegation did not favour such a course because it believed there was more to be gained by consolidating the two texts as far as possible, together with the amendments to them.

7. Mr. MACDONALD (Canada) said that the draft Convention was of great importance to the international community and to the United Nations in particular as part of a collective effort to clarify and formulate principles and procedures to promote basic individual liberties and extend them to a greater number of human beings in more areas of the world. The draft Convention could be a significant response by the United Nations to the increasing demands being made throughout the world for freedom and equality. It was essential to make the draft Convention effective and prevent it from becoming a dead letter through failure to make provision for its implementation. He had been impressed by the Ghanaian representative's plea that the Committee should take advantage of the present opportunity to make a stride forward in the struggle against racial discrimination. His delegation was prepared to join in the effort to match deeds to words by seeking new ways and means to ensure the Convention's success.

8. The Philippine proposals (A/C.3/L.1221) appeared to call for three main measures: the submission of reports by Governments; the establishment of a United Nations good offices and conciliation committee

and the acceptance under certain circumstances of petitions from individuals or groups.

9. The Ghanaian amendments (A/C.3/L.1274/Rev.1), which formed a complete alternative to the Philippine text, also provided for reporting and conciliation procedures but proposed the establishment of two bodies, rather than one, and the creation of national committees to screen petitions before they were forwarded to the international committee. They also contained provisions for the taking of an oath of impartiality by the members of the conciliation commission and included a procedure for the settlement of disputes, elements which the Philippine text did not contain. Under the Philippine text, reports could be forwarded to States which were not signatories to the Convention.

10. Those differences were mainly differences of detail and nuance rather than of substance and both texts had much in common. Both recognized the importance of reporting, conciliation and petition procedures, but neither offered anything either new or revolutionary. Reporting and conciliation were already techniques familiar to international organizations, especially in the field of human rights, and had been put to a variety of uses. However, the Convention offered an unprecedented opportunity to give old ideas practical effect in regard to the problem of racial relations. Although the tried and true methods of reporting and conciliation were particularly effective when accompanied by wide publicity, they did not go far enough. That was particularly true of the conciliation of disputes between States, for friendly States did not like to tangle in public, whereas rival States sought every pretext to do so. The ILO complaints system was a good illustration of the way such a system might operate.

11. What was necessary was that groups and individuals within a State should have access to competent and impartial decision-makers outside the State; in other words, non-national authorities should be vested with the authority to judge the treatment which a State meted out to its nationals. By means of such a provision an individual could have recourse outside his State and could secure independent judgement of the standards that State applied in the field of human rights.

12. Article 16 of the Philippine proposals and the Costa Rican proposal for the creation of a post of United Nations High Commissioner for Human Rights (A/5963) met that requirement in part. Both went beyond the proposal for national committees, made in article XII of the Ghanaian text, and were consistent with his delegation's view of the desirability of open societies, large world groupings, the formation of international rather than exclusively national loyalties and individual participation in the processes of power. Those goals could not, of course, be easily attained. Societies stood at different stages of development. As long as poverty, exploitation, disease and instability existed in the world, it was unlikely that there could be universal acceptance of an effective petitions procedure in the field of human rights. Many countries were not yet ready for it, and others did not share the traditional Western concept of human rights.

13. His statement should be considered as pointing the way to the standard the Committee should seek. In its discussions, the Third Committee should be bold, experimental and enthusiastic, not traditional and conservative; it should bear in mind the fact that the work of the Commission on Human Rights and the Third Committee itself had in the past been criticized by non-governmental, academic and expert bodies because it had not provided adequate measures of enforcement. Lastly, the Committee should not allow itself to be mesmerized by the concept of sovereignty.

14. Mr. COMBAL (France) said that, in his delegation's view, international measures of implementation were needed in the Convention. While it was true that the ratification of the Convention by a State implied that that State would introduce into its national legislation measures of implementation, the main idea of the Convention was that racial discrimination was a shameful blot on the present age, which should be eradicated by a concerted international effort. The Committee could not therefore rely exclusively on national measures of implementation but must do pioneering work, especially since no Convention of equal scope or significance had ever been adopted before. The Convention would be lacking in meaning without some international machinery and international measures of implementation must be a part of the Convention itself. Whether the articles providing for such measures were short or long was immaterial; what was important was that they should be well thought out and effective.

15. The Committee should consider the three main texts before it, the Philippine (A/C.3/L.1221), Ghanaian (A/C.3/L.1274/Rev.1) and Latin American proposals (A/C.3/L.1268), from the point of view of the machinery they advocated. The Philippine proposals should be regarded as the basic text for discussion, because it had been submitted first and was the most comprehensive. In considering those proposals in detail, his delegation would try to reconcile two requirements, which far from conflicting, were in fact complementary: first, that the system of implementation should be as effective as possible and, secondly, that it should not infringe national sovereignty.

16. The first objective could not be achieved if the Committee did no more than adopt a reporting system. In that case it would be doing very little, for in fact a reporting system on human rights already existed in United Nations practice. However, in trying to satisfy the first requirement he had mentioned, the Committee should not lose sight of the second.

17. While the Convention itself in fact necessarily implied some limitation of national competence, the text, if freely ratified, would represent no violation of sovereignty because the act of ratification itself was an exercise of sovereignty. However, the machinery for ensuring observance of the Convention should be consistent with the contractual character of the obligations assumed by ratifying parties. The conciliation commission, for example, for which there was no question of granting the power to impose obligations on a State, should be composed only of States Parties to the Convention. The Third Committee

should be careful to avoid directly or indirectly giving non-parties to the Convention the right to pass judgement on compliance by States Parties.

18. In granting to individuals and groups of the right to petition regarding the non-observance of human rights was furthermore a delicate subject that should be given careful consideration. It would be inadvisable moreover in the implementation clauses to impose upon a State any particular institutional measures.

19. The Third Committee should draft implementation clauses acceptable to all and thus make the Convention an effective international instrument.

20. Mr. HOVEYDA (Iran) welcomed the Philippine proposals (A/C.3/L.1221), which constituted a well-thought-out and useful contribution to the Committee's consideration of the item before it.

21. At the previous meeting some representatives had placed emphasis on the principle of non-intervention in the domestic affairs of States. His delegation strongly supported that principle, but felt that there were cases in which domestic questions relating to natural rights were and should be of general concern. The fact that many United Nations bodies were at present dealing with various aspects of the problem of racial discrimination showed that the problem existed and required solution. The sovereignty of States must naturally be respected, but he drew attention to the fact that the Committee, in discussing a proposal to hold a seminar on apartheid, had recently considered the need for international action to eliminate racial discrimination.

22. In his delegation's view, procedures for implementation of the Convention should be embodied in the Convention itself. Although the question was primarily a legal one, the Committee should not overlook the important factor of public opinion. The man in the street might well criticize the efforts of the Committee if it adopted a Convention that failed to make provision for its implementation. However, the principles underlying the implementation clauses should not go beyond the principles embodied in the substantive articles. Although the drafts submitted appeared generally satisfactory, they required careful consideration, preferably by a smaller body which could produce a single coherent text; however, in view of the appeal by the delegation of Ghana for adoption of the implementation clauses at the current session, he was prepared to agree with the suggestion of the representative of the Ivory Coast that the texts should be considered article by article by the Committee itself. The juridical problems mentioned by the representatives of the Netherlands, Canada and France should be borne in mind.

23. Mr. HANDL (Czechoslovakia) observed that the principles embodied in the substantive articles of the draft Convention constituted international norms of non-discrimination which had been observed by the Czechoslovak Government for many years in both its internal and its foreign policies. His delegation was convinced, therefore, that implementation was primarily a matter for the contracting States, since, as had been recognized by a number of experts in international law, only States possessed the machinery

and the means to provide effective safeguards for the exercise of human rights. It was therefore important that the greatest possible number of States should ratify the Convention and effectively apply its provisions in the political, economic, social, cultural and other spheres, without delay or prevarication. He hoped that the United Kingdom, whose delegation had eloquently supported the adoption of effective international measures of implementation but whose proposals had tended to weaken the substantive articles of the draft Convention, would contribute to that end.

24. Although his delegation was convinced that primary responsibility for application of the principles embodied in the draft Convention must be vested in the individual State, it did not in any way underestimate the role of international implementation measures. On the contrary, it would support the adoption of the most effective measures which would be in accord with the purposes and principles of the Charter and with the practice and experience of some of the specialized agencies. On that basis, it was prepared to support an effective system of reporting on legislative, administrative, political, economic and social measures taken by the contracting parties in order to implement the Convention, and also the creation of a special body to be entrusted with certain functions in connexion with the application of the Convention, provided that its terms of reference were not in contradiction with the principles of the Charter and the generally recognized principles of international law and that it was elected solely by the contracting parties, with due regard to equitable geographical representation.

25. It would be unfortunate if the adoption of the draft Convention were postponed until a later session on the pretext of lack of agreement concerning some of the implementation clauses. His delegation believed that the draft Convention and at least the basic implementation clauses should be adopted at the present session, on the understanding that the additional measures of implementation would be considered at the next session.

26. Mr. ZULOAGA (Venezuela) agreed with the Ivory Coast representative's suggestion that the two drafts should be considered article by article, as that seemed to be the only practical method of work.

27. In considering the extent to which States ratifying a convention surrendered a part of their sovereignty, it should be borne in mind that all States Members of the United Nations had made such a surrender upon signing the Charter. Although decisions of the Third Committee had only the force of recommendations, the Security Council had much more extensive powers under the proviso contained in Article 2, paragraph 7, of the Charter, and the implementation clauses of the draft Convention should be viewed in that light.

28. He wished to emphasize how important it was to the implementation of the Convention that publicity should be given to its provisions in every country, especially in schools, where the prejudices often acquired by children in their homes could be eradicated. It should also be borne in mind that the scope

of application of the Convention would be greatly limited by the fact that precisely those States where discrimination was a way of life would not accede to it.

29. With reference to the Canadian representative's statement, he considered that the Western countries had no reason to pride themselves on their advanced moral concepts, since it was in those countries that racial discrimination had originated and still existed, despite great efforts made by Governments to eliminate it.

30. He shared the misgivings of the French representative concerning article XII of the Ghanaian draft (A/C.3/L.1274/Rev.1) but would not propose any formal amendment, in the hope that the sponsor would take into account the views expressed during the debate. The idea of each State Party to the Convention constituting a national committee seemed excellent in principle, but he did not see how the members of such committees could have no official connexion with their Government.

31. In its concern to develop methods of implementation, the Committee should not forget that the States Parties themselves would be undertaking, in article II, paragraph 1 (c), and article VII of the Convention, to take effective implementation measures.

32. Mr. HELDAL (Norway) said that the delegations of the Philippines and Ghana had performed a valuable service in submitting their drafts which, despite differences in the means of implementation proposed, covered a considerable area of common ground. The system of implementation adopted by the ILO was perhaps stronger in some respects than the two drafts before the Committee, and 98 per cent of the Members of the United Nations had ratified the Constitution of the ILO, thus accepting that system. His delegation was in favour of strong articles of implementation for the very important instrument under discussion.

33. Mrs. RAMAHOLIMIHASO (Madagascar) said that, however unquestionable the good faith of States Parties to the Convention might be in the matter of interpretation and implementation, it was essential to have articles of implementation if the Convention was to be more than a mere declaration. The fact that the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, for instance, did not include any implementation clauses was due to the nature of its subject matter. The situation was quite different in the case of a convention dealing with a principle of universal importance recognized in the Charter.

34. The three types of implementation measures proposed in the Philippine and Ghanaian drafts should be considered very carefully, as they would no doubt constitute a precedent for future conventions relating to human rights. A reporting system presented no difficulties, but it was obviously not sufficient in itself, since the reports would be prepared by the States Parties. Provision must therefore be made for the second type of action, namely, petitions by individuals or groups; in that connexion it seemed wise to call for the establishment of national committees to screen petitions as proposed in article XII of the Ghanaian draft. The third proposal, which

deserved even closer attention, envisaged the filing of complaints by one State Party against another—a possibility to which no State should object in the interest of ensuring better protection of human rights and fundamental freedoms. The texts before the Committee appeared to offer sufficient safeguards against cases of abuse for political purposes.

35. The proposal for the establishment of a good offices and conciliation committee raised the question whether similar committees were likely to be set up for the implementation of future conventions. It might be desirable to consider whether a single committee of that kind should not be established for all human rights conventions, since complaints might in some cases allege violations of more than one such instrument.

36. She agreed with the suggestion of the representative of the Ivory Coast that the draft and amendments before the Committee should be considered article by article.

37. Mr. MURUGESU (Malaysia) said that his delegation had no objection to the adoption of the articles of implementation at the present session. However, the texts before the Committee must first be considered article by article in order to ensure that all their terms were acceptable to prospective States Parties, since otherwise the draft Convention would have no effect.

38. His delegation naturally agreed that everyone should have the right of redress if he considered himself affected by racial discrimination, and it would welcome the constitution of national committees, as proposed by Ghana in article XII of its draft. However, both the Philippine and Ghanaian drafts contained clauses which would allow interference by one State Party in the affairs of another. Such provisions were morally wrong and contrary to the principles of the United Nations Charter. They might cause endless dissension among States if they were not deleted entirely. Such provisions might be acceptable in the case, for instance, of border disputes, but in the field of racial discrimination they could scarcely be invoked unless a State employed spies throughout the territory of another State in order to detect alleged violations.

39. Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that some delegations appeared to regard the discussion on measures of implementation as an opportunity for gaining political advantage over other delegations. He had in mind particularly the statements of the United Kingdom and Canadian representatives. Surely no one could accept the thesis that the representatives of developing countries who attacked colonialism and apartheid but who advocated prudence in dealing with the question now before the Committee were opposed to the effective implementation of the draft Convention. In fact, those who accused the developing countries of resisting the inclusion of effective measures of implementation in the draft Convention had themselves hesitated to become signatories of the Universal Declaration of Human Rights. The record of the Western countries in the matter of human rights gave those countries absolutely no right to take a patronizing

attitude towards others. Moreover, the Western countries did not consistently support the implementation of international recommendations and decisions. The United Kingdom representative had expressed her desire to see strong implementation measures incorporated in the draft Convention, but in the sphere of trade and development the United Kingdom delegation had resisted even the use of the word "implementation" in connexion with the recommendations of the United Nations Conference on Trade and Development. It should be noted in that regard that the improvement of international trade had an indirect but important connexion with the furtherance of human rights. With respect to the Canadian representative's statement, the Western world clearly had nothing to teach the developing countries in the matter of human rights; indeed, it was the Western world that had given birth to colonialism and slavery, while the developing countries had suffered as a result. The most flagrant violations of human rights still occurred in the so-called open and free societies, and they were often allowed by the authorities on the very pretext that the societies were "free" and "open".

40. His delegation saw some legal difficulties in the implementation clauses proposed to the Committee. The principle of State sovereignty was jealously guarded by all countries. It was embodied in Article 2, paragraph 7, of the Charter in clear recognition of the fact that the United Nations was not a supra-national body which could dictate to States in domestic matters. Certainly the principle of State sovereignty should not impair the struggle against colonialism, apartheid and genocide, which were of direct concern to all mankind. But in view of the strong feelings of States on the question of sovereignty, he did not see how the Committee could accept a provision under which one State could lodge a complaint against another State concerning internal practices. Under the Ghanaian proposal (A/C.3/L.1274/Rev.1), such a complaint might ultimately reach the International Court of Justice, whose decision would be final. But even the Statute of the International Court of Justice provided for non-recognition of the Court's compulsory jurisdiction. The Committee must therefore proceed very carefully in that complex and sensitive legal area. There already existed United Nations machinery for handling complaints by individuals regarding violations of human rights. If the Committee thought that machinery inadequate, it should indicate whether it wished it to be altered or replaced, and not simply propose new procedures which would create a confusing situation and place the Secretary-General in difficulties.

41. The Ghanaian proposal called for the constitution by States of national committees composed of "independent and objective persons not having any official connexion with the Government" (article XII, paragraph 1). The Convention, however, could apply only to States and only States could be subject to inter-

national law. Moreover, from a practical standpoint, States could scarcely be expected to appoint persons who were not aware of and dedicated to the national interest. Both the Ghanaian and Philippine proposals provided that the body to be set up to supervise the implementation of the Convention should meet in New York or at Geneva. He opposed that idea: the United Nations was composed of countries situated in all parts of the world, and that should be reflected in its organizational arrangements. On the question of petitions, he believed that individuals should have the right to petition to national or international authorities. The practice of petitions was known in the United Nations in the areas of trusteeship and human rights. He considered it an excellent means of recourse that should be fully employed in the application of the Convention. Conciliation, on the other hand, was not particularly appropriate to the subject of the Convention. He did not see how complaints concerning human rights violations could be settled by conciliation.

42. He agreed with the United Kingdom representative that no country in the world could claim to be entirely free of discrimination. In Africa, as a result of the pernicious practices of colonialism, the independent countries now had to correct past injustices which had resulted in the degradation of the native Africans. In order to achieve a more balanced society, the countries of the region had embarked on a process of "Africanization". They should not be exposed to charges of violations of human rights simply because they sought to remedy the evils forced on them by the colonial Powers.

43. He hoped that the Ghanaian and Philippine delegations could jointly develop a text which would take into account the discussion in the Committee. He agreed with the Czechoslovak representative that if the Committee could not adopt all the implementation measures at the present session, it might continue to work on them at the twenty-first session. The Committee should not act hastily on such a vitally important matter.

44. Mr. LAMPTEY (Ghana) observed that the Tanzanian representative had misconstrued the provisions of the Ghanaian proposal concerning the International Court of Justice, which did not in fact go further than the Court's Statute.

45. Lady GAITSKELL (United Kingdom) wondered how the Tanzanian representative could impugn the motives of the United Kingdom when at that very time there was a bill on racial discrimination before the House of Commons. As to trade and development, she was not an expert in the matter but she hardly thought it relevant to the present item. Racial discrimination was a very complex subject, and attempts to oversimplify it could only hinder the Committee's efforts.

The meeting rose at 1.15 p.m.

Annex 88

United Nations, *Official Records of the General Assembly,*
Twentieth Session, Third Committee,
document A/C.3/L.1291 (18 November 1965)



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
LIMITED

A/C.3/L.1291
18 November 1965

ORIGINAL: ENGLISH

Twentieth session
THIRD COMMITTEE
Agenda item 58

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION

Ghana, Mauritania and Philippines: articles relating to measures of implementation to be added to the provisions of the draft International Convention on the Elimination of All Forms of Racial Discrimination adopted by the Commission on Human Rights (A/5921, annex)

Article VIII

1. There shall be established a Committee consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties to this Convention from amongst their nationals who shall serve in their personal capacity, consideration being given to equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal systems.
2. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years: immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
3. A State Party, a national of which is elected to membership of the Committee in accordance with paragraph 1 of the present article, shall be responsible for the expenses of its expert on the Committee while he is in performance of Committee duties.
4. The States Parties to this Convention undertake to submit a report on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of this Convention: (a) within one year

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after the entry into force of the Convention for the State concerned; and

(b) thereafter every two years and whenever the Committee constituted in accordance with paragraph 1 of the present article so requests.

5. All reports shall be submitted to the Secretary-General of the United Nations for consideration by the Committee constituted in accordance with paragraph 1 of the present article.

6. The Committee may request further information from the States Parties if necessary.

7. The Committee shall report annually through the Secretary-General to the General Assembly on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States. However, such suggestions and general recommendations shall only be reported to the General Assembly after prior consultation with the States Parties concerned.

8. The States Parties concerned may, in addition, submit to the General Assembly observations on suggestions or general recommendations made in accordance with paragraph 7 of the present article.

Article IX

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

3. The Secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

4. The meetings of the Committee shall be held at the Headquarters of the United Nations.

Article X

1. If a State Party to this Convention considers that another State Party is not giving effect to the provisions of the Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the complaint to the States Parties concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and any remedy that may have been taken by that State.

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2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee constituted in accordance with paragraph 1 of Article VIII by notice given to the Committee and also to the other State.
3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of the present Article only after it has ascertained that all available remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law.
4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.
5. When any matter arising out of the present Article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the States Parties concerned.

Article XI

1. (a) Subject to the provisions of Paragraph 3 of Article X, the Chairman of the Committee, after the Committee has obtained and collated all the information it thinks necessary, shall appoint a Conciliation Commission hereinafter referred to as the Commission, of an ad hoc nature composed of five members with the full and unanimous consent of the parties to the dispute, whose good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for the Convention.
- (b) If the States Parties to the dispute fail to reach agreement on all or part of the composition of the Commission within three months, those members of the Commission not agreed upon by the States Parties to the dispute shall be elected by two-thirds majority vote of the Committee from amongst its own members.

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2. The members of the Commission who shall serve in their personal capacity, should be persons of such high moral standing and acknowledged impartiality as to deserve the confidence of the States Parties to the dispute, but shall neither be nationals of these States to the dispute nor of a State not party to this Convention.
3. The Commission shall elect its own Chairman and adopt its own rules of procedure.
4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations, or at any convenient place as determined by the Commission.
5. The Secretariat provided in accordance with Article IX, paragraph 3, shall also service the Commission whenever a dispute among States Parties brings it into being.
6. The States Parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General.
7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties to the dispute in accordance with paragraph 6 of the present article.
8. The information obtained and collated by the Committee shall be made available to the Commission and the Commission may call upon the States concerned to supply any other relevant information.

Article XII

1. When the Commission has fully considered the complaint, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.
2. The Chairman of the Committee shall communicate the report of the Commission to each of the States Parties to the dispute, and to the Secretary-General of the United Nations for publication.
3. Each of the States Parties to the dispute shall within three months inform the Chairman of the Committee whether or not it accepts the recommendations contained in the report of the Commission.

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Article XIII

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to existing constitutional or other binding provisions of agencies related to the United Nations dealing with the settlement of disputes or complaints in the field of discrimination, and shall not prevent the States Parties to the Convention from resorting to other procedures for settling a dispute in accordance with the general or special international agreements in force between them.

Annex 89

United Nations, *Official Records of the General Assembly,*
Twentieth Session, Third Committee,
document A/C.3/L.1313 (30 November 1965)

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
LIMITED

A/C.3/L.1313
30 November 1965

ORIGINAL: ENGLISH

Twentieth session
THIRD COMMITTEE
Agenda item 58

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION

Ghana, Mauritania and Philippines: amendments to the suggestions
for final clauses submitted by the officers of the Third Committee
(A/C.3/L.1237)

1. III. ENTRY INTO FORCE

Paragraphs 1 and 2

Replace the word "twentieth" before "instrument of ratification" by "Twenty-seventh".

2. VIII. SETTLEMENT OF DISPUTES

Delete the comma after "negotiation", and insert the following between the words "negotiation" and "shall": "or by the procedures expressly provided for in this Convention,".

Annex 90

United Nations, *Official Records of the General Assembly,*
Twentieth Session, Third Committee,
document A/C.3/SR.1367 (7 December 1965)

United Nations
**GENERAL
ASSEMBLY**

TWENTIETH SESSION

Official Records



**THIRD COMMITTEE, 1367th
MEETING**

Tuesday, 7 December 1965,
at 10.55 a.m.

NEW YORK

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Chairman: Mr. Francisco CUEVAS CANCINO
(Mexico).

AGENDA ITEM 58

Draft International Convention on the Elimination of All Forms of Racial Discrimination (continued) (A/5803, chap. IX, sect. I; A/5921; E/3873, chap. II and annexes I and III; A/C.3/L.1237, L.1239, L.1241, L.1249, L.1262, L.1272, L.1292, L.1305 and Add.1, A/C.3/L.1307/Rev.2, L.1313, L.1314, L.1317)

FINAL CLAUSES (continued)

CLAUSE IV

1. The CHAIRMAN invited the Committee to continue its consideration of the suggestions for final clauses submitted by the officers of the Committee (A/C.3/L.1237) and the amendments thereto.
2. Mr. ABDEL-HAMID (United Arab Republic) said that his delegation was in favour of the deletion of clause IV, as proposed in the third of the Polish amendments (A/C.3/L.1272), since the substance of the text was already contained in the second revised version of article XIII (bis) (A/C.3/L.1307/Rev.2) of the articles relating to measures of implementation.
3. Mr. HOVEYDA (Iran), supported by Miss FAROUK (Tunisia) and Mr. RIOS (Panama), suggested that the vote on clause IV and on the third Polish amendment should be postponed, in order not to prejudice the Committee's decision on article XIII (bis).

It was so agreed.

CLAUSE V

4. Miss TABBARA (Lebanon) supported the fourth Polish amendment (A/C.3/L.1272), calling for the deletion of clause V. A State, whether unitary or

federal, was represented at the international level as a single entity, and the United Nations had never concerned itself with the manner in which international instruments were applied within the territory of a country. It might be dangerous for the federal States themselves to expose their systems to criticism, as a consequence of the procedure envisaged in clause V, sub-paragraph (c). The question was a purely domestic one, which it would be better for the States concerned to settle internally.

5. Mr. LAWREY (Australia) observed that, as the representative of a federal State, he did not share the misgivings expressed by the representative of Lebanon. For essentially practical reasons, his delegation favoured the inclusion of a federal clause in the draft Convention, and it was quite prepared to accept the text suggested by the officers of the Committee, including sub-paragraph (c). Under Australia's written federal Constitution, the implementation of most international instruments relating to economic and social matters necessarily required the consent of, and action by, a number of governments. To obtain such consent and action was time-consuming and sometimes difficult, owing to the variety of legislation involved; in the case of the draft Convention under discussion, even municipal ordinances and regulations would be required. The adoption of clause V would enable the Australian Government to accept obligations under the Convention within the limits of its authority, without awaiting the consent of all local governments which would be necessary for the application and implementation of the instrument. His delegation therefore felt obliged to oppose the fourth Polish amendment.

6. Mrs. SEKANINOVA (Czechoslovakia) opposed the inclusion of the so-called "federal clause" in the draft Convention. In addition to the arguments advanced by the representatives of Poland and Lebanon, her delegation considered that such a clause would substantially weaken the Convention as a whole by establishing inequality of obligations as between federal and unitary States. It would not be in conformity with the recognized principles of international law, under which a federal State as a whole was regarded as a subject of international law.

7. Mr. HOVEYDA (Iran) said that, although he had no strong views on the matter, he thought it rather strange to include in the draft Convention a provision such as the suggested clause V. When a federal State acceded to an international Convention, it acted on behalf of all its constituent states or provinces, and the Third Committee had already adopted provisions designed to ensure implementation of the Convention throughout the territory of a State Party. He was not

convinced by the Australian representative's argument, and he would vote in favour of the Polish amendment.

8. Miss WILLIS (United States of America) said that, although her country had a written Constitution and was a federal State, her delegation nevertheless agreed with the representative of Poland who, in introducing his amendment, had said that such clauses tended to destroy the uniform application of international agreements by placing federal States in a special position. Her delegation would therefore vote in favour of the Polish amendment.

9. Mr. KOCHMAN (Mauritania) said that his delegation, too, would vote in favour of the Polish amendment. A federal State which ratified a convention must ensure that its provisions were applied throughout its territory, and only the central Government could take the necessary measures to that end.

10. Mr. TSAO (China) said that his delegation's main concern was to ensure that as many States as possible acceded to the Convention. The constitutional position of other federal States was not necessarily the same as that of the United States, and his delegation would therefore vote in favour of the retention of the federal clause.

11. Mr. INCE (Trinidad and Tobago) supported the Polish amendment. It was an accepted fact that, whatever form of constitution a State might have, foreign affairs were within the purview of the central Government. Some treaties, which were self-executing, automatically became the law of the land once they were acceded to by a federal State, while in the case of non-self-executing treaties the constitutional processes of the federal State provided for legislation to make them operative in the constituent provinces or states. His delegation could not, therefore, accept the arguments advanced by the representatives of Australia and China.

12. Mr. TAYLOR (United Kingdom) said that for his country, which itself had no problems arising from a federal constitution, an explanation such as that given by the representative of Australia concerning the genuine difficulties a government would have in accepting a United Nations instrument was sufficient reason for the inclusion in the instrument of a federal or other necessary clause. It was not appropriate for any Member State to imply that another could manage its affairs more effectively if it adopted a different kind of constitution. His delegation would therefore abstain in the vote on the Polish amendment.

13. Mr. LAWREY (Australia) said that the statement of the position of federal States made by the representative of Trinidad and Tobago did not accurately reflect Australia's constitutional position. In order not to take the time of the Committee, he himself had not dwelt on the subject in detail, but it was true, as the representative of China had suggested, that the constitutional position was not necessarily identical in all federal States. As the United Kingdom representative had appreciated, the matter was of some practical concern to Australia, and it was in the interest of facilitating the widest and easiest acceptance of the draft Convention that his delegation

had taken its position in favour of the retention of a federal clause.

14. Mr. BOULLET (France) observed that the suggested clause V was not of direct concern to his country, which had a unitary Constitution. His delegation, while appreciating the concern of federal States for the integrity of their constitutional systems, believed that a federal clause would enable a State to accede to the Convention while avoiding the application of its provisions to a part of its territory. It would appear more logical for a federal Government first to obtain the consent of its constituent states or provinces, after which it could accede to the Convention without reservations of any kind. His delegation therefore favoured the deletion of the federal clause.

15. Mr. RODRIGUEZ FABREGAT (Uruguay) recalled that his delegation had always taken the position that the argument of domestic jurisdiction could never be advanced in justification of any violation of human rights. The United Nations Charter made it quite clear that all human beings, whether living in a federal or a unitary State or in a colonial territory, were entitled to the enjoyment of such rights, and the draft Convention must go at least as far as the Charter itself. His delegation would vote accordingly on clause V.

16. Mrs. MANTZOULINOS (Greece) said she did not believe that a federal clause was customary in United Nations practice. Although she appreciated the concern of some delegations, the inclusion of such a clause would, in her view, establish international precedents which might create difficulties in the future. Her delegation therefore considered that the federal problem should be treated as a domestic matter.

17. Miss AGUTA (Nigeria), speaking as the representative of a federal State, said that her Government supported the Polish amendment because it deemed it inappropriate for the United Nations to specify how any State should implement the Convention in the light of its own Constitution. The provisions already adopted provided a sufficient option for States wishing to become parties to the Convention.

18. Mr. DAYRELL DE LIMA (Brazil) said that his delegation would support clause V in the form in which it appeared in document A/C.3/L.1237.

19. The CHAIRMAN invited the Committee to vote on the fourth amendment submitted by Poland (A/C.3/L.1272) calling for the deletion of clause V.

The fourth Polish amendment (A/C.3/L.1272) calling for the deletion of clause V was adopted by 63 votes to 7, with 16 abstentions.

CLAUSE VI

20. Mr. LAMPTEY (Ghana), introducing the three-Power amendment (A/C.3/L.1314) to the fifth Polish amendment (A/C.3/L.1272) concerning clause VI of the suggested final clauses (A/C.3/L.1237) on behalf of the sponsors, said that the latter supported the fifth Polish amendment in the belief that reservations to the substantive clauses, and especially to articles I to V, would make the Convention meaningless. They had submitted their amendment because a careful

reading of the articles on measures of implementation (articles VIII to XIV) showed that reservations to those articles would nullify their effect, render the implementation machinery meaningless, and destroy the whole Convention.

21. Mr. ABDEL-HAMID (United Arab Republic) suggested that, since the text of articles VIII to XIV had not yet been finalized, the Committee should postpone action on final clause VI.

It was so agreed.

CLAUSE VII

22. The CHAIRMAN invited the Committee to consider clause VII of the suggested final clauses (A/C.3/L.1237).

Clause VII was adopted unanimously.

CLAUSE VIII

23. The CHAIRMAN invited the Committee to consider clause VIII of the suggested final clauses (A/C.3/L.1237) and the amendments thereto: the sixth Polish amendment (A/C.3/L.1272) and the second amendment submitted by Ghana, Mauritania and the Philippines (A/C.3/L.1313).

24. Mr. MACDONALD (Canada), referring to the suggested final clause VIII, said that he opposed the sixth Polish amendment (A/C.3/L.1272), since it would have the effect of nullifying the entire clause on the settlement of disputes. If all parties to a dispute had to consent to its submission to the International Court of Justice, there was no need for a special provision on the subject, since any inter-State dispute could be brought before the Court with the common consent of the parties.

25. Any party to a dispute over the interpretation or application of the Convention should be able to bring the matter before the Court, for the Convention was being prepared under United Nations auspices and the Court was the Organization's principal juridical organ. Moreover, clause VIII allowed parties to a dispute considerable latitude. They could resort to negotiation and other modes of settlement, and no time-limit was imposed for settlement. A controversy could thus be protracted almost indefinitely before recourse was had to the Court. In view of the flexibility of the article's terms, he did not see why the Polish delegation should want, in effect, to eliminate reference to the Court under the Convention.

26. He supported the second three-Power amendment (A/C.3/L.1313), which made a valuable addition to the clause.

27. Mr. KORNIENKO (Ukrainian Soviet Socialist Republic) supported the Polish amendment and expressed surprise that the Canadian representative should have interpreted it as eliminating reference to the International Court of Justice. It was the Committee's repeatedly expressed desire that the Convention should be ratified by the largest possible number of States. If that was so, the views of a large number of States on the present issue should be respected. As the Polish representative had said at the 1358th meeting, under international law a sovereign State could not be made subject to the jurisdiction of the Court except

by its own consent. That principle had been confirmed by the Committee's own action in adopting article 8 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. The Committee should not now take a backward step and create fresh obstacles for prospective signatories. The Polish amendment was not designed to eliminate reference to the Court, but to bring the clause concerning such reference into line with current practice.

28. Mr. MACDONALD (Canada) said that he had meant only that the adoption of the Polish amendment would leave matters as they currently stood under international law. His delegation hoped, on the other hand, that it would be possible to confer in advance on the Court a measure of jurisdiction in regard to matters connected with the Convention. He fully realized that some countries might be reluctant to accept the Court's jurisdiction. However, in view of the latitude allowed under clause VIII, which did not require reference to the Court unless it was requested, he had hoped that all delegations could accept the clause as drafted.

29. Mr. LAMPTEY (Ghana) said that the three-Power amendment was self-explanatory. Provision had been made in the draft Convention for machinery which should be used in the settlement of disputes before recourse was had to the International Court of Justice. The amendment simply referred to the procedures provided for in the Convention.

30. Replying to a question from Mr. COCHAUX (Belgium), Mr. DABROWA (Poland) said that the meaning of the Polish amendment was that all parties to disputes must agree on the Court's jurisdiction in each particular case.

31. Mr. OSPINA (Colombia) said that the Polish amendment would deprive clause VIII of all its force. He supported the three-Power amendment.

32. Miss WILLIS (United States of America) said that the Polish amendment would make clause VIII a meaningless provision since in the absence of such a provision the States Parties could agree among themselves to refer a dispute to the International Court of Justice. The Polish delegation's argument that under the Court's Statute the jurisdiction of the Court was compulsory only for States accepting the "optional clause" of Article 36 was not entirely correct. It was true that the Court's jurisdiction depended on consent, but the declaration provided for in Article 36, paragraph 2, of the Statute was only one way by which a State could indicate such consent. Article 36, paragraph 1, of the Statute provided that the Court's jurisdiction comprised, *inter alia*, "all matters specially provided for ... in treaties and conventions in force". Moreover, the San Francisco Conference had clearly accepted the principle that "legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court" (Article 36, paragraph 3, of the Charter). The adoption of clause VIII as drafted would reaffirm the Committee's adherence to a Charter principle. Moreover, the Court, composed of judges of the highest moral character and legal qualifications, could be of considerable value in settling the complex legal

issues which might be involved in disputes arising out of the Convention. Her delegation would regret any decision which would make reference to the Court dependent on the agreement of all States parties to a dispute.

33. Mr. MOVCHAN (Union of Soviet Socialist Republics) said that the authors of the Charter and the Statute had proceeded on the basic premise that the Court could consider only such matters as were referred to it with the consent of the parties. That principle was clearly stated in both the Charter and the Statute. Thus there were no grounds for suggesting that the Polish amendment belittled the functions and importance of the Court. The United States representative had referred to Article 36, paragraph 1, of the Statute, but it was important to note that the Article began: "The jurisdiction of the Court comprises all cases which the parties refer to it . . .".

34. Agreement to bring cases before the Court could be given in individual cases or in advance with respect to certain categories of questions. For a number of years two opposing approaches had been taken in the drafting of multilateral agreements, and the approach defended in the Committee by the Canadian and United States representatives had by no means won general acceptance. In view of the United States delegation's frequent appeals for generally acceptable provisions he would have thought the Polish amendment would have commended itself to that delegation. The amendment would reaffirm what was stated in the Charter and the Statute and would leave reference to the Court open to those States which had accepted its compulsory jurisdiction. It was therefore in keeping with the spirit in which the draft Convention had so far been formulated.

35. Regardless of the decision taken in the Committee, the principle of voluntary recourse to the Court could not be altered. It had been confirmed by the practice of recent years and was being increasingly recognized in international agreements, among them the Vienna Conventions on Diplomatic Relations and on Consular Relations and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

36. Mr. WALDRON-RAMSEY (United Republic of Tanzania) endorsed the previous speaker's remarks. The consent of all parties to a dispute must obviously be obtained before the question was brought before the International Court of Justice. That was consistent with the Charter and the Statute of the Court.

37. Obtaining the common consent of parties had practical merits as well. The Committee had discussed at length who would defray the expenses incurred in the implementation of the Convention. In the present instance, if any party to a dispute could refer it to the Court, financial problem were likely to arise. The expenses of the Court would have to be defrayed by someone. Whether it would be the party referring the case to the Court, both parties or the United Nations would have to be determined. If the Polish amendment was adopted, however, recourse to the Court would be with the consent of both parties and it was logical to expect that they would share the costs. Thus for practical reasons in addition to reasons of principle he favoured the Polish amendment.

38. Mr. BOULLET (France) said that his delegation could not support the Polish amendment. It was his country's traditional position to accept *a priori* the jurisdiction of the International Court of Justice whenever a party to a dispute chose to submit the matter to the Court, provided of course that the issue arose within the framework of a convention to which his country had acceded. His delegation would support the three-Power amendment since it brought clause VIII into line with provisions already adopted in the matter of implementation.

39. Mr. CAPOTORTI (Italy) said that the Statute of the Court and current international law clearly allowed for both possibilities under discussion—the submission of a dispute to the Court either by any or by all of the parties. The principle of consent of the parties was respected in both cases, the only difference being in the time of consent; in one case consent was given upon ratification of the convention, while in the other it was given when a particular dispute arose. It had been said that the Polish amendment was more in keeping with international practice, but that practice in fact recognized both methods. Many conventions included a provision such as the suggested clause VIII. He did not think international law or the Statute of the Court could usefully be invoked to decide the present issue. The Committee should adopt a practical approach and decide which method was more in accord with the spirit of the Convention and would ensure the most satisfactory settlement of disputes relating to the Convention. From that standpoint he favoured the clause suggested by the officers of the Committee (A/C.3/L.1237). Consent of States would be much more difficult to obtain when a dispute already existed than when the Convention was opened for signature. States should be all the more ready to give their consent at the outset because of the great variety of admissible settlement procedures short of recourse to the Court. He therefore supported clause VIII and the three-Power amendment, which was a useful addition.

40. Mr. COCHAUX (Belgium) agreed with the previous speaker. The Court was an important international organ whose role in settling disputes connected with the present draft Convention—an instrument created by the United Nations—should not be belittled. As others had noted, clause VIII provided for various modes of settlement offering ample opportunity for agreement before the Court was resorted to. Acceptance of the clause was very important for the effective implementation of the Convention. He would support the three-Power amendment, which introduced a useful clarification.

41. Mr. INCE (Trinidad and Tobago) said that his delegation supported the three-Power amendment to clause VIII, which would strengthen that clause. He agreed with the Canadian representative that the use of the word "all" would make it much more difficult to bring a case before the International Court of Justice. However, since, in accordance with accepted principles of international law, a sovereign State could not be haled before the Court without its consent and since the Convention was being drawn up in a spirit of goodwill, the wisest course might be to let the word "any" stand, in order to facilitate reference of cases

to the Court. He therefore appealed to the Polish representative not to press his amendment.

The second amendment submitted by Ghana, Mauritania and the Philippines (A/C.3/L.1313) was adopted unanimously.

The sixth Polish amendment (A/C.3/L.1272) was rejected by 37 votes to 26, with 26 abstentions.

Clause VIII, as a whole, as amended, was adopted by 70 votes to 9, with 8 abstentions.

42. Mr. LAMPTEY (Ghana) said that his Government took the position that cases should be referred to the International Court of Justice only with the full consent of both parties. However, it had accepted the compulsory jurisdiction of the Court in the case of certain specific conventions. His delegation attached so much importance to the International Convention on the Elimination of All Forms of Racial Discrimination that it could have supported clause VIII as submitted by the officers of the Committee. In view of its position of principle on the question of the International Court, it had abstained in the vote on the Polish amendment.

43. Mr. BOŽOVIĆ (Yugoslavia) said that his country did not recognize the compulsory jurisdiction of the International Court of Justice and had reserved its right to decide in each case whether a dispute arising out of the provisions of a treaty to which it was a signatory should be referred to the Court. It supported the principle that disputes over the interpretation of treaties should be brought voluntarily before the Court. For that reason his delegation had abstained in the vote on clause VIII.

44. Mr. TEKLE (Ethiopia) said that he had voted in favour of the Polish amendment because he considered that the full consent of both parties was necessary for a case to be brought before the International Court of Justice.

CLAUSE IX

45. The CHAIRMAN invited the Committee to consider clause IX of the suggested final clauses (A/C.3/L.1237).

46. Mr. BOULLET (France) said that his delegation could not accept the principle that the General Assembly, whose membership would include some States not parties to the Convention, should decide on a request for revision of the Convention. That decision should be taken by the States Parties alone. In any event, the procedure for such requests and the action to be taken on them should be dealt with in rules of procedure and not in the Convention itself. His delegation therefore requested that a separate vote should be taken on the second sentence of clause IX.

47. Miss TABBARA (Lebanon), supported by Mrs. WARZAZI (Morocco), said that the procedure provided for in the second sentence of clause IX was entirely appropriate. Since it was the General Assembly which was preparing and would adopt the Convention, it and not the States Parties should revise it.

48. Mr. DABROWA (Poland) and Mr. KOCHMAN (Mauritania) supported the French representative's request for a separate vote.

49. Mr. CAPOTORTI (Italy) said that the situation would be quite different once the Convention was in force. Now, when the General Assembly was drafting the Convention, no States had as yet assumed obligations under it. However, a revision of the Convention when the latter was in force would affect the obligations of the parties and it was thus logical that the task of revision should be entrusted to the States Parties. He therefore supported the French representative's view. Clause IX should in any case be regarded as supplementing clause X.

50. Mr. LAMPTEY (Ghana) observed that since the Convention would be a multilateral instrument in which all States would have an interest, it was only proper that all States, including non-parties, some of which might be in the process of ratifying it, should have a say in its revision. The General Assembly was certainly the appropriate body to institute revision procedures.

51. Mr. BELTRAMINO (Argentina) said that clause IX should be read in the light of article VIII (bis) as adopted by the Committee (A/C.3/L.1305), which implied the idea of revision of the Convention. His delegation would support clause IX in its present form.

The second sentence of clause IX (A/C.3/L.1237) was adopted by 47 votes to 21, with 23 abstentions.

Clause IX as a whole was adopted by 75 votes to none, with 16 abstentions.

CLAUSE X

52. The CHAIRMAN invited the Committee to consider clause X of the suggested final clauses (A/C.3/L.1237).

53. Mr. DABROWA (Poland) requested a separate vote on the words "referred to in paragraph 1 of article I".

54. In reply to questions by Mr. MUMBU (Democratic Republic of the Congo) and Mr. AL-RAWI (Iraq), the CHAIRMAN said that, while it was true that the Committee had not yet voted on the clause concerning reservations and that the numbers of the articles referred to in clause X would have to be changed in the light of previous decisions, the Committee would be voting only on the notification procedure. The consequential amendments necessitated by decisions which the Committee had taken or would take would be made to the final text.

The words "referred to in article I, paragraph 1 in clause X (A/C.3/L.1237) were adopted by 62 votes to 11, with 18 abstentions.

Clause X as a whole was adopted by 81 votes to none, with 10 abstentions.

CLAUSE XI

55. The CHAIRMAN invited the Committee to consider clause XI of the suggested final clauses (A/C.3/L.1237) and the seventh Polish amendment (A/C.3/L.1272) which proposed the deletion from paragraph 2 of the words "belonging to any of the categories mentioned in article I, paragraph 1".

The seventh Polish amendment (A/C.3/L.1272) was rejected by 55 votes to 14, with 20 abstentions.

Clause XI as a whole was adopted by 78 votes to none, with 10 abstentions.

56. Mrs. MANTZOULINOS (Greece) said she wished the record to indicate that her delegation had voted in favour of clause XI.

The meeting rose at 1.40 p.m.

Annex 91

United Nations, *Official Records of the General Assembly, Twentieth Session, Draft International Convention on the Elimination of All Forms of Racial Discrimination, Report of the Third Committee*, document A/6181
(18 December 1965)



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/6181
18 December 1965

ORIGINAL: ENGLISH

Twentieth session
Agenda item 58

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION

Report of the Third Committee

Rapporteur: Mr. R. St. John MACDONALD (Canada)



I. INTRODUCTION

1. The General Assembly, at its 1336th meeting on 24 September 1965, allocated to the Third Committee agenda item 58, entitled "Draft International Convention on the Elimination of All Forms of Racial Discrimination". The Third Committee devoted forty-three meetings (its 1299th to 1302nd, its 1304th to 1316th, held from 11 to 22 October 1965; its 1318th, held on 25 October 1965; its 1344th to 1358th, held from 16 to 29 November 1965; its 1361st to 1368th, held from 1 to 7 December 1965; its 1373rd and 1374th, held on 14 and 15 December 1965) to the consideration of the item.
2. The item was included in the agenda of the General Assembly in accordance with the decision of the Assembly in its resolution 1906 (XVIII). In that resolution, entitled "Preparation of a draft international convention on the elimination of all forms of racial discrimination", and adopted by the General Assembly on 20 November 1963, the Assembly requested the Economic and Social Council to invite the Commission on Human Rights, bearing in mind the views of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the debates at the seventeenth and eighteenth sessions of the General Assembly, any proposals on the matter that might be submitted by the Governments of Member States and any international instruments already adopted in that field, to give absolute priority to the preparation of a draft international Convention on the elimination of all

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forms of racial discrimination, to be submitted to the Assembly for consideration at its nineteenth session.

3. The Commission on Human Rights accordingly gave absolute priority to the drafting of a Convention at its twentieth session and adopted the substantive articles of a draft Convention on the Elimination of All Forms of Racial Discrimination.^{1/}

4. The Economic and Social Council, in resolution 1015 B (XXXVII) of 30 July 1964 submitted to the General Assembly for its consideration at its nineteenth session the substantive articles prepared by the Commission on Human Rights, as well as the following documents which had not been voted upon by the Commission:

(a) The proposal for an additional article submitted by the United States of America and the sub-amendment submitted thereto by the Union of Soviet Socialist Republics^{2/} as well as the records of the discussion thereon in the Commission;^{3/}

(b) Article X of the draft Convention transmitted to the Commission on Human Rights by resolution 1 (XVI) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which dealt with measures of implementation,^{4/} as well as the records of the discussion thereon in the Commission;^{5/}

(c) The preliminary draft of additional measures of implementation transmitted to the Commission by resolution 2 (XVI) of the Sub-Commission (annex I of the report of the Commission on Human Rights)^{6/} as well as the records of the discussion thereon in the Commission;^{7/}

(d) The working paper prepared by the Secretary-General for the final clauses of the draft Convention on the Elimination of All Forms of Racial Discrimination;^{8/}

^{1/} Official Records of the Economic and Social Council, Thirty-Seventh Session, Supplement No. 9 (E/3973), chapter II, draft resolution I (XX), annex.

^{2/} Ibid., paras. 273 and 274.

^{3/} E/CN.4/SR.805, 807 and 808.

^{4/} Official Records of the Economic and Social Council, Thirty-Seventh Session, Supplement No. 9 (E/3973), para. 281.

^{5/} E/CN.4/SR.805, 808 and 810.

^{6/} Official Records of the Economic and Social Council, Thirty-Seventh Session, Supplement No. 9 (E/3973), annex I.

^{7/} E/CN.4/SR.810.

^{8/} E/CN.4/L.679.

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(e) The records of the discussion of this item by the Commission on Human Rights.^{1/}

5. Since the Assembly did not consider the item at its nineteenth session, it was included in the agenda of the twentieth session.

6. The Committee decided that it would not hold a general debate on the draft Convention as a whole. It proceeded to consider the texts of the preamble and each of the substantive articles submitted by the Commission on Human Rights (A/5921, annex). After a general discussion on measures of implementation, the Committee proceeded to elaborate these measures, based on a text submitted by Ghana, Mauritania and the Philippines (A/C.3/L.1291). The Committee then considered the final clauses, based on a preliminary draft suggested by the Officers of the Third Committee (A/C.3/L.1237).

7. At its 1311th meeting, the representatives of Greece and Hungary proposed the following draft resolution (A/C.3/L.1244):

"The Third Committee,

"Decides not to include in the draft Convention on the Elimination of All Forms of Racial Discrimination any reference to specific forms of racial discrimination."

3. On a roll-call vote requested by the representative of Togo, the Committee decided by 80 votes to 7, with 13 abstentions, to give priority to the consideration of the draft resolution of Greece and Hungary. The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Ceylon, Chad, Chile, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Ecuador, El Salvador, Ethiopia, Gabon, Ghana, Greece, Guinea, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Liberia, Libya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mongolia, Morocco, Niger, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago,

^{1/} E/CN.4/SR.774-310.

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Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Upper Volta, Yemen, Yugoslavia, Zambia.

Against: Australia, Belgium, Bolivia, Brazil, Canada, Israel, United States of America.

Abstaining: Austria, China, Costa Rica, Dominican Republic, Finland, France, Guatemala, Haiti, Italy, Ivory Coast, Luxembourg, Mexico, Netherlands, New Zealand, Panama, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

9. At its 1312th meeting, on 20 October, the Committee adopted by 32 votes to 12, with 10 abstentions, in a roll-call vote requested by the representative of Togo, the draft resolution of Greece and Hungary (A/C.3/L.1244). The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Ceylon, Chad, Chile, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Ecuador, El Salvador, Ethiopia, Gabon, Ghana, Greece, Guatemala, Guinea, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Liberia, Libya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mongolia, Morocco, New Zealand, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Upper Volta, Yemen, Yugoslavia, Zambia.

Against: Australia, Austria, Belgium, Bolivia, Brazil, Canada, Israel, Luxembourg, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Abstaining: China, Costa Rica, Dominican Republic, Finland, France, Haiti, Italy, Ivory Coast, Mexico, Venezuela.

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10. As a consequence of the adoption of the resolution, the following amendments and proposals relating to the provisions of the draft Convention were not pressed to the vote:

- (a) The amendment of Poland (A/C.3/L.1210) to insert in the sixth paragraph of the preamble the word "nazist" before the word "practices", and the revision of this amendment made at the 1301st meeting which read "nazist and other similar practices";
- (b) The proposal of Brazil and the United States of America (A/C.3/L.1211) to insert after article III, the following new article:

"States Parties condemn anti-Semitism and shall take action as appropriate for its speedy eradication in the territories subject to their jurisdiction."

- (c) The amendment of the Union of Soviet Socialist Republics (A/C.3/L.1231 and Corr.1, English only) to the text proposed by Brazil and the United States of America which read as follows:

"States Parties condemn anti-Semitism, Zionism, Nazism, neo-Nazism and all other forms of the policy and ideology of colonialism, national and race hatred and exclusiveness and shall take action as appropriate for the speedy eradication of those inhuman ideas and practices in the territories subject to their jurisdiction."

- (d) The amendment of Bolivia (A/C.3/L.1236) to amend the amendment of the Union of Soviet Socialist Republics by:

"(a) deleting the word 'Zionism', (b) replacing 'neo-Nazism' by 'in all its forms and manifestations', (c) replacing 'other forms of' by 'racism involved in', and (d) inserting a semicolon after 'exclusiveness'."

11. Also as a consequence of the vote, the amendment of Czechoslovakia (A/C.3/L.1220) to insert between the words "all" and "incitement" of article IV, para. (a) the words "dissemination of racial, fascist, nazi or other ideas and doctrines based on racial superiority or hatred" was revised to read "dissemination of ideas and doctrines based on racial superiority or hatred" (see paragraph 67 below).

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12. The various texts before the Committee, the amendments proposed and the voting thereon, as well as the draft resolutions considered by the Committee, are described below. No attempt has been made to summarize the opinions expressed by the various members of the Committee, and attention is drawn to the summary records of the discussions where these may be found (A/C.3/SR.1299-1302, A/C.3/SR.1304-1316, A/C.3/SR.1318, A/C.3/SR.1344-1358, A/C.3/SR.1361-1368, A/C.3/SR.1373 and A/C.3/SR.1374).

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II. CONSIDERATION OF THE TEXT OF THE DRAFT CONVENTION

A. Preamble and Substantive Articles

The Preamble

13. The Committee discussed the preamble to the draft Convention at its 1300th to 1302nd and 1314th meetings on 12, 13 and 21 October 1965.

14. The text of the preamble, as submitted by the Commission on Human Rights, read as follows:

"The States Parties to this Convention,

"Considering that the Charter of the United Nations is based on the principle of the dignity and equality inherent in all human beings, and that all States Members have pledged themselves to take joint and separate action in co-operation with the Organization for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

"Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

"Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

"Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 solemnly affirmed the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations,

"Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination in theory or in practice anywhere,

"Reaffirming that discrimination between human beings on the grounds or race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security

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among peoples as evil racial doctrines and practices have done in the past,

"Concerned by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

"Resolves to adopt all necessary measures for eliminating speedily racial discrimination in all its forms and manifestations and to prevent and combat racist doctrines and practices in order to build an international community free from all forms of racial segregation and racial discrimination,

"Bearing in mind the Convention on Discrimination in Respect of Employment and Occupation adopted by ILO in 1958, and the Convention Against Discrimination in Education adopted by UNESCO in 1960,

"Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

"Have agreed as follows:".

Amendments submitted

Paragraph 1

15. The amendment of Lebanon (A/C.3/L.1222), proposed the replacement of the word "principle" by the word "principles".

New paragraph after paragraph 2

16. The amendment of Romania (A/C.3/L.1219), proposed the introduction of a new paragraph, after the second paragraph, to read as follows:

"Considering that all human beings are equal in their right to be protected by the law against any discrimination and against any incitement to discrimination."

17. The United Kingdom proposed (A/C.3/L.1230) to revise the amendment of Romania (A/C.3/L.1219) by replacing the words "in their right to be protected" by "before the law and are entitled to equal protection of". This amendment was accepted by the representative of Romania.

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Paragraph 3

18. The amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (A/C.3/L.1226 and Corr.1), proposed the insertion of the words "(General Assembly resolution 1514 (XV))" after "14 December 1960".

Paragraph 4

19. The amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (A/C.3/L.1226 and Corr.1), proposed the addition of the following words at the end of the paragraph:

"and of securing understanding of and respect for the dignity of the human person".

Paragraph 6

20. For the amendment of Poland (A/C.3/L.1210) see paragraph 10 (a) above.

21. The amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (A/C.3/L.1226 and Corr.1) called for the replacement of the words "as evil racial doctrine and practices have done in the past" by the following words: "as well as the harmonious coexistence of persons even within the same state." Subsequently this amendment was proposed for insertion after the words "among peoples" and revised to take into account a suggestion of the representative of India in the English text as follows:

"and the harmony of persons living side by side even within one and the same State".

New paragraph after paragraph 6

22. Brazil, Colombia and Senegal proposed (A/C.3/L.1217) the addition of the following as a new paragraph after the sixth paragraph:

"Convinced that the existence of racial barriers is repugnant to the ideals of any civilized society."

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23. In view of objections raised by some representatives to the use of the term "any civilized society", the sponsors of the amendment agreed to substitute the word "human" for the word "civilized".

Paragraph 7

24. The amendment of Lebanon (A/C.3/L.1222) sought the replacement of the word "concerned" by the word "alarmed".

Paragraph 8

25. The second amendment of Brazil, Colombia and Senegal (A/C.3/L.1217), as orally revised, called for the insertion of the words "... and to promote the elimination of racial barriers in order to build an international community free from such scourges" after the words "... racist doctrine and practices", and the deletion of the remaining words. This amendment was withdrawn at the 1302nd meeting.

26. The amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (A/C.3/L.1226 and Corr.1) called for the insertion of the words "promote understanding between races and to" after the words "Resolved to". At the 1302nd meeting, the representative of Argentina, on behalf of the other co-sponsors orally revised the amendment to insert the proposed words after the words "in order to".

Voting

27. At its 1314th meeting the Committee voted on the text of the Preamble as submitted by the Commission on Human Rights and the amendments thereto as follows:

- (a) The amendment of Lebanon (see para. 15 above) to paragraph 1 was adopted unanimously, and the paragraph as amended was also adopted unanimously.
- (b) Paragraph 2 of the original text was adopted unanimously.
- (c) Romania's amendment incorporating the United Kingdom amendment (see paras. 16 and 17 above), to add a new paragraph 3, was adopted unanimously.
- (d) The amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (see para. 18 above) to paragraph 3 was adopted by 85 votes to none, with 1 abstention. The paragraph (new paragraph 4) as amended, was adopted by 85 votes to none, with 3 abstentions.

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(e) The Committee agreed unanimously to add "(General Assembly resolution 1904 (XVIII))" after "United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963," and paragraph 4 (new paragraph 5), as amended, was adopted unanimously.

(f) Paragraph 5 (new paragraph 6) of the original text was adopted unanimously.

(g) The revised amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (see paragraph 21 above) to paragraph 6 was adopted by 78 votes to none, with 7 abstentions. The paragraph (new paragraph 7) as amended, was adopted unanimously.

(h) The revised amendment of Brazil, Colombia and Senegal (see paragraphs 22 and 23 above) to add a paragraph (new paragraph 8) after the sixth paragraph of the original text, was adopted by 79 votes to none, with 1 abstention.

(i) The amendment of Lebanon (see para. 24 above) to paragraph 7 was adopted by 37 votes to 5, with 39 abstentions. The paragraph (new paragraph 9), as amended, was adopted by 80 votes to none, with 5 abstentions.

(j) The revised amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (see paragraph 26 above), to paragraph 8 was adopted unanimously. The paragraph (new paragraph 10), as amended, was also adopted unanimously.

(k) Paragraphs 9, 10 and 11 of the original text (new paragraphs 11, 12 and 13) were adopted unanimously.

(l) The preamble as a whole, as amended, was adopted unanimously (for text see para. 212 draft resolution A, annex).

Article I (Article 1)*

28. The Committee discussed Article I of the draft Convention at its 1304th to 1307th meetings on 14, 15 and 18 October 1965.

29. The text of Article I submitted by the Commission on Human Rights read as follows:

* The numbering of the articles appearing in parenthesis are those of the text of the draft Convention adopted by the Committee as set out in paragraph 212, draft resolution A, annex.

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"1. In this Convention the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. In this paragraph the expression 'national origin' does not cover the status of any person as a citizen of a given State."

"2. Special measures taken for the sole purpose of securing adequate development or protection of certain under-developed racial groups or individuals belonging to them in order to ensure to such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved."

Amendments submitted

Paragraph 1

30. Brazil proposed (A/C.3/L.1209) (a) the deletion of the words placed between square brackets, (b) the addition in parenthesis of the phrase, "and in the case of States composed of different nationalities discrimination based on such difference", after the word "origin", and (c) the addition at the end of the paragraph, of the words "set forth inter alia in the Universal Declaration of Human Rights".

31. The amendment of Poland (A/C.3/L.1210) called for the removal of all brackets.

32. The amendment of France and the United States of America (A/C.3/L.1212) proposed (a) the deletion of the brackets around the word "national", (b) the deletion of the sentence in brackets: "In this paragraph the expression 'national origin' does not cover the status of any person as a citizen of a given State", and (c) the insertion of the following text as paragraph 2 and the renumbering of paragraph 2 accordingly:

"In this Convention the expression 'national origin' does not mean 'nationality' or 'citizenship', and the Convention shall therefore not be applicable to distinctions, exclusions, restrictions, or preferences based on differences of nationality of citizenship."

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33. The amendment of India (A/C.3/L.1216) called for the replacement of the paragraph by the following:

"In this Convention, the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, place of origin or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".

34. Czechoslovakia proposed (A/C.3/L.1220) the insertion of the word "persecution" between the words "any" and "distinction".

35. The amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (A/C.3/L.1226 and Corr.1) called for the deletion of the words between square brackets, the insertion of the following phrase after the words "ethnic origin": "(and in the case of States composed of different nationalities, discrimination based on such difference)", and the addition after the words "public life" of the following phrase: "Laid down inter alia in the Universal Declaration of Human Rights".

36. Ghana, India, Lebanon, Morocco, Nigeria and Senegal proposed (A/C.3/L.1224) to insert the following text as paragraph 2 and to renumber paragraph 2 accordingly:

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

37. These amendments were all withdrawn by their sponsors at the 1307th meeting in favour of a joint amendment of Ghana, India, Kuwait, Lebanon, Mauritania, Morocco, Nigeria, Poland and Senegal (A/C.3/L.1238), which proposed the replacement of paragraph 1 of the text of the Commission on Human Rights by the following:

"1. In this Convention the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

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

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"3. Nothing in the present Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality."

Paragraph 2

38. The amendment of Mauritania, Nigeria and Uganda (A/C.3/L.1225), which proposed the replacement of the word "under-developed" by the word "under-privileged" after the words "of certain", was subsequently withdrawn on the presentation of the oral amendment of Ethiopia and India (see paragraph 40 below).

39. At the 1305th and 1306th meetings the representatives of the Democratic Republic of the Congo and the Ivory Coast, respectively, orally proposed the deletion of paragraph 2.

40. At the 1306th meeting, Ethiopia and India orally proposed to replace the words "development or protection of certain under-developed racial groups or individuals belonging to them" by the words "advancement of certain racial or ethnic groups or individuals needing such protection as may be necessary".

Voting

41. At its 1307th meeting on 18 October, the Committee voted on the text of Article I submitted by the Commission on Human Rights and the amendments thereto as follows:

- (a) The amendment of Ghana, India, Kuwait, Lebanon, Mauritania, Morocco, Nigeria, Poland and Senegal (see para. 37 above) to paragraph 1 was adopted unanimously.
- (b) The amendment of the Democratic Republic of the Congo and the Ivory Coast (see para. 39 above) to delete paragraph 2 of the original text was rejected by 52 votes to 14, with 20 abstentions.
- (c) The oral amendment of Ethiopia and India to paragraph 2 (see para. 40 above) was adopted by 34 votes to 20, with 36 abstentions.
- (d) Paragraph 2 (new para. 4), as amended, was adopted by 67 votes to 10, with 15 abstentions.
- (e) Article I as a whole, as amended, was adopted by 89 votes to none, with 8 abstentions (for text see para. 212, draft resolution A, annex, article 1).

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Article II (Article 2)*

42. The Committee discussed Article II of the draft Convention at its 1306th to 1308th meetings on 15 and 18 October 1965.

43. The text of Article II as submitted by the Commission on Human Rights, read as follows:

"1. States Parties to the present Convention condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms, and to this end:

"(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

"(b) Each State Party shall take effective measures to review governmental and other public policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

"(c) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation if necessary, racial discrimination by any persons, group or national organization.

"2. States Parties shall take special concrete measures in appropriate circumstances for the sole purpose of securing adequate development or protection of certain under-developed racial groups or individuals belonging to them in order to ensure to such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms, provided however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved."

Amendments submitted

Paragraph 1, introductory part

44. The amendment of Brazil, Colombia and Senegal (A/C.3/L.1217) proposed the insertion after the words "... racial discrimination in all its forms" of the following: "and promoting understanding among all races."

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New sub-paragraph after paragraph 1 (a)

45. The amendment of Brazil (A/C.3/L.1209) proposed the addition of the following as sub-paragraph (b) and the renumbering of sub-paragraphs (b) and (c) accordingly:

"Each State Party undertakes not to encourage, advocate or support racial discrimination by any persons or organizations."

46. The amendment of Brazil was subsequently withdrawn in favour of the amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (A/C.3/L.1226 and Corr.1) which proposed the following text for the new sub-paragraph: "Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations."

Paragraph 1 (b)

47. The amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (A/C.3/L.1226 and Corr.1) proposed the replacement of the words "and other public" by the words "national and local".

Paragraph 1 (c)

48. Poland proposed (A/C.3/L.1210) the replacement of the words "if necessary" by the words "in the absence thereof". At the 1308th meeting, the representative of Poland agreed that the oral suggestion of the representative of Ghana to replace the words "if necessary" by the words "as required by circumstances" should be voted on first.

49. The amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (A/C.3/L.1226 and Corr.1) proposed the replacement of the words "group or national organization" by the words "groups or organizations of any kind". At the 1308th meeting, an oral suggestion of Italy simply to delete the word "national" was accepted by the sponsors of the amendment.

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New Sub-paragraph after paragraph 1 (c)

50. Brazil, Colombia and Senegal proposed (A/C.3/L.1217) the addition of a new sub-paragraph numbered 1 (d) reading as follows:

"Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division."

Paragraph 2

51. The amendment of Bulgaria (A/C.3/L.1218) called for the insertion between the words "take" and "special" of the words "in the social, economic and other fields". At the 1308th meeting, the representative of Bulgaria accepted an oral suggestion of the Netherlands to insert the word "cultural" in his amendment, which then read: "in the social, economic, cultural and other fields". This amendment was subsequently moved to the amendment proposed by Argentina, Ethiopia, Ghana, Guinea, Kuwait, Lebanon, Mauritania, Nigeria and Uganda (see paragraph 54 below) to insert after the word "take" the words "in the social, economic, cultural and other fields".

52. The amendment of Mauritania, Nigeria and Uganda (A/C.3/L.1225) proposed the replacement of the word "under-developed" by the word "under-privileged". The sponsors of this amendment later joined Argentina, Ethiopia, Ghana, Guinea, Kuwait and Lebanon in proposing a new amendment (see paragraph 54 below).

53. The amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (A/C.3/L.1226 and Corr.1), called for the replacement of the paragraph by the following text:

"States Parties shall, when the circumstances warrant this, take special and concrete measures to ensure the adequate development or protection of persons belonging to certain racial groups for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved."

54. At the 1308th meeting, the representative of Kuwait together with the representatives of Argentina, Ethiopia, Ghana, Guinea, Lebanon, Mauritania, Nigeria and Uganda orally proposed the following text in place of the amendment mentioned in the previous paragraph:

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"States Parties shall, when the circumstances warrant this, take special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved."

Voting

55. At its 1308th meeting, the Committee voted on the text of Article II submitted by the Commission on Human Rights and the amendments thereto as follows:

(a) The amendment of Brazil, Colombia and Senegal (see para. 44 above) to the introductory part of paragraph 1 was adopted by 85 votes to none, with 7 abstentions.

(b) The introductory part of paragraph 1, as amended, was adopted unanimously.

(c) Paragraph 1 (a) was adopted unanimously.

(d) The amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (see para. 46 above) for a new paragraph 1 (b) was adopted by 47 votes to 2, with 39 abstentions.

(e) The same seventeen-Power amendment (see para. 47 above) to paragraph 1 (b) (new para. 1 (c)), was adopted by 56 votes to 2, with 34 abstentions.

(f) Paragraph 1 (b) (new para. 1 (c)), as amended, was adopted by 93 votes to none, with 2 abstentions.

(g) The oral amendment of Ghana accepted by Poland (see para. 48 above) to paragraph 1 (c) (new para. 1 (d)) was adopted by 73 votes to 1, with 15 abstentions.

(h) The seventeen-Power amendment, as orally revised by Italy (see para. 49 above), to paragraph 1 (c) (new para. 1 (d)) was adopted by 81 votes to 1, with 11 abstentions.

(i) Paragraph 1 (c) (new para. 1 (d)) as amended, was adopted by 95 votes to none, with 1 abstention.

(j) A separate vote was taken, at the request of the representative of Venezuela, on the phrase "and to discourage anything which tends to strengthen

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racial division" of the new sub-paragraph proposed for insertion after paragraph 1 (c) of the original text by Brazil, Colombia and Senegal (see para. 50 above) and the phrase was retained by 26 votes to 9, with 54 abstentions.

(k) The sub-paragraph (new para. 1 (e)) proposed by Brazil, Colombia and Senegal (see para. 50 above) as a whole was adopted by 97 votes to none, with 4 abstentions in a roll-call vote requested by the representative of Colombia. The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Central African Republic, Ceylon, Chile, China, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Cyprus, Czechoslovakia, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jordan, Kenya, Kuwait, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia.

Against: None.

Abstaining: Costa Rica, Haiti, Jamaica, Japan.

(1) The revised amendment of Bulgaria (see para. 51 above) to the amendment to paragraph 2 of Argentina, Ethiopia, Ghana, Guinea, Kuwait, Lebanon, Mauritania, Nigeria and Uganda (see para. 54 above) was adopted by 76 votes to 1, with 15 abstentions.

(m) The amendment of the nine Powers to paragraph 2, as amended, was adopted by 93 votes to none, with 1 abstention.

(n) Article II as a whole, as amended, was adopted unanimously (for text, see paragraph 212, draft resolution A, annex, article 2).

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Article III (Article 3)*

56. The Committee discussed Article III of the draft Convention at its 1308th meeting on 18 October 1965.

57. The text of Article III submitted by the Commission on Human Rights read as follows:

"States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate, in territories subject to their jurisdiction, all practices of this nature."

Amendments submitted

58. An amendment was submitted by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (A/C.3/L.1226 and Corr.1), to replace the expression "subject to" by the word "under".

Voting

59. At its 1308th meeting the Committee agreed that the seventeen-Power amendment affected the text of the original article in French and Spanish only and adopted Article III, as thus modified in those languages, unanimously (for text, see para. 212, draft resolution A, annex, article 3).

Article IV (Article 4)*

60. The Committee discussed Article IV of the draft Convention at its 1315th, 1316th and 1318th meetings on 22 and 25 October 1965.

61. The text of Article IV submitted by the Commission on Human Rights read as follows:

"States Parties condemn all propaganda and organizations which are based on ideas or theories of the superiority of one race or group of persons of one colour or ethnic origin, or which justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to such discrimination, and to this end, inter alia:

(a) Shall declare an offence punishable by law all incitement to racial discrimination resulting in acts of violence, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin;

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(b) Shall declare illegal and prohibit organizations or the activities of organizations, as appropriate, and also organized propaganda activities, which promote and incite racial discrimination;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination."

Amendments submitted

Introductory paragraph

62. Czechoslovakia (A/C.3/L.1220) proposed to add between the words "incitement to" and "such discrimination", the words "or acts of".

63. Denmark, Finland, Iceland, Norway and Sweden proposed (A/C.3/L.1245) to add before the words "or acts of" in the Czechoslovak amendment the words "without limiting or derogating from the civil rights expressly set forth in Article V". At the 1315th meeting the five-Power amendment was orally revised to insert after the words "to this end" in the original text the following words: "with due regard to the rights expressly set forth in Article V".

64. At the 1315th meeting the representative of France orally proposed to replace the revised five-Power amendment by inserting after the words "such discrimination" in the original text the following: "within the framework of the principles set forth in the Universal Declaration of Human Rights."

65. An amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (A/C.3/L.1226 and Corr.1) proposed the replacement of the words "which justify" by "which attempt to justify".

Paragraph (a)

66. The amendment of the Ukrainian Soviet Socialist Republic (A/C.3/L.1208) proposed the addition at the end of paragraph (a), of the following: ", and also the provision of any assistance to racist activities, including the financing thereof;".

67. The amendments of Czechoslovakia (A/C.3/L.1220), as revised (see paragraph 11 above), proposed (a) the insertion between "all" and "incitement" of the words "dissemination of ideas and doctrines based on racial superiority or hatred," and (b) the deletion of the words "resulting in acts of violence". The latter amendment was also moved by Mauritania, Nigeria and Uganda (A/C.3/L.1225).

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68. The United States of America proposed an amendment (A/C.3/L.1243) to add at the end of the first Czechoslovak amendment the following words: "with due regard for the fundamental right of freedom of expression."

Paragraph (b)

69. The amendment of Poland (A/C.3/L.1210) sought to replace paragraph (b) of the original text by the following:

"Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;".

70. The United States of America proposed (A/C.3/L.1242) to amend Poland's amendment (A/C.3/L.1210) by inserting in the first line after the word "shall" the words "with due regard for the right to freedom of expression and of association".

71. At the 1316th meeting India orally proposed to replace "and" by "or" in the phrase "which promote and incite racial discrimination," in the original text of paragraph (b).

Substitute text

72. At the 1316th meeting the representative of Nigeria submitted the following amendment (A/C.3/L.1250) to replace the original text of Article IV and the amendments moved thereto:

"States Parties condemn all propaganda and organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination, and to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in Article V of this Convention, inter alia:

"(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

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"(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

"(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination."

73. The representative of Argentina (A/C.3/L.1253) sought to replace sub-paragraph (a) and (b) of the text proposed by Nigeria by the following:

"(a) Shall declare an offence punishable by law all incitement to racial discrimination, all promotion of racial discrimination, and all acts of violence or incitement to such acts against any race or group of persons of another colour or national or ethnic origin;

"(b) Shall declare illegal, prohibit and declare an offence punishable by law all propaganda and organizations based on theories of the superiority of one race, or of a group of persons of one colour or national or ethnic origin, and having as their purpose the justification or promotion of racial discrimination in any of its forms."

Voting

74. At its 1318th meeting the Committee voted on the substitute text of Article IV proposed by Nigeria (see para. 72 above) and Argentina's amendment (see para. 73 above) thereto as follows:

(a) A separate vote was taken, at the request of the representative of Ethiopia, on the words "with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in Article V of this Convention" in the introductory paragraph of the amendment of Nigeria (see para. 72 above), and these words were adopted by 76 votes to 1, with 14 abstentions.

(b) The introductory paragraph of the Nigerian amendment, as a whole, was adopted by 93 votes to none, with 3 abstentions.

(c) The amendment of Argentina (see para. 73 above) to paragraph (a) of the Nigerian amendment was rejected by 47 votes to 20, with 27 abstentions.

(d) A separate vote was taken, at the request of the representative of Colombia, on the words "all dissemination of ideas based on racial superiority or hatred" in paragraph (a) of the Nigerian amendment and these words were adopted by 57 votes to none, with 35 abstentions.

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(e) A separate vote was taken, at the request of the representative of Austria, on the words "and also the provision of any assistance to racist activities, including the financing thereof", in paragraph (a) of the Nigerian amendment and these words were adopted by 57 votes to 1, with 33 abstentions.

(f) Paragraph (a) of the amendment of Nigeria, as a whole, was adopted by 63 votes to 1, with 25 abstentions.

(g) The amendment of Argentina (A/C.3/L.1253) to paragraph (b) of the Nigerian amendment was rejected by 45 votes to 16, with 30 abstentions.

(h) Paragraph (b) of the Nigerian amendment was adopted by 66 votes to 1, with 16 abstentions.

(i) Paragraph (c) of the Nigerian amendment was adopted unanimously.

(j) Article IV, as a whole, as amended, was adopted by 88 votes to none, with 5 abstentions (for text, see para. 212, draft resolution A, annex, article 4).

Article V (Article 5)*

75. The Committee discussed Article V of the draft Convention at its 1305th, 1306th, 1308th and 1309th meetings on 14, 15, 18 and 19 October 1965.

76. The text of Article V submitted by the Commission on Human Rights read as follows:

"In compliance with the fundamental obligations laid down in Article II, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

"(a) The right to equal treatment before the tribunals and all other organs administering justice;

"(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group or institution;

"(c) Political rights, in particular the rights to participate in elections through universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

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- "(d) Other civil rights, in particular:
- "(i) the right to freedom of movement and residence within the border of the State;
 - "(ii) the right to leave any country including his own, and to return to his country;
 - "(iii) the right to nationality;
 - "(iv) the right to marriage;
 - "(v) the right to own property alone as well as in association with others;
 - "(vi) the right to inherit;
 - "(vii) the right to freedom of thought, conscience and religion;
 - "(viii) the right to freedom of opinion and expression;
 - "(ix) the right to freedom of peaceful assembly and association;
- "(e) Economic, social and cultural rights, in particular:
- "(i) the right to work, free choice of employment, just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration;
 - "(ii) the right to form and join trade unions;
 - "(iii) housing;
 - "(iv) public health, medical care and social security and social services;
 - "(v) education and training;
 - "(vi) equal participation in cultural activities;
- "(f) Access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafés, theatres, parks."

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Amendments submitted

Introductory paragraph

77. The amendment of India (A/C.3/L.1216) proposed the redrafting of the introductory paragraph to read as follows:

"In compliance with the fundamental obligations laid down in Article II, States Parties undertake to prohibit and to eliminate racial discrimination as defined in Article I (1) of the present Convention in the matter of enjoyment of the following rights:"

78. At the 1306th meeting the representative of India accepted an oral amendment of the representative of Ghana to insert the word "notably" between the words "the present Convention" and "in the matter of". The representative of India, however, withdrew his amendment in the light of the text of Article I adopted by the Committee.

79. At the 1309th meeting, the representative of Czechoslovakia orally proposed the insertion of the words "descent, national" before the words "or ethnic origin" in order to bring the text into line with the text of Article I as adopted. At the suggestion of the representative of Austria, the representative of Czechoslovakia agreed to omit the word "descent" from her oral amendment.

Paragraph (c)

80. The amendment of Bulgaria (A/C.3/L.1218) called for the insertion between the words "elections" and "through" of the words "and to be elected". At the 1309th meeting the representative of Bulgaria orally revised his amendment to take account of various suggestions and proposals to insert after the words "election" the words "to vote and to stand for election".

Paragraph (d) opening phrase

81. The amendment of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Panama, Peru, Uruguay and Venezuela (A/C.3/L.1226 and Corr.1) called for the deletion of the word "other" before the words "civil rights". This amendment was subsequently withdrawn.

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Paragraph (d) (iv)

82. Mauritania, Nigeria and Uganda (A/C.3/L.1225) proposed to add the words "and choice of spouse" after the word "marriage".

Paragraph (e)

83. The amendment of Mauritania, Nigeria and Uganda (A/C.3/L.1225) to add a new sub-section to read as follows: "(vii) the right to organize and to participate in cultural associations", was orally revised at the 1309th meeting to replace section (vi) of the original text by the following: "The equal right to organize cultural associations and to participate in all kinds of cultural activities".

Voting

84. At its 1309th meeting the Committee voted on the text of Article V submitted by the Commission of Human Rights and the amendments thereto as follows:

- (a) The oral amendment of Czechoslovakia, as revised (see para. 79 above), to the introductory paragraph was adopted by 53 votes to 1, with 39 abstentions;
- (b) Paragraphs (a) and (b) of the original text were adopted unanimously;
- (c) Bulgaria's amendment to paragraph (c) as orally revised (see para. 80 above) was adopted by 86 votes to none, with 10 abstentions;
- (d) The amendment of Mauritania, Nigeria and Uganda (see para. 82 above) to paragraph (d) was adopted by 90 votes to none, with 3 abstentions;
- (e) The amendment of Mauritania, Nigeria and Uganda as orally revised (see para. 83 above), was rejected by 37 votes to 33, with 24 abstentions;
- (f) Sub-paragraph (f) of the original text was adopted unanimously;
- (g) Article V as a whole, as amended, was adopted unanimously (for text, see para. 212, draft resolution A, annex, article 5).

Article VI (Article 6)*

85. The Committee discussed Article VI of the draft Convention at its 1309th meeting on 19 October 1965.

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86. The text of Article VI submitted by the Commission on Human Rights read as follows:

"States Parties shall assure to everyone within their jurisdiction effective protection and remedies through the competent national tribunals against any acts of racial discrimination which violate his human rights and fundamental freedom 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."

Amendments submitted

87. The amendment of Bulgaria (A/C.3/L.1218) proposed to insert the words "and other State institutions" between the words "tribunals" and "against".

88. The amendment of Mauritania, Nigeria and Uganda (A/C.3/L.1225) which sought to insert the words "where appropriate" after the words "adequate reparation", was subsequently withdrawn.

Voting

89. At its 1309th meeting the Committee voted on the text of Article VI submitted by the Commission on Human Rights and the amendment thereto as follows:

(a) The amendment of Bulgaria (see para. 87 above) was adopted by 88 votes to 1, with 9 abstentions;

(b) Article VI as a whole, as amended, was adopted by 95 votes to none, with 2 abstentions (for text, see paragraph 212, draft resolution A, annex, article 6).

Article VII (Article 7)*

90. The Committee discussed Article VII of the draft Convention at its 1309th meeting on 19 October 1965.

91. The text of Article VII submitted by the Commission on Human Rights read as follows:

"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 racial discrimination and to promote understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination."

Amendments submitted

92. The amendment of Bulgaria (A/C.3/L.1218) called for the insertion of the word "culture" between the words "education" and "and".
93. The amendment of Czechoslovakia (A/C.3/L.1220) sought to add, at the end of the Article, the following words: "and of this Convention".

Voting

94. At its 1309th meeting the Committee voted on the text of Article VII submitted by the Commission on Human Rights and the amendments thereto as follows:
- (a) The amendment of Bulgaria (see para. 92 above) was adopted by 93 votes to none, with 2 abstentions;
 - (b) The amendment of Czechoslovakia (see para. 93 above) was adopted by 94 votes to none, with 1 abstention;
 - (c) Article VII as a whole, as amended, was adopted unanimously (for text, see paragraph 212, draft resolution A, annex, article 7).

Proposal for new Article after Article VII

95. A proposal of Jamaica (A/C.3/L.1223) to add a new article after Article VII was discussed by the Committee at its 1316th and 1318th meetings on 22 and 25 October 1965.
96. The text of the Article proposed by Jamaica read as follows:
- "States Parties shall take steps, in conformity with their legal systems, to secure the enactment of the constitutional or legislative provisions which may be necessary to give effect to the right to freedom from racial discrimination and shall establish administrative and judicial responsibility for the violation of these provisions."
97. This proposal was withdrawn by the representative of Jamaica at the 1318th meeting in the light of the discussion in the Committee.

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B. ARTICLES ON MEASURES OF IMPLEMENTATION

98. The Commission on Human Rights did not submit any text of provisions relating to measures of implementation but it forwarded certain documents on the subject which had not been voted upon by the Commission (see paragraph 4). These included article X of the draft Convention prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and transmitted to the Commission by resolution 1 (XVI) of the Sub-Commission, and a preliminary draft of additional measures of implementation submitted to the Sub-Commission, which were transmitted to the Commission by resolution 2 (XVI) of the Sub-Commission.^{1/}

99. The representative of the Philippines submitted nineteen articles relating to measures of implementation (A/C.3/L.1221) to be added to the provisions of the draft Convention submitted by the Commission on Human Rights. The proposed articles were based mainly on the documents transmitted to the Commission on Human Rights by the Sub-Commission and they contained comprehensive provisions relating to implementation of the Convention through a system of reporting and through the establishment of a permanent fact-finding and conciliation organ to consider disputes concerning the violation of a provision of the Convention. Amendments to the articles proposed by the Philippines were submitted by the United Kingdom (A/C.3/L.1266), Argentina, Bolivia, Chile, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Peru and Venezuela (A/C.3/L.1268), Netherlands (A/C.3/L.1270), the United States of America (A/C.3/L.1271), Tunisia (A/C.3/L.1273) and Ghana (A/C.3/L.1274 and 1274/Rev.1). Amendments to the amendments of Ghana were proposed by Mauritania (A/C.3/L.1289) and by Saudi Arabia (A/C.3/L.1290).^{2/} The articles proposed by the representative of Ghana also contained a comprehensive set of provisions for the implementation of the Convention by a system of reporting and by the establishment of ad hoc conciliation bodies and by other procedures.

^{1/} Official Records of the Economic and Social Council, Thirty-Seventh Session, Supplement No. 8 (E/3873) paragraph 281 and annex I.

^{2/} For the text of the proposal of the Philippines and the amendments thereto see Official Records of the General Assembly, Twentieth Session, Annexes, agenda item 58.

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100. After an exchange of views during the 1344th to the 1349th meetings of the Committee, held from 16 to 19 November 1965, it was suggested that members of the Committee who had presented texts should meet together and submit draft articles on implementation which would form a basis for discussion in the Committee. At the 1349th meeting, the representatives of Ghana, Mauritania and the Philippines submitted a text (A/C.3/L.1291) which was considered article by article.

Article VIII (Article 8)*

101. The text of Article VIII proposed by Ghana, Mauritania and the Philippines (A/C.3/L.1291) read as follows:

1. There shall be established a Committee consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties to this Convention from amongst their nationals who shall serve in their personal capacity, consideration being given to equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal systems.
2. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years: immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
3. A State Party, a national of which is elected to membership of the Committee in accordance with paragraph 1 of the present article, shall be responsible for the expenses of its expert on the Committee while he is in performance of Committee duties.
4. The States Parties to this Convention undertake to submit a report on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of this Convention:
(a) within one year after the entry into force of the Convention for the State concerned; and (b) thereafter every two years and whenever the Committee constituted in accordance with paragraph 1 of the present article so requests.

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5. All reports shall be submitted to the Secretary-General of the United Nations for consideration by the Committee constituted in accordance with paragraph 1 of the present article.

6. The Committee may request further information from the States Parties if necessary.

7. The Committee shall report annually through the Secretary-General to the General Assembly on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States. However, such suggestions and general recommendations shall only be reported to the General Assembly after prior consultation with the States Parties concerned.

8. The States Parties concerned may, in addition, submit to the General Assembly observations on suggestions or general recommendations made in accordance with paragraph 7 of the present article.

102. In the light of the views expressed at the 1349th and 1350th meetings, the co-sponsors of the proposed article submitted a revised text (A/C.3/L.1295) which was divided into article VIII and article VIII (bis). The revised text of article VIII read as follows:

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as "the Committee") consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties to this Convention from amongst their nationals who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilizations as well as of the principal legal systems.

2. The members of the Committee shall be elected from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their

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nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated including the States Parties which have nominated them and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties at the Headquarters of the United Nations convened by the Secretary-General. At that meeting, for which two-thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. (a) The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years: immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

(b) For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals subject to the approval of the Committee.

6. A State Party, a national of which is elected to membership of the Committee in accordance with paragraph 1 of the present article, shall be responsible for the expenses of its expert on the Committee while he is in performance of Committee duties.

Amendments submitted

Paragraph 1

103. The amendment of Iraq (A/C.3/L.1294) proposed the replacement of the words "experts of" by "members who possess the qualifications required in their respective countries for appointment to high judicial or social offices and".

104. The United Republic of Tanzania submitted three amendments (A/C.3/L.1295) as follows:

(a) to replace the name "Committee on Elimination of Racial Discrimination" by "the United Nations Committee on Racial Discrimination";

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- (b) to replace the word "experts" by the word "members";
- (c) to put a full stop after the word "impartiality" and to replace the text following that word by "The Committee shall be elected by secret ballot by the General Assembly of the United Nations."

105. Uruguay submitted an amendment (A/C.3/L.1296) to add after the words "and acknowledged impartiality" the words "and of acknowledged competence with regard to the problem of the elimination of racial discrimination and of the observance of human rights".

106. At the 1251st meeting, the representative of Venezuela orally proposed that the name of the Committee should be included within quotation marks, and that the words "from amongst their nationals" should be deleted.

Paragraph 2

107. The United Republic of Tanzania proposed two amendments (A/C.3/L.1295), the first to insert "by secret ballot" after the word "elected", the second to replace the last sentence by the following: "Each State Party may nominate one person only to serve on the Committee".

Paragraph 6

108. Iraq proposed (A/C.3/L.1294) to replace this paragraph by the following: "The States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties".

109. The United Republic of Tanzania proposed (A/C.3/L.1295) to replace this paragraph by the following: "The expenses of the Committee shall be borne by the regular budget of the United Nations".

Voting

110. At its 1352nd meeting, the Committee voted on the text of article VIII submitted by Ghana, Mauritania and the Philippines and the amendments thereto as follows:

(a) Paragraph 1

- (i) The first amendment of the United Republic of Tanzania (see paragraph 104 above) was rejected by 55 votes to 22, with 17 abstentions;

- (ii) The amendment of Venezuela (see paragraph 106 above) was rejected by 19 votes to 10, with 62 abstentions;
 - (iii) The amendment of Iraq (see paragraph 103 above) was rejected by 31 votes to 17, with 43 abstentions;
 - (iv) The second amendment of the United Republic of Tanzania (see paragraph 104 above) was rejected by 35 votes to 32, with 23 abstentions;
 - (v) The amendment of Uruguay (see paragraph 105 above) was rejected by 16 votes to 13, with 62 abstentions;
 - (vi) The third amendment of the United Republic of Tanzania (see paragraph 104 above) was rejected by 60 votes to 7, with 23 abstentions;
 - (vii) The amendment of Venezuela (see paragraph 106 above) was rejected by 69 votes to 11, with 9 abstentions;
 - (viii) Paragraph 1 as a whole was adopted by 83 votes to 1, with 8 abstentions.
- (b) Paragraph 2
- (i) The first amendment of the United Republic of Tanzania (see paragraph 107 above) was adopted by 55 votes to 2, with 33 abstentions;
 - (ii) The second amendment of the United Republic of Tanzania (see paragraph 107 above) was rejected by 33 votes to 9, with 46 abstentions;
 - (iii) Paragraph 2, as amended, was adopted by 87 votes to none, with 3 abstentions.
- (c) Paragraph 3 of the proposed text was adopted by 90 votes to none, with 3 abstentions.
- (d) Paragraph 4 of the proposed text was adopted by 90 votes to none, with 4 abstentions.

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(e) Paragraph 5

- (i) Paragraph 5 (a) of the proposed text was adopted by 90 votes to none, with 2 abstentions;
- (ii) Paragraph 5 (b) of the proposed text was adopted by 83 votes to 1, with 11 abstentions.

(f) Paragraph 6

- (i) At the request of the representative of the United Republic of Tanzania, a vote was taken by roll-call on his amendment (see paragraph 109 above) which was rejected by 39 votes to 32, with 22 abstentions. The voting was as follows:

In favour: Mali, New Zealand, Niger, Norway, Pakistan, Panama, Rwanda, Saudi Arabia, Sudan, Sweden, Togo, Trinidad and Tobago, Tunisia, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Yemen, Yugoslavia, Zambia, Austria, Burma, Burundi, Canada, Colombia, Denmark, Ecuador, Finland, Guinea, Haiti, Iceland, Madagascar, Malawi.

Against: Mauritania, Mexico, Mongolia, Morocco, Netherlands, Philippines, Poland, Portugal, Romania, Senegal, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Argentina, Australia, Belgium, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, China, Cuba, Czechoslovakia, France, Ghana, Greece, Honduras, Hungary, Iran, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kuwait, Lebanon, Malaysia.

Abstaining: Nigeria, Peru, Sierra Leone, United Arab Republic, Uruguay, Venezuela, Afghanistan, Algeria, Bolivia, Ceylon, Chad, Chile, Congo (Democratic Republic of), Ethiopia, Gabon, Guatemala, India, Israel, Ivory Coast, Kenya, Liberia, Libya.

- (ii) The amendment of Iraq was adopted by 26 votes to 22, with 44 abstentions.

(g) Article VIII as a whole, as amended, was adopted by 85 votes to none, with 6 abstentions (for text, see paragraph 212, draft resolution A, annex, article 8).

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Article VIII (bis) (Article 9)*

111. The text of article VIII (bis) proposed by Ghana, Mauritania and the Philippines (A/C.3/L.1293), which was discussed at the 1351st and 1352nd meetings on 23 November, read as follows:

1. The States Parties to this Convention undertake to submit to the Secretary-General for consideration by the Committee a report on the legislative, judicial, administrative, or other measures that they have adopted and that give effect to the provisions of this Convention:
(a) within one year after the entry into force of the Convention for the State concerned; and (b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.
2. The Committee shall report annually through the Secretary-General to the General Assembly on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from the States Parties concerned.

Amendments submitted

112. At the 1351st meeting the representative of the United Kingdom orally proposed to delete the words "the" and "concerned" from the second sentence of paragraph 2.

113. At the 1352nd meeting the representative of the Sudan orally proposed the deletion of the words "suggestions and" in the first and second sentences of paragraph 2. At the same meeting the representative of the United Republic of Tanzania orally proposed the deletion of the word "general" before the word "recommendations" in both sentences of paragraph 2.

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Voting

114. At its 1352nd meeting the Committee voted on the text of article VIII(bis) submitted by Ghana, Mauritania and the Philippines and the amendments thereto as follows:

(a) Paragraph 1

- (i) At the request of the representative of the United Arab Republic a separate vote was taken by roll call on the words "the States Parties ... every two years" in the first sentence. These words were adopted by 89 votes to none, with 2 abstentions. The voting was as follows:

In favour: Mali, Mauritania, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Senegal, Sierra Leone, Sudan, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia, Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Canada, Ceylon, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Cuba, Czechoslovakia, Denmark, Ecuador, Ethiopia, Finland, France, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia.

Against: None.

Abstaining: Saudi Arabia, Gabon.

- (ii) The remaining words of the first sentence were adopted by 79 votes to 1, with 9 abstentions.
- (iii) At the request of the representative of the Sudan the second sentence was voted on separately and adopted by 85 votes to none, with 7 abstentions.

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(b) Paragraph 2

- (i) The amendment of the Sudan (see paragraph 113 above) was rejected by 68 votes to 2, with 19 abstentions.
 - (ii) The amendment of the United Republic of Tanzania (see paragraph 113 above) was rejected by 58 votes to 4, with 27 abstentions.
 - (iii) The amendments of the United Kingdom (see paragraph 112) were adopted by 25 votes to 18, with 44 abstentions.
- (c) Article VIII bis as a whole, as amended, was adopted by 87 votes to none with 2 abstentions (for text see paragraph 212, draft resolution A, annex, article 9).

Article IX (Article 10)*

115. The text of article IX proposed by Ghana, Mauritania and the Philippines (A/C.3/L.1291) which was discussed at the 1353rd meeting on 24 November 1965, read as follows:

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.
3. The Secretariat of the Committee shall be provided by the Secretary-General of the United Nations.
4. The meetings of the Committee shall be held at the Headquarters of the United Nations.

Amendments submitted

116. At the 1353rd meeting the representative of the United Republic of Tanzania orally proposed to add the word "normally" before the words "beheld at the Headquarters of the United Nations" in paragraph 4.

Voting

117. At the 1353rd meeting the Committee voted on the text of article IX and the amendments thereto, as follows:

- (a) The amendment of the United Republic of Tanzania to paragraph 4 was adopted by 38 votes to 10, with 33 abstentions.

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(b) Paragraph 4 as amended was adopted by 83 votes to none, with 2 abstentions.

(c) Article IX as a whole, as amended, was adopted unanimously (for text see paragraph 212, draft resolution A, annex, article 10).

Article X (Article 11)*

118. The text of article X proposed by Ghana, Mauritania and the Philippines (A/C.3/L.1291) which was discussed at the 1353rd meeting on 24 November 1965, read as follows:

Article X

1. If a State Party to this Convention considers that another State Party is not giving effect to the provisions of the Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the complaint to the States Parties concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and any remedy that may have been taken by that State.
2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee constituted in accordance with paragraph 1 of article VIII by notice given to the Committee and also to the other State.
3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of the present article only after it has ascertained that all available remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law.
4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.
5. When any matter arising out of the present article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without

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voting rights, while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the States Parties concerned.

119. At the 1353rd meeting the proposed article was revised by the sponsors by replacing the words "States Parties" in the second sentence of paragraph 1 by the words "State Party" and by deleting the words "constituted in accordance with paragraph 1 of Article VIII" in paragraph 2. The sponsors also revised paragraph 3 by adding the following sentence to it: "This shall not be the rule where the application of the remedies is unreasonably prolonged".

Amendments submitted

Paragraph 1

120. The representative of Mexico orally proposed to replace the word "complaint" in the second sentence by the word "communication" and to replace the word "shall" by the word "may" in the third sentence. The first of these amendments was accepted by the sponsors.

121. The representative of the United Republic of Tanzania orally proposed to replace the words "explanations or statements clarifying the matter and any remedy" by the words "statements with reference to the matter and any action".

122. The representative of India orally proposed to replace the words "and any remedy" by "and the remedy, if any". This amendment was accepted by the sponsors.

Paragraph 3

123. The representative of Colombia orally proposed to insert the words "on the basis of the reply" after the word "ascertained".

124. The representatives of Canada and Italy orally proposed to add the word "domestic" before the word "remedies". This amendment was accepted by the sponsors.

125. The representative of the United Republic of Tanzania orally proposed a deletion of the paragraph.

Paragraph 5

126. The representative of Austria orally proposed a deletion of the second sentence. This amendment was accepted by the sponsors.

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Voting

127. At its 1353rd meeting, the Committee voted on the text of article X submitted by Ghana, Mauritania and the Philippines and the oral amendments thereto, as follows:

- (a) The amendment of the United Republic of Tanzania to paragraph 1 (see paragraph 121) was rejected by 34 votes to 7, with 43 abstentions.
- (b) Paragraph 3
 - (i) The amendment of the United Republic of Tanzania (see paragraph 122 above) to delete the paragraph was rejected by 70 votes to 2, with 12 abstentions.
 - (ii) The amendment of Colombia (see paragraph 123 above) was rejected by 24 votes to 13, with 45 abstentions.
 - (iii) A separate vote was taken at the request of the representative of the United Republic of Tanzania on the word "domestic" (see paragraph 124 above) and the word was retained by 61 votes to 2, with 16 abstentions.
 - (iv) Paragraph 3 as a whole, as revised by the sponsors, was adopted by 72 votes to none, with 13 abstentions.
- (c) Article X as a whole, as revised by the sponsors, was adopted by 83 votes to none, with 2 abstentions (for text see paragraph 212, draft resolution A, annex, article 11).

Article XI (Article 12)*

128. The text of article XI proposed by Ghana, Mauritania and the Philippines (A/C.3/L.1291), which was discussed at the 1354th and 1355th meetings on 25 and 26 November 1965, read as follows:

- 1. (a) Subject to the provisions of paragraph 3 of article X, the Chairman of the Committee, after the Committee has obtained and collated all the information it thinks necessary, shall appoint a Conciliation Commission hereinafter referred to as the Commission, of an ad hoc nature composed of five members with the full and unanimous consent of the parties to the dispute, whose good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for the Convention.

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- (b) If the States Parties to the dispute fail to reach agreement on all or part of the composition of the Commission within three months, those members of the Commission not agreed upon by the States Parties to the dispute shall be elected by two-thirds majority vote of the Committee from amongst its own members.
2. The members of the Commission who shall serve in their personal capacity should be persons of such high moral standing and acknowledged impartiality as to deserve the confidence of the States Parties to the dispute, but shall neither be nationals of these States to the dispute nor of a State not party to this Convention.
 3. The Commission shall elect its own Chairman and adopt its own rules of procedure.
 4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations, or at any convenient place as determined by the Commission.
 5. The Secretariat provided in accordance with article IX, paragraph 3, shall also service the Commission whenever a dispute among States Parties brings it into being.
 6. The States Parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General.
 7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties to the dispute in accordance with paragraph 6 of the present article.
 8. The information obtained and collated by the Committee shall be made available to the Commission and the Commission may call upon the States concerned to supply any other relevant information.

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Amendments submitted

Paragraph 1

129. Canada proposed (A/C.3/L.1298) to replace the text of paragraph 1 (a) by the following text:

"After the Committee has obtained and collated all the information it thinks necessary, the Chairman shall appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission) comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the full and unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for the Convention."

At the 1354th meeting, the sponsors accepted the amendment of Canada.

130. The representative of the United Republic of Tanzania submitted two amendments (A/C.3/L.1299); the first was to insert "from time to time" after the words "shall appoint" in paragraph 1 (a), the second to insert "by secret ballot" after "two-thirds majority vote" in paragraph 1 (b).

131. At the 1354th meeting, the representative of Mexico orally proposed the deletion of paragraph 1 (b).

Paragraph 2

132. The United Republic of Tanzania proposed (A/C.3/L.1299) to replace the text of paragraph 2 by the following text: "The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties to the dispute or of a State not party to this Convention." The amendment was accepted by the sponsors.

Paragraph 4

133. At the 1354th meeting, the representative of Pakistan orally proposed to insert "other" before the words "convenient place". This amendment was accepted by the sponsors.

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Paragraph 6

134. The United Republic of Tanzania proposed (A/C.3/L.1299) to replace the text of the paragraph by the following text: "The expenses of the Commission shall be borne by the regular budget of the United Nations". At the 1355th meeting, the representative of the United Republic of Tanzania orally revised his amendment to read: "States Parties shall be responsible for the expenses of the members of the Commission while they are in performance of Commission duties".

Paragraph 7

135. The United Republic of Tanzania proposed (A/C.3/L.1299) to delete paragraph 7. A similar proposal was made orally by the representative of Mexico.

Additional paragraph 9

136. The United Republic of Tanzania proposed (A/C.3/L.1299) the addition of the following paragraph 9: "The recommendations of the Commission shall be made public, but not necessarily the evidence received in camera by the Commission".

Voting

137. At its 1355th meeting, the Committee voted on the text of article XI submitted by Ghana, Mauritania and the Philippines and the amendments thereto as follows:

(a) Paragraph 1

- (i) The amendment of the United Republic of Tanzania (see paragraph 130 above) to the revised text of paragraph 1 (a) (see paragraph 129 above) was rejected by 67 votes to 2, with 13 abstentions;
- (ii) The amendment of Mexico (see paragraph 131 above) to delete paragraph 1 (b) was rejected by 54 votes to 10, with 16 abstentions;
- (iii) The amendment of the United Republic of Tanzania (see paragraph 130 above) to paragraph 1 (b) was adopted by 45 votes to 6, with 33 abstentions;

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- (iv) Paragraph 1 as a whole, as amended, was adopted by 84 votes to none, with 4 abstentions.
- (b) The amendment of the United Republic of Tanzania (A/C.3/L.1299) (see paragraph 132 above) to paragraph 2 was accepted by the sponsors and adopted by 86 votes to none, with 2 abstentions.
- (c) Paragraph 6
- (i) The revised amendment of the United Republic of Tanzania (see paragraph 134 above) to paragraph 6 was rejected by 54 votes to 7, with 34 abstentions;
- (ii) The original text of paragraph 6 was adopted by 67 votes to none, with 17 abstentions.
- (d) The proposal of Mexico and the United Republic of Tanzania (see paragraph 135 above) to delete paragraph 7 was rejected by 46 votes to 2, with 37 abstentions.
- (e) The additional paragraph 9 proposed by the United Republic of Tanzania (see paragraph 136 above) was rejected by 26 votes to 6, with 54 abstentions.
- (f) Article XI as a whole, as amended, was adopted by 81 votes to none, with 6 abstentions in a roll-call vote requested by the representative of Mexico (for text, see paragraph 212, draft resolution A, annex, article 12).
The voting was as follows:

In favour: Burma, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Ceylon, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia; Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Haiti, Hungary, India, Iran, Iraq, Ireland, Israel, Italy, Jamaica, Jordan, Kenya, Lebanon, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mongolia, Morocco, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Spain, Sweden, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yemen, Yugoslavia, Zambia, Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria.

Abstaining: Japan, Mexico, Sudan, United Arab Republic, United Republic of Tanzania, Venezuela.

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Article XII (Article 13)*

138. The text of article XII proposed by Ghana, Mauritania and the Philippines (A/C.3/L.1291), which was discussed at the 1355th meeting on 26 November 1965, read as follows:

1. When the Commission has fully considered the complaint, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.
2. The Chairman of the Committee shall communicate the report of the Commission to each of the States Parties to the dispute, and to the Secretary-General of the United Nations for publication.
3. Each of the States Parties to the dispute shall within three months inform the Chairman of the Committee whether or not it accepts the recommendations contained in the report of the Commission.

139. At the 1356th meeting, Ghana, Mauritania and the Philippines presented a revised text of article XII taking into consideration the various views that had been expressed on the original text of the article. The revised text (A/C.3/L.1301) read as follows:

1. When the Commission has fully considered the complaint, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.
2. The Chairman of the Committee shall communicate the report of the Commission to each of the States parties to the dispute. These States shall within three months inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.
3. After the period provided in paragraph 2 of the present article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of States parties concerned related to this report to the Secretary-General of the United Nations for publication.

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Amendments submitted

140. The United Republic of Tanzania proposed (A/C.3/L.1302) to insert the words "and received all the evidence" after the word "complaint" in paragraph 1.

141. El Salvador proposed (A/C.3/L.1306) to add the following sentence at the end of paragraph 2: "If they do not accept the recommendations, the Committee shall reconsider the problem until a satisfactory solution is reached."

142. The United Republic of Tanzania proposed (A/C.3/L.1302) two amendments to paragraph 3. The first was to insert the words "but not necessarily the evidence received in camera" after the words "related to this report". The second amendment was to replace at the end of the paragraph the words "for publication" by "for transmission to the General Assembly". At the 1356th meeting the representative of the United Republic of Tanzania withdrew these amendments.

Voting

143. At the 1356th meeting, the Committee voted on the revised text of article XII submitted by Ghana, Mauritania and the Philippines and the amendments thereto as follows:

- (a) The amendment of the United Republic of Tanzania (see paragraph 140 above) to paragraph 1 was rejected by 26 votes to 4, with 51 abstentions;
- (b) The amendment of El Salvador (see paragraph 141 above) to paragraph 2 was rejected by 11 votes to 10, with 62 abstentions;
- (c) Article XII as a whole, as revised, was adopted by 81 votes to none, with 2 abstentions (for text, see paragraph 212, draft resolution A, annex, article 13).

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Article XIII (Article 14)*

144. Article XIII was discussed at the 1355th to 1358th and 1361st to 1363rd meetings on 26 and 29 November and 1 and 2 December 1965.

Initial text

145. The first text of Article XIII proposed by Ghana, Mauritania and the Philippines (A/C.3/L.1291/Add.1) read as follows:

1. A State Party to this Convention may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation of any of the rights set forth in this Convention by that State Party. No communication shall be received by the Committee if it concerns a State Party not having made such a declaration.
2. Any State Party which makes a declaration provided for in paragraph 1 of the present article may appoint, elect or indicate a National Committee composed of individuals independent of the Government of the State or other national body which shall be competent in the first instance to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.
3. A declaration made in accordance with paragraph 1, and the names of the members of any National Committee or other national body established or indicated in accordance with paragraph 2, of the present article, shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties to the Convention. A declaration may be withdrawn at any time by notification to the Secretary-General, and a change in the composition of the membership of the National Committee or other national body appointed, elected or indicated in accordance with paragraph 2 of the present article shall be communicated to the Secretary-General in the same manner by the State Party concerned.

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4. A National Committee or other national body appointed, elected or indicated in accordance with paragraph 2 of the present article shall in appropriate cases seek redress from the State Party concerned. In the event of failure to obtain satisfactory redress within six months either the National Committee or other national body appointed, elected or indicated in accordance with paragraph 2 of the present article, or the petitioner, shall have the right to communicate the matter to the Committee.

5. A register to enter complaints or alleged violations shall be kept by a National Committee or other national body appointed, elected or indicated in accordance with paragraph 2 of the present article, and certified copies of the register shall be filed with the Secretary-General on the understanding that the contents shall not be publicly disclosed.

6. The Committee shall not receive anonymous communications. It shall confidentially bring communications to the attention of the State Party alleged to be violating the Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent.

7. The Committee shall include in its annual report a summary of such communications and, where appropriate, the observations and replies of the States Parties concerned.

146. On the submission of the above-mentioned text the representative of Saudi Arabia withdrew his proposed article (A/C.3/L.1297) which read as follows:

1. Each State Party to this Convention shall constitute a National Committee consisting of nine members chosen from independent and objective persons not having any official connexion with the Government of the State.

2. Any person within the jurisdiction of the State claiming that any of his rights enumerated in the Covenant has been violated, may submit his case before this Committee.

3. The National Committee shall ascertain the facts and if it deems that the case is well founded, shall endeavour to obtain satisfaction for the petitioner from the Government.

4. In the event the said Committee does not succeed in obtaining satisfaction for the petitioner or should the Committee dismiss the case, either the Committee or the petitioner, as the case may be, shall have the right to

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appeal to a national tribunal specially constituted for examining any violations to the rights set forth in this Convention.

5. The names of the members constituting the National Committee shall be registered with the United Nations.

6. The National Committee shall have an appropriate register to enter any complaint or alleged violation submitted to it, regardless of whether such complaint or violation is entertained by it or not.

7. Certified copies of the register mentioned in the previous paragraph shall be submitted by the National Committee to the Secretary-General on the understanding that the contents of such certified copies shall not be disclosed and will be kept confidential by the Secretary-General.

Amendments submitted

147. Argentina, Bolivia, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Panama and Peru proposed (A/C.3/L.1303) the following amendments to paragraphs 2 to 5 of the text submitted by Ghana, Mauritania and the Philippines:

(a) Replacement of paragraph 2 by:

"Any State Party which makes a declaration provided for in paragraph 1 of the present article may appoint, elect or indicate an organ or organs competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies, and to determine the nature and extent of appropriate compensation. A declaration may be withdrawn at any time by means of a notification to the Secretary-General, who shall also be informed of any change in the name of the aforesaid organ or organs."

(b) Replacement of paragraph 3 by:

"A declaration made in accordance with paragraph 1, and the name of the organ or organs appointed, elected or indicated shall be communicated through the intermediary of the Secretary-General to the other States Parties."

(c) Deletion of paragraph 4

(d) Replacement of paragraph 5 by:

"A register to enter complaints or alleged violations shall be kept by the organ or organs appointed, elected or indicated. The States Parties shall undertake to communicate to the Secretary-General certified copies of such complaints and alleged violations, on the understanding that the contents shall not be publicly disclosed."

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First revised text

148. At the 1362nd meeting Argentina, Chile, Colombia, Costa Rica, Ecuador, Ghana, Guatemala, Mauritania, Panama, Peru and the Philippines proposed (A/C.3/L.1308) a revised text of Article XIII, which read as follows:

"1. A State Party to this Convention may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation of any of the rights set forth in this Convention by that State Party. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

"2. Any State Party which makes a declaration provided for in paragraph 1 of the present article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.

"3. A declaration made in accordance with paragraph 1 of the present article and the name of any body established or indicated in accordance with paragraph 2 of the present article, shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties to the Convention. A declaration may be withdrawn at any time by notification to the Secretary-General but such a withdrawal shall not affect communications pending before the Committee.

"4. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of the present article, the petitioner within six months shall have the right to communicate the matter to the Committee. The Committee shall deal with the communication after having ascertained that the provisions of paragraph 2 of the present article have been fulfilled.

"5. A register of complaints or alleged violations shall be kept by the body established or indicated in accordance with paragraph 2 of the present article, and certified copies of the register shall be filed through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.

"6. The Committee shall not receive anonymous communications. It shall confidentially bring other communications to the attention of the State Party alleged to be violating the Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent.

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"7. The Committee shall include in its annual report a summary of such communications and, where appropriate, the observations and replies of the States Parties concerned."

Amendments submitted

149. Lebanon proposed (A/C.3/L.1315) the following amendments: (a) to the words "within its jurisdiction" after the words "groups of individuals" in paragraph 1; (b) to renumber paragraph 4 as paragraph 5 and to delete the last sentence of the new paragraph 5; (c) to renumber paragraph 5 as paragraph 4, to replace the words "complaints or alleged violations" by the word "petitions", and to add the word "annually" after the word "filed"; (d) to replace paragraphs 6 and 7 by the following paragraphs:

"6. (a) The Committee shall confidentially bring any communication referred to it, if it considers it to be receivable, to the attention of the State Party alleged to be violating any provision of the Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications.

"(b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

"7. (a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned, and by the petitioner. However, it shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies.

"(b) The Committee shall communicate its suggestions and recommendations in each matter considered by it to the State Party concerned and to the petitioner.

"8. The Committee shall include in its annual report referred to in article VIII (bis), paragraph 2, a summary of such communications which it has considered and of the explanations and statements of the States Parties concerned as well as of suggestions and recommendations of the Committee."

Second revised text

150. With a view to taking into account the amendments proposed by Lebanon and the opinions expressed in the course of the discussion, Argentina, Bolivia, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Ghana, Guatemala, Mauritania, Panama, Peru and the Philippines presented the following revised text of the article (A/C.3/L.1308/Rev.1) at the 1363rd meeting of the Committee:

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"1. A State Party to this Convention may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation of any of the rights set forth in this Convention by that State Party. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

"2. Any State Party which makes a declaration provided for in paragraph 1 of the present article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.

"3. A declaration made in accordance with paragraph 1 of the present article and the name of any body established or indicated in accordance with paragraph 2 of the present article, shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties to the Convention. A declaration may be withdrawn at any time by notification to the Secretary-General but such a withdrawal shall not affect communications pending before the Committee.

"4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of the present article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.

"5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of the present article, the petitioner within six months shall have the right to communicate the matter to the Committee.

"6. (a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of the Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications.

"(b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

"7. The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged.

"8. The Committee shall include in its annual report a summary of such communications and, where appropriate, the observations and replies of the States Parties concerned."

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Amendments submitted

151. Lebanon proposed (A/C.3/L.1315/Rev.1) renumbering the text of paragraph 7 as paragraph 7 (a) and the insertion of the following as paragraph 7 (b):

"The Committee shall communicate its suggestions and recommendations, if any, to the State Party concerned and to the petitioner."

Lebanon also proposed replacing the phrase following the words "where appropriate" by "a summary of the explanations and statements of the States Parties concerned and of suggestions and recommendations of the Committee" in paragraph 8.

152. Sweden proposed (A/C.3/L.1316) to add the following paragraph as paragraph 9:

"The Committee shall only exercise the competence provided for in this Article when at least ten States Parties to the Convention are bound by declarations in accordance with paragraph 1 of the present Article."

Voting

153. At its 1363rd meeting the Committee voted on the fourteen-Power revised text of Article XIII (see paragraph 150 above) and the amendments thereto as follows:

(a) Paragraph 2

- (i) A separate vote was taken, at the request of the representative of Jamaica, on the words "within its national legal order" in paragraph 2, and those words were adopted by 61 votes to none, with 23 abstentions.
- (ii) Paragraph 2, as a whole, was adopted by 67 votes to none, with 17 abstentions.

(b) Paragraph 7

- (i) The amendment of Lebanon (see paragraph 151) to paragraph 7 was adopted in a roll-call vote, requested by the representative of Nigeria, by 43 votes to 12, with 34 abstentions. The voting was as follows:

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In favour: Argentina, Austria, Bolivia, Brazil, Burma, Cameroon, Canada, Central African Republic, Ceylon, Chad, Chile, Congo (Brazzaville), Congo (Democratic Republic of), Denmark, Finland, Greece, Guatemala, Iceland, Iran, Ireland, Jamaica, Jordan, Kenya, Lebanon, Liberia, Libya, Luxembourg, Mexico, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Rwanda, Saudi Arabia, Senegal, Sudan, Sweden, Tunisia, Turkey, Uganda, United Republic of Tanzania.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Colombia, Czechoslovakia, Guinea, Hungary, Mongolia, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic.

Abstaining: Afghanistan, Algeria, Australia, Belgium, China, Costa Rica, El Salvador, Ethiopia, France, Ghana, Haiti, India, Iraq, Israel, Italy, Japan, Madagascar, Malawi, Mali, Mauritania, Morocco, Peru, Philippines, Portugal, Spain, Thailand, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Venezuela, Yemen, Yugoslavia.

(ii) Paragraph 7, as amended, was adopted by 67 votes to none, with 20 abstentions.

(c) Paragraph 8

(i) The amendment of Lebanon (see paragraph 151 above) was adopted by 48 votes to 9, with 31 abstentions.

(ii) Paragraph 8 as amended was adopted by 66 votes to none, with 23 abstentions.

(d) The amendment of Sweden (see paragraph 152 above) to add a new paragraph 9 was adopted by 52 votes to 1, with 31 abstentions.

(e) Article XIII as a whole, as amended, was adopted by 66 votes to none, with 19 abstentions (for text, see paragraph 212, draft resolution A, annex, article 14).

Article XIII (bis) (Article 15)*

154. The Committee discussed Article XIII (bis) at its 1363rd to 1366th and 1368th meetings on 2, 3, 6 and 8 December 1965.

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Initial text

155. At the 1363rd meeting Sudan, the United Arab Republic and the United Republic of Tanzania proposed (A/C.3/L.1307) the following text for Article XIII bis after Article XIII proposed by Ghana, Mauritania and the Philippines (A/C.3/L.1291/Add.1):

"1. No provisions in this Convention shall prevent the Committee established under Article VIII, paragraph 1, from accepting petitions from the inhabitants of non-independent Territories, regarding the legislative, judicial, administrative or other measures that the Administering Authority has adopted presumably to give effect to the provisions of this Convention.

"2. The Committee shall examine these petitions in consultation with the Administering Authority concerned.

"3. The Committee shall co-operate with bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention."

Amendments submitted

156. The Netherlands proposed (A/C.3/L.1317) the replacement of the text by the following:

"The provisions of this Convention shall in no way affect or prejudice the right of individuals or groups of individuals to send petitions to international bodies, as set forth by other international instruments; or as practices within the framework of the United Nations and its specialized agencies."

157. At the 1368th meeting, the representative of the Netherlands withdrew his amendment.

First revised text

158. At the 1364th meeting Mauritania, Sudan, the United Arab Republic and the United Republic of Tanzania submitted the following revised text (A/C.3/L.1307/Rev.1):

1. No provisions in this Convention shall prevent the Committee established under article VIII, paragraph 1, from accepting petitions concerning the violation of human rights stemming from racial discrimination, from the inhabitants of Territories to which the Declaration on the Granting of Independence to Colonial Countries and Peoples, General Assembly resolution 1514 (XV) of 14 December 1960, applies, or petitions regarding

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the legislative, judicial, administrative or other measures that the Administering Authority has put into force in these Territories to give effect to the provisions of this Convention.

2. The Committee shall examine these petitions in consultation with the Administering Authority concerned, and make appropriate recommendations.

3. The Committee shall co-operate with bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention.

Second revised text

159. At the 1366th meeting a second revised text of Article XIII (bis) was submitted by Algeria, Congo (Brazzaville), Congo (Democratic Republic of), Ethiopia, Ghana, Jamaica, Kenya, Liberia, Libya, Madagascar, Malawi, Mauritania, Morocco, Nigeria, Rwanda, Senegal, Sudan, Togo, Tunisia, Uganda, United Arab Republic and United Republic of Tanzania (A/C.3/L.1307/Rev.2) reading as follows:

1. Pending the achievement of the objectives of General Assembly resolution 1514 (XV) of 14 December 1960, concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of this Convention shall be applied in full to the inhabitants of those Territories, and shall in no way limit the right of petition granted to these inhabitants by other international instruments or by the United Nations and its specialized agencies.

2. (a) The Committee established in accordance with article VIII, paragraph 1, shall receive petitions from, and tender expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention with respect to petitions from the inhabitants of Trust and Non-Self-Governing Territories, or all other Territories to which General Assembly resolution 1514 (XV) applies, and relating to matters covered by this Convention which are before these bodies.

(b) The Committee shall express itself and make recommendations on the legislative, judicial, administrative or other measures applied by the administering Powers within the Territories mentioned in paragraph 1 of the present article, to give effect to the provisions of this Convention.

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3. The Committee shall include in its reports to the General Assembly a summary of the petitions it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee, related to the said petitions, and the legislative, judicial, administrative and other measures applied by the administering Powers for the purpose of giving effect to the provisions of this Convention.

4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention, and available to him regarding the Territories mentioned in paragraph 1 of the present article.

Third revised text

160. At the 1368th meeting the twenty-two Powers submitted a third revised text (A/C.3/L.1307/Rev.3) reading as follows:

"1. Pending the achievement of the objectives of General Assembly resolution 1514 (XV) of 14 December 1960, concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

"2. (a) The Committee established in accordance with article VIII, paragraph 1, shall receive copies of the petitions from, and tender expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention with respect to petitions from the inhabitants of Trust and Non-Self-Governing Territories, or all other Territories to which General Assembly resolution 1514 (XV) applies, and relating to matters covered by this Convention which are before these bodies.

"(b) The Committee shall express itself and make recommendations on the legislative, judicial, administrative or other measures applied by the administering Powers within the Territories mentioned in paragraph 1 of the present article, to give effect to the provisions of this Convention.

"3. The Committee shall include in its report to the General Assembly a summary of the petitions it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee, related to the said petitions, and the legislative, judicial, administrative and other measures applied by the administering Powers for the purpose of giving effect to the provisions of this Convention.

"4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the Territories mentioned in paragraph 1 of the present article."

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Amendments submitted

Paragraph 2

161. Lebanon and Saudi Arabia proposed (A/C.3/L.1319) to replace paragraph 2 (b) by the following:

"2. (b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislature, judicial, administrative or other measures related to the principles and objectives of this Convention applied by the Administering Powers within the territories mentioned in sub-paragraph (a) of this paragraph and shall express opinions and make recommendations to these bodies,".

162. At the 1368th meeting the representatives of Lebanon and Saudi Arabia accepted an oral amendment of the United Republic of Tanzania to add to their text for paragraph 2 (b) the word "directly" between the words "measures" and "related".

163. At the same meeting, the representative of the United Republic of Tanzania orally proposed as an amendment to the amendment of Lebanon and Saudi Arabia the addition of a new paragraph 2 (c) to read as follows:

"The Committee shall be empowered to receive comments, complaints, statements, or other communication directly from the inhabitants of these territories with respect to the legislative, judicial, administrative or other measures applied by the Administering Powers in such territories."

Paragraph 3

164. Lebanon and Saudi Arabia proposed (A/C.3/L.1319) to replace paragraph 3 by the following:

"3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee, related to the said petitions and reports."

Paragraph 4

165. At the 1368th meeting the representative of Nigeria orally proposed that the words "paragraph 1" be replaced by "paragraph 2 (a)". The sponsors accepted this amendment.

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Voting

166. At its 1368th meeting on 8 December, the Committee voted on the third revised text of Article XIII (bis) proposed by the twenty-two Powers (see paragraph 160 above) and the amendments thereto as follows:

- (a) The amendment of Lebanon and Saudi Arabia to paragraph 2 (b) (see paragraphs 161-162 above) was adopted by 58 votes to 2, with 29 abstentions;
- (b) The amendment of the United Republic of Tanzania to add a new paragraph 2 (c) (see paragraph 163 above) was rejected in a roll-call vote, taken at the request of the United States of America, by 43 votes to 25, with 23 abstentions. The voting was as follows:

In favour: Algeria, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Chad, Congo (Democratic Republic of), Cuba, Czechoslovakia, Dahomey, Guinea, Hungary, Iraq, Mauritania, Mongolia, Poland, Sudan, Togo, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yemen, Yugoslavia.

Against: Argentina, Australia, Austria, Belgium, Canada, Chile, China, Colombia, Costa Rica, Denmark, Ecuador, Ethiopia, Finland, France, Ghana, Greece, Guatemala, Honduras, Iceland, Ireland, Israel, Italy, Jamaica, Japan, Lebanon, Liberia, Luxembourg, Madagascar, Netherlands, New Zealand, Nigeria, Norway, Panama, Peru, Philippines, Portugal, Senegal, Sierra Leone, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Afghanistan, Bolivia, Brazil, Ceylon, Haiti, India, Iran, Ivory Coast, Jordan, Kenya, Kuwait, Libya, Malawi, Mexico, Morocco, Pakistan, Rwanda, Saudi Arabia, Thailand, Trinidad and Tobago, Uganda, Upper Volta, Venezuela.

- (c) The amendment of Lebanon and Saudi Arabia to paragraph 3 (see paragraph 164 above) was adopted by 58 votes to 2, with 29 abstentions;
- (d) Paragraph 1 of the twenty-two-Power proposal was adopted by 86 votes to 1, with 2 abstentions;
- (e) Paragraph 2 (a) of the twenty-two Power proposal was adopted in a roll-call vote, requested by the representative of the United Kingdom, by 76 votes to 3, with 12 abstentions. The voting was as follows:

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In favour: Afghanistan, Algeria, Argentina, Austria, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Ceylon, Chad, Chile, China, Congo (Democratic Republic of), Cuba, Czechoslovakia, Dahomey, Denmark, Ecuador, Ethiopia, Finland, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Mauritania, Mexico, Mongolia, Morocco, Netherlands, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Spain, Sudan, Sweden, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Venezuela, Yemen, Yugoslavia.

Against: Australia, Portugal, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Belgium, Bolivia, Brazil, Canada, Colombia, Costa Rica, France, Iceland, New Zealand, Thailand, United States of America, Upper Volta.

(f) Paragraph 4 of the twenty-two-Power proposal, as orally revised (see paragraph 165 above), was adopted by 81 votes to 1, with 7 abstentions;

(g) Article XIII (bis), as a whole, as amended, was adopted in a roll-call vote, requested by the representative of the United Republic of Tanzania, by 83 votes to 2, with 6 abstentions (for text, see paragraph 212, draft resolution A, annex, article 15). The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Austria, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Ceylon, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cuba, Czechoslovakia, Dahomey, Denmark, Ecuador, Ethiopia, Finland, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Mauritania, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Spain, Sudan, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Venezuela, Yemen, Yugoslavia.

Against: Portugal, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Australia, Belgium, Canada, France, United States of America, Upper Volta.

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Article XIV (Article 16)*

167. The text of Article XVI proposed by Ghana, Mauritania and the Philippines (A/C.3/L.1291, article XIII), which was discussed at the 1358th meeting on 29 November 1965, read as follows:

"The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to existing constitutional or other binding provisions of agencies related to the United Nations dealing with the settlement of disputes or complaints in the field of discrimination, and shall not prevent the States Parties to the Convention from resorting to other procedures for settling a dispute in accordance with the general or special international agreements in force between them."

Amendments submitted

168. New Zealand proposed (A/C.3/L.1304): (a) replacing the words "existing constitutional or other binding provisions of agencies related to the United Nations dealing with the settlement of disputes or complaints in the field of discrimination" by the words "other procedures available for settling disputes or complaints in the field of discrimination and laid down in the constituent instruments of, or in conventions adopted by, the United Nations and its specialized agencies"; (b) deleting the words "to the Convention" after the words "States Parties".

169. At the 1358th meeting the representative of Lebanon orally proposed the deletion of the words "available" and the word "and" in the first part of the amendment of New Zealand. These deletions were accepted by New Zealand.

170. At the same meeting, the New Zealand amendments incorporating the Lebanese amendments were accepted by Ghana, Mauritania and the Philippines.

Voting

171. At its 1358th meeting the Committee voted on Article XIV as amended by New Zealand and Lebanon and accepted by Ghana, Mauritania and the Philippines (see paragraph 170 above) as follows:

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- (a) The first part of the text up to the words "specialized agencies" was adopted by 78 votes to none, with one abstention.
- (b) The remainder of the text was voted on separately, at the request of the representative of Belgium, and retained by 58 votes to 4, with 13 abstentions.
- (c) Article XIV as a whole, as revised, was adopted by 78 votes to none, with one abstention (for text, see paragraph 212, draft resolution A, annex, article 16).

Financial implications of the articles on measures
of implementation

172. A statement of financial implications was submitted by the Secretary-General (A/C.3/L.1292) on the articles of implementation proposed by Ghana, Mauritania and the Philippines (A/C.3/L.1291). During the course of the discussion on the articles, oral statements on financial implications were made at the 1352nd, 1353rd, 1354th, 1355th, and 1356th meetings held on 23, 24, 25 and 26 November 1965.

C. Final Clauses

173. At its 1299th meeting on 11 October 1965 the Committee agreed that the Officers of the Committee should submit to the Committee suggestions for final clauses based on the document on final clauses (E/CN.4/L.679) transmitted to the General Assembly by the Commission on Human Rights (see paragraph 4 (d) above).

174. The Committee discussed the final clauses on the basis of suggestions submitted by its Officers (A/C.3/L.1237) at its 1358th and 1366th to 1368th meetings held on 29 November, 6, 7 and 8 December 1965. It agreed that the clauses which were self-contained and referred to articles within themselves would be revised in the light of the final text of the Convention.

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Clause I (Article 17)*

175. The text of clause I suggested by the Officers of the Committee (A/C.3/L.1237), which was discussed at the 1366th meeting on 6 December 1965, read as follows:

"1. The present Convention is open for signature by any State Member of the United Nations or of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the Convention.

"2. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations."

Amendments submitted

176. Poland proposed (A/C.3/L.1272) to replace paragraph 1 by the following text:

"The present Convention is open for signature by all States."

Voting

177. At its 1366th meeting the Committee voted on the text of clause I submitted by its Officers and the amendment thereto as follows:

"(a) At the request of the representative of Colombia the amendment of Poland (see paragraph 176 above) to paragraph 1 was voted on by roll-call and rejected by 41 votes to 32, with 18 abstentions. The voting was as follows:

In favour: Hungary, India, Iraq, Kenya, Kuwait, Mali, Mauritania, Mongolia, Morocco, Nigeria, Pakistan, Poland, Romania, Senegal, Sudan, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yemen, Yugoslavia, Afghanistan, Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Czechoslovakia, Ethiopia, Ghana, Guinea.

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Against: Honduras, Ireland, Israel, Italy, Jamaica, Japan, Liberia, Luxembourg, Madagascar, Mexico, Netherlands, New Zealand, Norway, Panama, Peru, Philippines, Portugal, Spain, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Costa Rica, Denmark, Ecuador, El Salvador, Finland, France, Greece, Guatemala.

Abstaining: Iran, Lebanon, Libya, Malawi, Malaysia, Rwanda, Togo, Trinidad and Tobago, Tunisia, Uganda, United Republic of Tanzania, Upper Volta, Burma, Cameroon, Central African Republic, Dahomey, Gabon, Haiti.

(b) Clause I as a whole was adopted by 75 votes to 10, with 3 abstentions (for text, see paragraph 212, draft resolution A, annex, Article 17)."

Clause II (Article 18)*

178. The text of clause II suggested by the Officers of the Committee (A/C.3/L.1237), which was discussed at the 1366th meeting on 6 December 1965, read as follows:

"1. The present Convention shall be open to accession by an State referred to in paragraph 1 of article 1.

"2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations."

Amendments submitted

179. Poland proposed (A/C.3/L.1272) to replace paragraph 1 by the following text:

"The present Convention is open to accession by any State which has not signed it."

Voting

180. At its 1366th meeting the Committee voted on the text of clause II submitted by its Officers and the amendment thereto as follows:

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"(a) At the request of the representative of Mauritania the amendment of Poland (see paragraph 179 above) to paragraph 1 was voted on by roll-call and rejected by 43 votes to 29, with 19 abstentions. The voting was as follows:

In favour: Afghanistan, Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Czechoslovakia, Ethiopia, Ghana, Guinea, Hungary, Iraq, Kuwait, Mali, Mauritania, Mongolia, Morocco, Nigeria, Pakistan, Poland, Romania, Senegal, Sudan, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yemen, Yugoslavia.

Against: Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Costa Rica, Denmark, Ecuador, El Salvador, Finland, France, Greece, Guatemala, Haiti, Honduras, Ireland, Israel, Italy, Jamaica, Japan, Liberia, Luxembourg, Madagascar, Malaysia, Mexico, Netherlands, New Zealand, Norway, Panama, Peru, Philippines, Portugal, Spain, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Abstaining: Burma, Cameroon, Central African Republic, Chad, Dahomey, Gabon, India, Iran, Kenya, Lebanon, Libya, Malawi, Rwanda, Togo, Trinidad and Tobago, Tunisia, Uganda, United Republic of Tanzania, Upper Volta.

"(b) Also at the request of the representative of Mauritania clause II as a whole was voted on by roll-call and adopted by 76 votes to 12, with 3 abstentions (for text, see paragraph 212, draft resolution A, annex, article 18). The voting was as follows:

In favour: Denmark, Ecuador, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, India, Iran, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Kenya, Kuwait, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Mexico, Morocco, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Portugal, Rwanda, Senegal, Spain, Sudan, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Venezuela, Yemen, Yugoslavia, Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Brazil, Burma, Cameroon, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica.

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Against: Hungary, Mali, Mauritania, Mongolia, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia.

Abstaining: United Republic of Tanzania, Congo (Brazzaville), Dahomey.

Clause III (Article 19)*

181. The text of clause III suggested by the Officers of the Committee (A/C.3/L.1237), which was discussed at the 1366th meeting, read as follows:

"1. The present Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or instrument of accession.

"2. For each State ratifying the Convention or acceding to it after the deposit of the twentieth instrument of ratification or instrument of accession, the present Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession."

Amendment submitted

182. Ghana, Mauritania and the Philippines proposed (A/C.3/L.1313) to replace the word "twentieth" by "twenty-seventh" in paragraphs 1 and 2.

Voting

183. At its 1366th meeting the Committee voted on the text of clause III submitted by its Officers and the amendment thereto as follows:

- (a) The amendment of Ghana, Mauritania and the Philippines (see paragraph 182 above) to paragraphs 1 and 2 was adopted without objection.
- (b) Clause III as a whole, as amended, was adopted unanimously (for text, see paragraph 212, draft resolution A, annex, article 19).

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Clause IV

184. The text of clause IV suggested by the Officers of the Committee (A/C.3/L.1237) which was discussed at the 1367th and 1368th meetings on 7 and 8 December 1965, read as follows:

"1. The present Convention shall apply to all non-self-governing, trust, colonial and other non-metropolitan territories for the international relations of which any State Party is responsible. Subject to the provisions of paragraph 2 of this article, the Party concerned shall, at the time of signature, ratification or accession, declare the non-metropolitan territory or territories to which the Convention shall apply ipso facto as a result of such signature, ratification or accession.

"2. In any case in which the previous consent of a non-metropolitan territory is required by the constitutional laws or practices of the Party or of the non-metropolitan territory, the Party concerned shall endeavour to secure the needed consent of the non-metropolitan territory within the period of twelve months from the date of signature of the Convention by the metropolitan State, and when such consent has been obtained, the Party shall notify the Secretary-General. This Convention shall apply to the territory or territories named in such notification from the date of its receipt by the Secretary-General.

"3. After the expiry of the twelve-month period mentioned in the preceding paragraph, the States Parties concerned shall inform the Secretary-General of the results of the consultations with those non-metropolitan territories for whose international relations they are responsible and whose consent to the application of this Convention may have been withheld."

Amendments submitted

185. Poland proposed (A/C.3/L.1272) to delete the whole clause.

Voting

186. At its 1368th meeting the Committee adopted by 66 votes to 3, with 8 abstentions the amendment of Poland (see paragraph 185 above) to delete the whole clause.

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Clause V

187. The text of clause V suggested by the Officers of the Committee (A/C.3/L.1237/Corr.1 in Spanish only), which was discussed at the 1367th meeting on 7 December 1965, read as follows;

"In the case of a Federal or non-unitary State, the following provisions shall apply:

"(a) With respect to those articles of this Convention that come within the legislative jurisdiction of the Federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States;

"(b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the Federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;

"(c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action."

Amendment submitted

188. Poland proposed (A/C.3/L.1272) to delete the whole clause.

Voting

189. At its 1367th meeting, the Committee adopted by 63 votes to 7, with 16 abstentions the amendment of Poland (see paragraph 188 above) to delete the whole clause.

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Clause VI

190. The text of Clause VI suggested by the Officers of the Committee (A/C.3/L.1237), which was discussed at the 1367th and 1368th meetings on 7 and 8 December 1965, read as follows:

"1. At the time of signature, ratification or accession, any State may make reservations to any article in the present Convention.

"2. If any State makes a reservation in accordance with paragraph 1 of the present article, the Convention, with the exception of those provisions to which the reservation relates, shall have effect as between the reserving State and the other Parties. The Secretary-General of the United Nations shall communicate the text of the reservation to all States which are or may become Parties to the Convention. Any State Party to the Convention or which thereafter becomes a Party may notify the Secretary-General that it does not agree to consider itself bound by the Convention with respect to the State making the reservation. This notification must be made, in the case of a State already a Party, within ninety days from the date of the communication by the Secretary-General; and, in the case of a State subsequently becoming a Party, within ninety days from the date when the instrument of ratification or accession is deposited. In the event that such a notification is made, the Convention shall not be deemed to be in effect between the State making the notification and the State making the reservation.

"3. Any State making the reservation in accordance with paragraph 1 of the present article may at any time withdraw the reservation, in whole or in part, after it has been accepted, by a notification to this effect addressed to the Secretary-General of the United Nations. Such notification shall take effect on the date on which it is received."

Amendments submitted

191. Poland proposed (A/C.3/L.1272) to replace the text by the following:

"1. At the time of signature, ratification or accession, any State may make reservations to the present Convention with the exception of articles I, II, III, IV, V.

"2. Any State Party which has made reservations in accordance with paragraph 1 of the present article may at any time withdraw them by written notification to this effect to the Secretary-General of the United Nations. Such notification shall take effect on the date on which it is received."

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192. The amendment of Ghana, Mauritania and the Philippines (A/C.3/L.1314) sought to insert "I to V and VIII to XIV" after the word "Articles" in paragraph 1 of the Polish amendment.

193. At the 1368th meeting the representative of Canada orally proposed to delete the whole clause.

Voting

194. At its 1368th meeting the Committee adopted by 25 votes to 19, with 34 abstentions the amendment of Canada (see paragraph 193 above) to delete the whole clause.

Clause VII (Article 20)*

195. The text of Clause VII suggested by the Officers of the Committee (A/C.3/L.1237), which was discussed at the 1367th meeting on 7 December 1965, read as follows:

"A Contracting State may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General."

Voting

196. Clause VII as suggested was adopted unanimously (for text, see paragraph 212, draft resolution A, annex, article 20)

Clause VIII (Article 21)*

197. The text of Clause VIII suggested by the Officers of the Committee (A/C.3/L.1237), which was discussed at the 1367th meeting on 7 December 1965, read as follows:

"Any dispute between two or more Contracting States over the interpretation or application of this Convention, which is not settled by negotiation, shall at the request of any of the parties to the dispute be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement."

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Amendments submitted

198. The amendment of Poland (A/C.3/L.1272) sought to replace the word "any" by "all".

199. The amendment of Ghana, Mauritania and the Philippines (A/C.3/L.1313) called for the deletion of the comma after "negotiation" and the insertion of the following between the words "negotiation" and "shall": "or by the procedures expressly provided for in this Convention".

Voting

200. At its 1367th meeting the Committee voted on the text of Clause VIII submitted by its Officers and the amendments thereto as follows:

(a) The amendment of Ghana, Mauritania and the Philippines (see paragraph 199 above) was adopted without objection.

(b) The amendment of Poland (see paragraph 198) was rejected by 37 votes to 26, with 26 abstentions.

(c) Clause VIII as a whole, as amended, was adopted by 70 votes to 9, with 8 abstentions (for text, see paragraph 212, draft resolution A, annex, article 21).

Clause IX (Article 22)*

201. The text of Clause IX suggested by the Officers of the Committee (A/C.3/L.1237), which was discussed at the 1367th meeting on 7 December 1965, read as follows:

"A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General. The General Assembly shall decide upon the steps, if any, to be taken in respect of such a request."

Voting

202. At its 1367th meeting the Committee voted on the text of Clause IX submitted by its Officers as follows:

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- (a) At the request of the representative of France, the second sentence was voted on separately and adopted by 47 votes to 21, with 23 abstentions.
- (b) Clause IX as a whole, was adopted by 75 votes to none, with 16 abstentions (for text, see paragraph 212, draft resolution A, annex, article 22).

Clause X (Article 23)*

203. The text of Clause X suggested by the Officers of the Committee (A/C.3/L.1237), which was discussed at the 1367th meeting on 7 December 1965, read as follows:

"The Secretary-General of the United Nations shall inform all States referred to in paragraph (1) of article I of the following particulars:

"(a) Signatures, ratifications and accessions under articles I and II;

"(b) The date of entry into force of this Convention under Article III;

"(c) Communications and ratifications received in accordance with Article IV, V and IX;

"(d) Reservations and denunciations under article VI and VII."

Voting

204. At its 1367th meeting the Committee voted on the text of Clause X submitted by its Officers as follows:

- (a) At the request of the representative of Poland the words "referred to in paragraph (1) of Article I" in the opening phrase were voted on separately and adopted by 62 votes to 11, with 18 abstentions.
- (b) Clause X as a whole, was adopted by 81 votes to none, with 10 abstentions (for text, see paragraph 212, draft resolution A, annex, article 23).

205. The Committee agreed that consequential changes necessitated by decisions which the Committee had taken or would take would be made in the final text of this clause (see paragraph 212, draft resolution A, annex, article 23).

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Clause XI (Article 24)*

206. The text of Clause XI suggested by the Officers of the Committee (A/C.3/L.1237), which was discussed at the 1367th meeting, read as follows:

"1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations."

"2. The Secretary-General of the United Nations shall transmit certified copies of the Convention to all States belonging to any of the categories mentioned in paragraph 1 of Article I."

Amendment submitted

207. Poland proposed (A/C.3/L.1272) to delete from paragraph 2 the words "belonging to any of the categories in paragraph (1) of Article I,".

Voting

208. At its 1367th meeting, the Committee voted on the text of Clause XI submitted by the Officers as follows:

- (a) The Polish amendment (see paragraph 207 above) was rejected by 55 votes to 14, with 20 abstentions.
- (b) Clause XI as a whole was adopted by 78 votes to none, with 10 abstentions (for text, see paragraph 212, draft resolution A, article 24).

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III. ADOPTION OF THE DRAFT CONVENTION AND THE
DRAFT RESOLUTIONS RELATING THERETO

209. At its 1373rd meeting on 15 December 1965, the Committee voted by roll call, at the request of the representative of Mauritania, on the text of the draft Convention as a whole, with minor drafting changes suggested by its Officers (A/C.3/L.1327), and adopted it unanimously. The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Central African Republic, Ceylon, Chad, China, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Ethiopia, Finland, France, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Japan, Kenya, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Mauritania, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Niger, Nigeria, Norway, Panama, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Spain, Sudan, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia.

Against: None

Abstentions: None

210. At the same meeting, the Committee considered a draft resolution submitted by Ghana, Guinea, United Arab Republic, United Republic of Tanzania and Yugoslavia (A/C.3/L.1330) concerning the adoption and opening for signature of the Convention and the publicity to be given to it. Greece proposed an amendment to insert after the words "Invites States", in operative paragraph 2 of the draft resolution, the words "referred to in article 17 of the Convention". The amendment of Greece was adopted by 50 votes to 16, with 11 abstentions. Operative paragraph 2 of the draft resolution as amended was adopted by 61 votes to 1, with 14 abstentions. The joint draft resolution, as a whole, as amended, was adopted unanimously.

211. Also at the same meeting, a draft resolution was submitted by Ghana, United Arab Republic and United Republic of Tanzania (A/C.3/L.1329) relating to article 15 of the Convention; Jamaica and Mauritania later joined as co-sponsors. This draft resolution was adopted by 70 votes to 1, with 11 abstentions.

IV. RECOMMENDATIONS OF THE THIRD COMMITTEE

212. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

International Convention on the
Elimination of All Forms of Racial Discrimination

A

The General Assembly,

Considering that it is appropriate to conclude under the auspices of the United Nations an International Convention on the Elimination of all Forms of Racial Discrimination,

Convinced that the Convention will be an important step towards the elimination of all forms of racial discrimination and that it should be signed and ratified as soon as possible by States and its provisions implemented without delay,

Considering further that the text of the Convention should be made known throughout the world,

1. Adopts and opens for signature and ratification the Convention annexed to the present resolution;
2. Invites States referred to in Article 17 of the Convention to sign and ratify the Convention without any delay;
3. Requests the Governments of States and non-governmental organizations to publicize the text of the Convention as widely as possible, using every means at their disposal, including all the appropriate media of information;
4. Requests the Secretary-General to ensure the immediate and wide circulation of the Convention and to that end to publish and distribute its text;
5. Requests the Secretary-General to submit to the General Assembly reports concerning the state of ratifications of the Convention which will be considered by the General Assembly at future sessions as a separate agenda item.

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ANNEX

International Convention on the Elimination of All Forms of
Racial Discrimination

The States Parties to this Convention,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action in co-operation with the Organization for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinctions of any kind, in particular as to race, colour or national origin,

Considering that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

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Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

Convinced that the existence of racial barriers is repugnant to the ideals of any human society,

Alarmed by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

Resolved to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

Bearing in mind the Convention on Discrimination in Respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention Against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

PART I

Article 1

1. In this Convention the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the /...

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recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

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

3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.

4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure to such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms, and promoting understanding among all races, and to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multi-racial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

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2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 3

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate, in territories under their jurisdiction, all practices of this nature.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination, and to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

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Article 5

In compliance with the fundamental obligations laid down in article 2, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(a) The right to equal treatment before the tribunals and all other organs administering justice;

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group or institution;

(c) Political rights, in particular the rights to participate in elections to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

(i) the right to freedom of movement and residence within the border of the State;

(ii) the right to leave any country, including his own, and to return to his country;

(iii) the right to nationality;

(iv) the right to marriage and choice of spouse;

(v) the right to own property alone as well as in association with others;

(vi) the right to inherit;

(vii) the right to freedom of thought, conscience and religion;

(viii) the right to freedom of opinion and expression;

(ix) the right to freedom of peaceful assembly and association;

(e) Economic, social and cultural rights, in particular:

(i) the rights to work, free choice of employment, just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration;

(ii) the right to form and join trade unions;

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- (iii) the right to housing;
- (iv) the right to public health, medical care and social security and social services;
- (v) the right to education and training;
- (vi) the right to equal participation in cultural activities;
- (f) The right of access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafés, theatres, parks.

Article 6

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 racial discrimination 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.

Article 7

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 racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of 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 this Convention.

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PART II

Article 8

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties from amongst their nationals who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilizations as well as of the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated indicating the States Parties which have nominated them and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at the Headquarters of the United Nations. At that meeting, for which two-thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
5. (a) The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
(b) For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its national subject to the approval of the Committee.

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6. The States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 9

1. The States Parties undertake to submit to the Secretary-General for consideration by the Committee a report on the legislative, judicial, administrative, or other measures that they have adopted and that give effect to the provisions of this Convention: (a) within one year after the entry into force of the Convention for the State concerned; and (b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.

2. The Committee shall report annually through the Secretary-General to the General Assembly on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

Article 10

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.
3. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.
4. The meetings of the Committee shall normally be held at the Headquarters of the United Nations.

Article 11

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

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2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee by notice given to the Committee and also to the other State.
3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.
4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.
5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Article 12

1. (a) After the Committee has obtained and collated all the information it thinks necessary, the Chairman shall appoint an ad hoc Conciliation Commission (hereinafter referred to as "the Commission") comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution to the matter on the basis of respect for this Convention.
(b) If the States parties to the dispute fail to reach agreement on all or part of the composition of the Commission within three months, the members of the Commission not agreed upon by the States parties to the dispute shall be elected by two-thirds majority vote by secret ballot of the Committee from among its own members.
2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States parties to the dispute or of a State not Party to this Convention.

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3. The Commission shall elect its own Chairman and adopt its own rules of procedure.
4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations, or at any other convenient place as determined by the Commission.
5. The secretariat provided in accordance with article 10, paragraph 3, shall also service the Commission whenever a dispute among States Parties brings the Commission into being.
6. The States parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General.
7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States parties to the dispute in accordance with paragraph 6 of this article.
8. The information obtained and collated by the Committee shall be made available to the Commission and the Commission may call upon the States concerned to supply any other relevant information.

Article 13

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.
2. The Chairman of the Committee shall communicate the report of the Commission to each of the States parties to the dispute. These States shall within three months inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.
3. After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of States Parties concerned to the other States Parties to this Convention.

Article 14

1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups

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of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. Any State Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.

3. A declaration made in accordance with paragraph 1 of this article and the name of any body established or indicated in accordance with paragraph 2 of this article, shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.

4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.

5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.

6. (a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications.

(b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

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7. (a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged.

(b) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations.

9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph 1 of this article.

Article 15

1. Pending the achievement of the objectives of General Assembly resolution 1514 (XV) of 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

2. (a) The Committee established under article 8, paragraph 1, shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing Territories, and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies.

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(b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the administering Powers within the territories mentioned in sub-paragraph (a) of this paragraph and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee related to the said petitions and reports.

4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the territories mentioned in paragraph 2 (a) of this article.

Article 16

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or in conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

PART III

Article 17

1. This Convention is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to this Convention.

2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

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Article 18

1. This Convention shall be open to accession by any State referred to in article 17, paragraph 1.
2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 19

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification or instrument of accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 20

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

Article 21

Any dispute between two or more States Parties over the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall at the request of any of the parties to the dispute be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

Article 22

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General.
2. The General Assembly shall decide upon the steps, if any, to be taken in respect of such a request.

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Article 23

The Secretary-General of the United Nations shall inform all States referred to in article 17, paragraph 1, of the following particulars:

- (a) Signatures, ratifications and accessions under articles 17 and 18;
- (b) The date of entry into force of this Convention under article 19;
- (c) Communications and declarations received under articles 14 and 22;
- (d) Denunciations under article 20.

Article 24

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in article 17, paragraph 1.

B

The General Assembly,

Recalling the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in its resolution 1514 (XV) of 14 December 1960,

Bearing in mind General Assembly resolution 1654 (XVI) of 27 November 1961, which established the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to examine the application of the Declaration and to carry out its provisions by all means at its disposal,

Bearing in mind also the provisions of article 15 of the Convention on the Elimination of All Forms of Racial Discrimination adopted by the General Assembly on __ December 1965,

Recalling that the General Assembly has established other bodies to receive and examine petitions from the peoples of colonial countries,

Convinced that close co-operation between the Committee established by the Convention on the Elimination of All Forms of Racial Discrimination and the bodies

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of the United Nations charged with receiving and examining petitions from the peoples of colonial countries will facilitate the achievement of the objectives of both the Convention and the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Recognizing that elimination of racial discrimination in all its forms is vital to the achievement of fundamental human rights and assurance of the dignity and worth of the human person, and thus constitutes a pre-emptory obligation under the Charter of the United Nations,

1. Calls upon the Secretary-General, periodically or upon request of the Committee, to make available to the Committee established by the Convention on the Elimination of All Forms of Racial Discrimination, all information in his possession relevant to article 15 of the said Convention;

2. Requests the Special Committee on the Situation with regard to the Implementation of the Granting of Independence to Colonial Countries and Peoples, and all other bodies of the United Nations authorized to receive and examine petitions from the peoples of the colonial countries, to transmit to the Committee established by the Convention, periodically or upon request of the Committee, copies of petitions from these peoples relevant to the Convention, for the comments and recommendations of the said Committee;

3. Requests the bodies referred to in operative paragraph 2 above to include in their annual reports to the General Assembly a summary of actions taken by them under the terms of the present resolution.

Annex 92

International Convention on the Elimination of All Forms
of Racial Discrimination, 660 U.N.T.S. 195
(21 December 1965) (entered into force 4 January 1969)
(authentic English text)

**INTERNATIONAL CONVENTION
ON THE ELIMINATION
OF ALL FORMS
OF RACIAL DISCRIMINATION**



UNITED NATIONS
1966

International Convention on the Elimination of All Forms of Racial Discrimination

The States Parties to this Convention,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Considering that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1965 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

Convinced that the existence of racial barriers is repugnant to the ideals of any human society,

Alarmed by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

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Resolved to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

Bearing in mind the Convention concerning Discrimination in respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

PART I

Article 1

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.
3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.
4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multi-racial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 3

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(a) The right to equal treatment before the tribunals and all other organs administering justice;

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution;

(c) Political rights, in particular the rights to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

(i) The right to freedom of movement and residence within the border of the State;

(ii) The right to leave any country, including one's own, and to return to one's country;

(iii) The right to nationality;

(iv) The right to marriage and choice of spouse;

(v) The right to own property alone as well as in association with others;

(vi) The right to inherit;

(vii) The right to freedom of thought, conscience and religion;

(viii) The right to freedom of opinion and expression;

(ix) The right to freedom of peaceful assembly and association;

(e) Economic, social and cultural rights, in particular:

(i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;

(ii) The right to form and join trade unions;

- (iii) The right to housing;
- (iv) The right to public health, medical care, social security and social services;
- (v) The right to education and training;
- (vi) The right to equal participation in cultural activities;
- (g) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, theatres and parks.

Article 6

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 racial discrimination 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.

Article 7

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 racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of 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 this Convention.

PART II

Article 8

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties from among their nationals, who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

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4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two-thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. (a) The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

(b) For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

6. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 9

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention:

(a) within one year after the entry into force of the Convention for the State concerned; and

(b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.

2. The Committee shall report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

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3. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

4. The meetings of the Committee shall normally be held at United Nations Headquarters.

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1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee by notifying the Committee and also the other State.
3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.
4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.
5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Article 12

1. (a) After the Committee has obtained and collated all the information it deems necessary, the Chairman shall appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission) comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for this Convention.
(b) If the States parties to the dispute fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission not agreed upon by the States parties to the dispute shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its own members.
2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States parties to the dispute or of a State not Party to this Convention.
3. The Commission shall elect its own Chairman and adopt its own rules of procedure.
4. The meetings of the Commission shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Commission.
5. The secretariat provided in accordance with article 10, paragraph 3, of this Convention shall also service the Commission whenever a dispute among States Parties brings the Commission into being.

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6. The States parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.
7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States parties to the dispute in accordance with paragraph 6 of this article.
8. The information obtained and collated by the Committee shall be made available to the Commission, and the Commission may call upon the States concerned to supply any other relevant information.

Article 13

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.
2. The Chairman of the Committee shall communicate the report of the Commission to each of the States parties to the dispute. These States shall, within three months, inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.
3. After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of the States Parties concerned to the other States Parties to this Convention.

Article 14

1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.
2. Any State Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.

3. A declaration made in accordance with paragraph 1 of this article and the name of any body established or indicated in accordance with paragraph 2 of this article shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.
4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.
5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.
6. (a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications.
(b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
7. (a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged.
(b) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.
8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations.
9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph 1 of this article.

Article 15

1. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

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2. (a) The Committee established under article 8, paragraph 1, of this Convention shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies.

(b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the administering Powers within the Territories mentioned in sub-paragraph (a) of this paragraph, and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee relating to the said petitions and reports.

4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the Territories mentioned in paragraph 2 (a) of this article.

Article 16

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or in conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

PART III

Article 17

1. This Convention is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention.

2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall be open to accession by any State referred to in article 17, paragraph 1, of the Convention.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 19

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification or instrument of accession.

2. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 20

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become Parties to this Convention reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of ninety days from the date of the said communication, notify the Secretary-General that it does not accept it.

2. A reservation incompatible with the object and purpose of this Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of any of the bodies established by this Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two-thirds of the States Parties to this Convention object to it.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General. Such notification shall take effect on the date on which it is received.

Article 21

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

Article 22

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

Article 23

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

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2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 24

The Secretary-General of the United Nations shall inform all States referred to in article 17, paragraph 1, of this Convention of the following particulars:

- (a) Signatures, ratifications and accessions under articles 17 and 18;
- (b) The date of entry into force of this Convention under article 19;
- (c) Communications and declarations received under articles 14, 20 and 23;
- (d) Denunciations under article 21.

Article 25

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in article 17, paragraph 1, of the Convention.

IN FAITH WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Convention, opened for signature at New York, on the seventh day of March, one thousand nine hundred and sixty-six.

Annex 93

Human Rights Committee, *CCPR General Comment No.
15: The Position of Aliens Under the Covenant*
(11 April 1986)

Twenty-seventh session (1986)

General comment No. 15: The position of aliens under the Covenant

1. Reports from States parties have often failed to take into account that each State party must ensure the rights in the Covenant to “all individuals within its territory and subject to its jurisdiction” (art. 2, para. 1). In general, the rights set forth in the Covenant apply to everyone, irrespective of reciprocity, and irrespective of his or her nationality or statelessness.
2. Thus, the general rule is that each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens. Aliens receive the benefit of the general requirement of non-discrimination in respect of the rights guaranteed in the Covenant, as provided for in article 2 thereof. This guarantee applies to aliens and citizens alike. Exceptionally, some of the rights recognized in the Covenant are expressly applicable only to citizens (art. 25), while article 13 applies only to aliens. However, the Committee’s experience in examining reports shows that in a number of countries other rights that aliens should enjoy under the Covenant are denied to them or are subject to limitations that cannot always be justified under the Covenant.
3. A few constitutions provide for equality of aliens with citizens. Some constitutions adopted more recently carefully distinguish fundamental rights that apply to all and those granted to citizens only, and deal with each in detail. In many States, however, the constitutions are drafted in terms of citizens only when granting relevant rights. Legislation and case law may also play an important part in providing for the rights of aliens. The Committee has been informed that in some States fundamental rights, though not guaranteed to aliens by the Constitution or other legislation, will also be extended to them as required by the Covenant. In certain cases, however, there has clearly been a failure to implement Covenant rights without discrimination in respect of aliens.
4. The Committee considers that in their reports States parties should give attention to the position of aliens, both under their law and in actual practice. The Covenant gives aliens all the protection regarding rights guaranteed therein, and its requirements should be observed by States parties in their legislation and in practice as appropriate. The position of aliens would thus be considerably improved. States parties should ensure that the provisions of the Covenant and the rights under it are made known to aliens within their jurisdiction.
5. The Covenant does not recognize the right of aliens to enter or reside in the territory of a State party. It is in principle a matter for the State to decide who it will admit to its territory. However, in certain circumstances an alien may enjoy the protection of the Covenant even in relation to entry or residence, for example, when considerations of non-discrimination, prohibition of inhuman treatment and respect for family life arise.
6. Consent for entry may be given subject to conditions relating, for example, to movement, residence and employment. A State may also impose general conditions upon an alien who is in transit. However, once aliens are allowed to enter the territory of a State party they are entitled to the rights set out in the Covenant.
7. Aliens thus have an inherent right to life, protected by law, and may not be arbitrarily deprived of life. They must not be subjected to torture or to cruel, inhuman or degrading treatment or punishment; nor may they be held in slavery or servitude. Aliens have the full right to liberty and

security of the person. If lawfully deprived of their liberty, they shall be treated with humanity and with respect for the inherent dignity of their person. Aliens may not be imprisoned for failure to fulfil a contractual obligation. They have the right to liberty of movement and free choice of residence; they shall be free to leave the country. Aliens shall be equal before the courts and tribunals, and shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law in the determination of any criminal charge or of rights and obligations in a suit at law. Aliens shall not be subjected to retrospective penal legislation, and are entitled to recognition before the law. They may not be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence. They have the right to freedom of thought, conscience and religion, and the right to hold opinions and to express them. Aliens receive the benefit of the right of peaceful assembly and of freedom of association. They may marry when at marriageable age. Their children are entitled to those measures of protection required by their status as minors. In those cases where aliens constitute a minority within the meaning of article 27, they shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion and to use their own language. Aliens are entitled to equal protection by the law. There shall be no discrimination between aliens and citizens in the application of these rights. These rights of aliens may be qualified only by such limitations as may be lawfully imposed under the Covenant.

8. Once an alien is lawfully within a territory, his freedom of movement within the territory and his right to leave that territory may only be restricted in accordance with article 12, paragraph 3. Differences in treatment in this regard between aliens and nationals, or between different categories of aliens, need to be justified under article 12, paragraph 3. Since such restrictions must, *inter alia*, be consistent with the other rights recognized in the Covenant, a State party cannot, by restraining an alien or deporting him to a third country, arbitrarily prevent his return to his own country (art. 12, para. 4).

9. Many reports have given insufficient information on matters relevant to article 13. That article is applicable to all procedures aimed at the obligatory departure of an alien, whether described in national law as expulsion or otherwise. If such procedures entail arrest, the safeguards of the Covenant relating to deprivation of liberty (arts. 9 and 10) may also be applicable. If the arrest is for the particular purpose of extradition, other provisions of national and international law may apply. Normally an alien who is expelled must be allowed to leave for any country that agrees to take him. The particular rights of article 13 only protect those aliens who are lawfully in the territory of a State party. This means that national law concerning the requirements for entry and stay must be taken into account in determining the scope of that protection, and that illegal entrants and aliens who have stayed longer than the law or their permits allow, in particular, are not covered by its provisions. However, if the legality of an alien's entry or stay is in dispute, any decision on this point leading to his expulsion or deportation ought to be taken in accordance with article 13. It is for the competent authorities of the State party, in good faith and in the exercise of their powers, to apply and interpret the domestic law, observing, however, such requirements under the Covenant as equality before the law (art. 26).

10. Article 13 directly regulates only the procedure and not the substantive grounds for expulsion. However, by allowing only those carried out "in pursuance of a decision reached in accordance with law", its purpose is clearly to prevent arbitrary expulsions. On the other hand, it

entitles each alien to a decision in his own case and, hence, article 13 would not be satisfied with laws or decisions providing for collective or mass expulsions. This understanding, in the opinion of the Committee, is confirmed by further provisions concerning the right to submit reasons against expulsion and to have the decision reviewed by and to be represented before the competent authority or someone designated by it. An alien must be given full facilities for pursuing his remedy against expulsion so that this right will in all the circumstances of his case be an effective one. The principles of article 13 relating to appeal against expulsion and the entitlement to review by a competent authority may only be departed from when "compelling reasons of national security" so require. Discrimination may not be made between different categories of aliens in the application of article 13.

Annex 94

Twitter Post, Regarding Discrimination on Nationality,
@UNHumanRights (30 January 2017 at 3:47 a.m.)



UN Human Rights ✓

@UNHumanRights

Follow



"Discrimination on nationality alone is forbidden under #humanrights law" - @UNHumanRights Chief #Zeid



3:47 AM - 30 Jan 2017

6,145 Retweets 8,423 Likes



310 6.1K 8.4K

Annex 95

OHCHR, *Demand for Qatar to close Al-Jazeera “a major blow to media pluralism”- United Nations expert* (28 June 2017), available at <https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=21808&LangID=E>.

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Demand for Qatar to close Al-Jazeera “a major blow to media pluralism” – UN expert

GENEVA (28 June 2017) – The reported demand by a number of governments that Qatar close the Al-Jazeera media network in exchange for the lifting of sanctions would strike a major blow against media pluralism in a region already suffering from severe restrictions on reporting and media of all kinds, said the UN Special Rapporteur on freedom of opinion and expression, David Kaye.

“This demand represents a serious threat to media freedom if States, under the pretext of a diplomatic crisis, take measures to force the dismantling of Al-Jazeera,” Mr. Kaye said.

The closure of Al-Jazeera is reportedly included in a list of 13 demands issued to Qatar by the governments of Saudi Arabia, Bahrain, Egypt and the United Arab Emirates, which are currently enforcing an economic blockade of Qatar. The list has not been publicly announced by the four States, but a number of international media organisations have obtained it and Qatari sources have confirmed its authenticity.

The demand to close Al-Jazeera also affects its affiliated channels, including Arab 21, the New Arab, Sharq and the Middle East Eye. Qatar has been given 10 days to comply.

Mr. Kaye said everyone’s right to access information was deeply affected when the safety and the freedom of the media was not secured.

“I call on the international community to urge these governments not to pursue this demand against Qatar, to resist taking steps to censor media in their own territory and regionally, and to encourage support for independent media in the Middle East,” he said.

ENDS

Mr. David Kaye (USA) was appointed as Special Rapporteur *on the promotion and protection of the right to freedom of opinion and expression* in August 2014 by the UN Human Rights Council. As Special Rapporteur, Mr. Kaye is part of what is known as the *Special Procedures* of the Human Rights Council. *Special Procedures*, the largest body of independent experts in the UN Human Rights system, is the general name of the Council’s independent fact-finding and monitoring mechanisms that address either specific country situations or thematic issues in all parts of the world. *Special Procedures’* experts work on a voluntary basis; they are not UN staff and do not receive a salary for their work. They are independent from any government or organization and serve in their individual capacity.

For more information and media requests please contact Ms. Azin Tadjini (+41 22 917 9400 / atadjini@ohchr.org) or write to freedex@ohchr.org.

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Annex 96

OHCHR, Qatar diplomatic crisis: Comment by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein on impact on human rights (14 June 2017), available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21739&LangID=E>

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Qatar diplomatic crisis

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Comment by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein on impact on human rights

GENEVA (14 June 2017) - "I am alarmed about the possible impact on many people's human rights in the wake of the decision by Saudi Arabia, the United Arab Emirates (UAE), Egypt and Bahrain to cut diplomatic and economic ties with Qatar.

It is becoming clear that the measures being adopted are overly broad in scope and implementation, and have the potential to seriously disrupt the lives of thousands of women, children and men, simply because they belong to one of the nationalities involved in the dispute. Saudi Arabia, the UAE and Bahrain have issued directives to address the humanitarian needs of families with joint nationalities, but it appears that these measures are not sufficiently effective to address all cases.

We are receiving reports that specific individuals have already been summarily instructed to leave the country they are residing in, or have been ordered to return home by their own Government. Among those likely to be badly affected are couples in mixed marriages, and their children; people with jobs or businesses based in States other than that of their nationality; and students studying in another country.

I am also extremely troubled to hear that the UAE and Bahrain are threatening to jail and fine people who express sympathy for Qatar or opposition to their own governments' actions, as this would appear to be a clear violation of the right to freedom of expression or opinion.

I urge all the States involved to solve this dispute as quickly as possible through dialogue, to refrain from any actions that could affect the well-being, health, employment and integrity of their inhabitants, and to respect their obligations under international human rights law."

ENDS

For more information and media requests, please contact Rupert Colville (+41 22 917 97 67 / rcolville@ohchr.org) or Ravina Shamdasani (+41 22 917 91 69 / rshamdasani@ohchr.org) or Liz Throssell (+41 22 917 9466 / ethrossell@ohchr.org)

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Annex 97

Joint Communication from Special Procedures Mandate Holders of the Human Rights Council to the United Arab Emirates, document UA ARE 5/2017 (18 August 2017)

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on the promotion and protection of human rights while countering terrorism; and the Special Rapporteur on the right to education.

REFERENCE:
UA ARE 5/2017

18 August 2017

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the human rights of migrants; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on the promotion and protection of human rights while countering terrorism; and Special Rapporteur on the right to education, pursuant to Human Rights Council resolutions 34/18, 33/9, 34/21, 34/35, 31/3, and 26/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **adverse situation and the violations of human rights of Qatari migrants in the United Arab Emirates, as well as Emirati migrants in the State of Qatar as a result of the United Arab Emirates government's decision to suspend ties with the State of Qatar, particularly their right to movement and residence, family unity, education, work, freedom of expression, health and the right to property, without discrimination on any basis.**

According to the information received:

On 5 June 2017, the United Arab Emirates severed ties with the State of Qatar. This involved the closure of air, land, and sea routes, in relation to both trade and migrant residents. Qatari nationals were ordered to leave the United Arab Emirates within 14 days, whilst Emirati citizens were given the same timeframe to leave the State of Qatar. An estimated 784 Emirati nationals are allegedly residing in the State of Qatar. This order has threatened the most vulnerable groups, including women, children, persons with disabilities and older persons. The Government of Qatar has reportedly not taken action against Emirati citizens.

Mixed-citizenship families have been affected and the order has caused Emirati-Qatari families to be separated. Divorced Emirati women living in the State of Qatar whose children have Qatari nationality from their father, are prevented to return to Qatar. The Emirati order has reportedly affected Qatari women married

to approximately 556 Emirati men, as well as Qatari men married to approximately 3,138 Emirati women. This order threatens to leave children, women, older persons, sick and persons with disabilities separated from other family members and in loss of assistance, support and income. Emirati nationals living in Qatar married to Qatari women are forced to return to the United Arab Emirates, leaving behind their families and quit their work with no source of income or compensation. Furthermore, the United Arab Emirates has allegedly limited the citizens and residents of the State of Qatar from undertaking financial transfers and postal transactions, thereby blocking financial transfers to dependent family members, including women and children.

On 11 June 2017, the United Arab Emirates issued a royal order to take into account the humanitarian situation of mixed Emirati-Qatari families who were affected by the ban. However, no implementation mechanism has been indicated. Furthermore, there has been no compensation or alternatives offered to families and individuals who have had their human rights violated and been affected by the blockade.

Emirati nationals working in the State of Qatar, as well as Qatari nationals working in the United Arab Emirates risk losing their jobs following the issued instructions by the Emirati authorities to leave their jobs and return to their homeland. Individuals who are dependent on the travel between Qatar and the United Arab Emirates have also reportedly been affected. For those completely financially reliant on the flow between both countries, this order has led to a cutting of their only source of income. For example, business owners have allegedly had their income levels affected as a result of the halt of trading convoys, and the expiration of large quantities of food or health supplies. Reportedly, Emirati nationals working in the public and private sectors in Qatar have also been forced to return to the United Arab Emirates resulting in the loss of employment without compensation. Similarly, Qatari nationals working in the United Arab Emirates have also lost their employment without compensation.

Furthermore, migrant workers relying on free movement between both countries have allegedly lost their jobs and proper compensation has not been ensured. Individuals who possess property – from clothing and furniture, to cars or real estate business – are allegedly denied access to their belongings. Following the 5 June 2017 order, assets and property have reportedly been confiscated, consequently prohibiting Qatari migrants from using their property or disposing of it. Qatari migrants fear losing their belongings and are uncertain about the future for their properties.

Emirati migrants in the State of Qatar working in media outlets have allegedly been pressured to resign from their jobs by the United Arab Emirates. Those who

have not yet submitted their resignation have allegedly been pressured to do so by the Emirati authorities. In addition, the United Arab Emirates has reportedly imposed penalties of up to 15 years imprisonment and fines of up to 500,000 dirhams for “sympathising with Qatar”, through a word, a “like” on social media, or a tweet.

Qatari migrant students in the United Arab Emirates and Emirati migrant students in the State of Qatar pursuing their studies in schools or universities have been prohibited from doing so because of the order asking them to leave their country of residence. Emirati students in the State of Qatar have had their exams postponed to allow for them to take their exams at a later date. This has allegedly not been the case for Qatari nationals studying in the the United Arab Emirates, who have been unable to complete their exams and obtaining educational documents from their university in the United Arab Emirates.

As a result of the order for Emirati nationals to leave Qatar, Emirati migrants, including children, older persons or persons with disabilities, that were being treated in hospitals in the State of Qatar in need of specialised or with ongoing treatment, have allegedly been asked to return to the United Arab Emirates. Similarly, Qatari migrants residing in the United Arab Emirates, have allegedly had their treatments halted and their health subsequently impacted.

While we do not wish to prejudge the accuracy of these allegations, and given the harm this order has on thousands of Qatari residents in the United Arab Emirates and Emirati residents in the State of Qatar, we consider the alleged situation of extreme gravity. Serious concerns are expressed at the numerous rights being infringed, including the right to movement and residence, family reunification, education, work, freedom of expression, health, freedom of religious practice, and the right to private property, without discrimination on any basis.

In connection to the above alleged facts and concerns, we would like to draw the attention of your Excellency’s Government’s to its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child and the regional Arab Charter on Human Rights. We would like to recall that, while States have a sovereign right to determine conditions of entry and stay in their territories, they also have an obligation to respect and protect the human rights of all individuals under their jurisdiction, regardless of their nationality, origin or immigration status.

We would like to bring to the attention of your Excellency’s Government Article 7 of the Universal Declaration of Human Rights (UDHR) that states that ‘All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this

Declaration and against any incitement to such discrimination.’ We would furthermore like to stress the obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), acceded to by the United Arab Emirates on 20 June 1974. Article 5 provides for the enjoyment of civil rights including: the right to freedom of movement and residence within the border of the State; the right to leave any country, including one’s own, and to return to one’s country; the right to own property; and, the right to freedom of opinion and expression. It further provides for the enjoyment of economic, social and cultural rights, including: the rights to work, to free choice of employment, and to protection against unemployment; the right to housing; the right to public health, medical care, social security and social services; the right to education and training; and, the right of access to any place or service intended for use by the general public, such as transport and hotels.

Furthermore, we would like to bring your attention to the International Convention on the Elimination of All Forms of Discrimination’s General Recommendation No. 30 on discrimination against non-citizens. In specific, the State Party should “ensure that non-citizens are not subject to collective expulsion, in particular in situations where there are insufficient guarantees that the personal circumstances of each of the persons concerned have been taken into account”. In addition, it should “avoid expulsions of non-citizens, especially of long-term residents, that would result in disproportionate interference with the right to family life”. State Parties should “ensure that States parties respect the right of non-citizens to an adequate standard of physical and mental health by, inter alia, refraining from denying or limiting their access to preventive, curative and palliative health services”.

We would like to bring your attention to Article 9 and Article 12 of the UDHR that stipulate that “no one shall be subject to arbitrary arrest, detention or exile”. Article 13 articulates that “everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and to return to his country”. Your Excellency’s Government has further obligations under the Arab Charter on Human Rights (ACHR), ratified by your Excellency’s Government on 16 January 2008, Article 26 that provides that “every person lawfully within the territory of a State Party shall, within the territory, have the right to liberty of movement and freedom to choose his residence in accordance with applicable regulations”. Article 27 further articulates that “no one shall be arbitrarily or unlawfully prevented from leaving any country, including his own, nor prohibited from residing, or compelled to reside, in any part of his country”.

We would also like to stress that Article 19 of the UDHR provides that everyone has the right to freedom of opinion and expression, including the freedom to seek, receive and impart information and ideas through any media and regardless of frontiers. This right applies to “everyone”, regardless of their citizenship or any other status. Its guarantee regardless of frontiers is further stipulated in Article 32 of the ACHR.

Article 23 of the UDHR further expresses the right of everyone “to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment”. Furthermore, the ACHR, articulates the right to work in Article 34, which provides for the freedom to work and equality of opportunity without discrimination of any kind as to any statuses, including national origin. It states that every worker has the right to enjoy “just and favourable conditions of work”, and every State Party shall ensure protection to workers migrating to its territory in accordance with the laws”. Further, Article 31 of ACHR provides everyone with “a guaranteed right to own private property”. It further provides that “no person shall under any circumstances be divested of all or any part of his property in an arbitrary or unlawful manner”.

Concerning the family separation, especially of widowed and divorced women from their children, we would like to refer to the rights of women. We would further like to refer your Excellency’s Government to Article 16 of the UDHR that states that “the family is the natural and fundamental group unit of society and is entitled to protection by the society and the State”. It provides that the State Party shall take appropriate measures within its available resources to ensure the realization of this right. Furthermore, Article 10 of the Convention on the Rights of the Child (CRC), to which the United Arab Emirates acceded to on 3 January 1997, which establishes, inter alia, that “applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by State Parties in a positive, humane and expeditious manner”. This should be read in the light of Article 3 of the Convention which provides that the best interests of the child shall be a primary consideration. In this connection, I would like to recall to your Excellency’s Government Paragraph 10 of the General Assembly Resolution 62/156 which “urges States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations and take into account, in conformity with their international obligations and commitments, the principle of the best interest of the child and family reunification”. Moreover, Article 9 of CRC provides that States Parties “shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child”.

The aforementioned rights are raised again in the ACHR. It states in Article 33 that the family is the natural and fundamental unit of society. The State and society are obliged to provide for the protection of the family and its members, for the strengthening of its bonds. They undertake to provide outstanding care and special protection for mothers, children and the elderly. Young persons have the right to be ensured “maximum opportunities for physical and mental development”.

Furthermore, we would like to refer to Article 16 of the CRC that stipulates that “no child shall be subjected to arbitrary or unlawful interference with his or her privacy,

family, home or correspondence, nor to unlawful attacks on his or her honour and reputation". The right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health is recognized in Article 24. It further states that States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. In addition, Article 28 provides that State Parties recognize the right of the child to education, ensuring in particular that primary education is compulsory and available free to all, and take measures to encourage regular attendance at schools and the reduction of drop-out rates.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. What measures have been taken to ensure that families with mixed Emirati-Qatari nationalities are prevented from separation?
3. How has the right to health been guaranteed in relation to Emirati migrants living in the State of Qatar and Qatari nationals residing in the United Arab Emirates?
4. What actions have been taken to guarantee access to education for Qatari migrant students in the United Arab Emirates, as well as Emirati migrant students in the State of Qatar to pursue their education at schools and universities, without discrimination on any basis?
5. Please provide information on the compliance with international and regional instruments in guaranteeing the right of freedom of movement and residence.
6. Has compensation been provided to migrants, particularly those who own property and businesses, affected by the severed relations between the United Arab Emirates and the State of Qatar?

7. Please provide information on how the criminalization of online expression based on grounds of “sympathizing with Qatar” is applied and enforced, and explain how this is legal basis for restricting expression is compatible with international human rights standards.
8. What measures have been taken to guarantee the aforementioned human rights of migrants, without discrimination on any basis, in compliance with your government’s obligations under international law?

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations. We further urge your Excellency’s Government to take all necessary steps to ensure the rights of persons affected by the severed ties and mobility ban are respected.

We wish to inform you that a letter with similar content has been sent to the authorities of Bahrain and the Kingdom of Saudi Arabia.

Your Excellency’s Government’s response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Felipe González Morales
Special Rapporteur on the human rights of migrants

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Dainius Pūras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health

Mutuma Ruteere
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia
and related intolerance

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights while countering
terrorism

Koumbou Boly Barry
Special Rapporteur on the right to education

Annex 98

OHCHR Technical Mission to the State of Qatar,
*Report On the impact of the Gulf Crisis on human
rights* (December 2017), available at [http://nhrc-qa.org/
wp-content/uploads/2018/01/OHCHR-TM-REPORT-
ENGLISH.pdf](http://nhrc-qa.org/wp-content/uploads/2018/01/OHCHR-TM-REPORT-ENGLISH.pdf)



**OHCHR TECHNICAL MISSION TO
THE STATE OF QATAR
17- 24 November 2017**

**Report
On the impact of the Gulf Crisis on human rights
December 2017**

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I. Introduction

1. Since the Governments of the Kingdom of Saudi Arabia (KSA), the United Arab Emirates (UAE), the Kingdom of Bahrain and Arab Republic of Egypt (*hereafter the Quartet*) took the decision, on 5 June 2017, to cut diplomatic ties with the State of Qatar, OHCHR has been closely monitoring the consequences of that decision on the enjoyment of human rights. On 14 June, the High Commissioner issued a press statement urging “*all the States involved to solve this dispute as quickly as possible through dialogue, to refrain from any actions that could affect the well-being, health, employment and integrity of their inhabitants, and to respect their obligations under international human rights law*”. He further held meetings with the Quartet’s Permanent Representatives in Geneva, urging them to take immediate corrective measures, including by establishing hotlines to look into individual cases.

2. Various international human rights organizations and mechanisms have expressed concern about the detrimental impact of the decision on individuals’ civil, political, social, economic and cultural rights. The National Human Rights Committee (NHRC) of Qatar has been very active in monitoring and documenting allegations of human rights violations reported to them by Qatari citizens and residents since 5 June, particularly those living in neighbouring countries.

3. On 14 September 2017, the Chairperson of the NHRC invited the High Commissioner to dispatch a technical mission to Qatar, as soon as possible, to assess the impact of the crisis on human rights. Subsequently, the Middle East and North Africa (MENA) Section informed the Permanent Missions of KSA, UAE and Bahrain about the invitation, expressing the readiness to conduct similar missions. The MENA Section further informed the United Nations Department of Political Affairs, the United Nations Task Force on the Gulf crisis and other relevant actors about OHCHR’s engagement with the States concerned.

4. Consequently, an OHCHR team (*hereafter the Team*) visited Qatar from 17 March to 24 November 2017, with the following objectives:

- i. To engage with Government institutions, the NHRC, civil society representatives and other actors, with a view to gathering information about the impact of the ongoing crisis on human rights;
- ii. To explore opportunities to provide technical assistance to national actors, including the NHRC, and;
- iii. To report to the High Commissioner and recommend concrete actions.

5. The mission was facilitated by the NHRC, whose support was highly appreciated. The

team also met with representatives of the Ministries of Foreign Affairs; Defence; Interior; Economy and Trade; Administrative Development, Labour and Social Affairs; Education; Health; Religious Affairs; the Customs Authority; the Chamber of Commerce; the Qatar University; the Qatar Foundation; the Director of the Salwa crossing point with Saudi Arabia; the Qatar News Agency, editors in chiefs of all main local newspapers, staff of *Al Jazeera* and the High Audio-visual Authority; the compensation claims commission (established to provide legal advice to individuals filing claims related to the crisis); migrant communities, and Qatar Airways. The team also met with the regional representatives of UNESCO and UNODC.

6. Moreover, based on cases filed with the NHRC, the team interviewed about 40 individuals to get a better understanding of their situation. It also reviewed a large number of other cases, documents and data provided by various entities.

II. Background

7. Although rooted in long-standing tensions among KSA, UAE and Qatar in particular, the emergence of the current crisis has been attributed to comments aired initially in Qatari media on 24 May 2017, reportedly made by the Emir of Qatar, denouncing the hostile remarks made by the President of the United States of America towards Iran during his visit to KSA. The Government of Qatar has declared that these statements were planted by hackers. The Governments of KSA, UAE, Bahrain and Egypt have dismissed this explanation.

8. On 5 June 2017, the Governments of KSA, UAE, Bahrain and Egypt announced they were cutting diplomatic ties with the State of Qatar, ordering their citizens to leave Qatar, declaring a ban on all travel to and from Qatar, and instructing Qatari residents and visitors to leave their territories within 14 days. The four States gave Qatari diplomats 48 hours to evacuate. While the Governments of KSA, UAE and Bahrain withdrew their diplomatic personnel from Qatar, Egypt maintained a limited number of staff under the protection of the Embassy of Greece in Doha. Qatar was subsequently expelled from the Saudi-led coalition on Yemen. Kuwait and Oman have remained neutral, with Kuwait engaging in mediation efforts to solve the crisis.

9. As of 5 June, the Governments of KSA, UAE and Bahrain closed all air, sea and land transportation links with Qatar. These measures have had a significant impact on Qatar's economy and residents, particularly during the first weeks of the crisis due to the considerable dependence of the country on KSA and the UAE.

10. While the Emir of Kuwait endeavoured to engage with all the States concerned so as to ease tensions and avoid any escalation, dialogue appears to have stalled. Many people met by

the team expressed disappointment with the passivity of regional organizations, notably the Organization of Islamic Cooperation and the League of Arab States. The crisis has generated particular distrust in the Gulf Cooperation Council (GCC) which had thus far been the medium of numerous cooperation agreements among its members.

11. On 9 June, the Quartet designated 59 individuals and 12 institutions alleged to have financed terrorist organizations and to have received support from Qatar. On 23 June, and according to online reports, the Quartet further issued a 10-day ultimatum on Qatar to abide by a list of 13 demands, including closing down Al Jazeera among other things, cutting diplomatic and commercial ties with Iran, shutting down the Turkish military base in Qatar and, ending any form of support and assistance to the Muslim Brotherhood. On 5 July, the Quartet replaced this initial list of demands with six broader “principles” that still include the shutting down of the permanent Turkish military base in Qatar, and the closure of Al Jazeera and other Qatar-backed news outlets which the Quartet accuses of spreading extremist views and providing platforms for dissidents.

III. Main human rights issues arising from the crisis

12. The 5 June decision and related measures undertaken by the Quartet had immediate negative, intertwined effects on a number of human rights, as described in the present chapter.

13. There are four categories of victims of the crisis:

- Qatari individuals who were residing in KSA, UAE, Bahrain (and studying in Egypt), and were compelled to rapidly exit these countries, leaving behind their family, businesses, employment, property, or being forced to interrupt their studies.
- KSA, UAE and Bahrain nationals who resided in Qatar (including many married to Qataris) and felt compelled to move to their country of origin, and have consequently been separated from their family, source(s) of income and/or property.
- Migrant workers and their families, who constitute the majority of the population of Qatar, some of whom have lost their employment and have been facing increased economic pressure.
- The population of Qatar, KSA, UAE and Bahrain at large due to the suspension of freedom of movement between their countries and the repercussions on various civil, economic, social and cultural rights.

1. Instrumentalization of the media and restrictions of freedom of expression

14. The instrumentalization of the media, particularly in KSA and UAE, has been a prominent feature of the crisis. The Mission was informed by all interlocutors that the

Quartet's unilateral measures have been accompanied by a widespread defamation and hatred campaign against Qatar and Qataris in various media linked to the four countries as well as on social media, and by the introduction of criminal sanctions in KSA, UAE and Bahrain against people expressing sympathy for Qatar and Qataris.

15. Most media professionals the Mission met described the instrumentalization of foreign media networks by the authorities of KSA and UAE, particularly to convey anti-Qatar and anti-Qatari editorial lines. Most interlocutors were of the view that this media and social media campaign was premeditated and organized to "*generate a general feeling of hostility and hatred towards Qatar*".

16. The Mission was informed that at least 1,120 press articles and some 600 anti-Qatar caricatures were published in KSA, UAE and Bahrain between June and October 2017, which has been documented by media professionals and the NHRC. Such material included accusations of Qatar's support to terrorism, calls for a regime change or a *coup d'état*, attacks against leading figures and symbols of Qatar, as well as appeals for attacks on, and murder of Qataris. For instance, a Saudi tweeter with five million followers has been issuing "*religious opinions*" calling for the killing of the Emir of Qatar. Another Saudi tweeter warned he could send one million Yemeni suicide bombers to Qatar.

17. Entertainment programmes have also been used to air anti-Qatar messages. For example, Rotana media company produced songs by popular artists stigmatizing Qatar ("Qulo la Qatar"- "Tell Qatar", and "Sanoalem Qatar"- "We will teach Qatar") and well-known television series on MBC and Rotana channels ("Selfie" and "Garabeb Sood") conveyed negative messages on Qatar, which have been regularly and widely broadcast.

18. The team met the editor-in-chief of the Qatari daily newspaper Al Arab, Mr. Jaber Al Mirri, who has been listed No. 18 on the list of 59 individuals accused by Quartet's as a terrorists. He reported having received 10 death threats since then and described the psychological impact on his family.

19. The Governments of KSA, UAE and Bahrain announced, via their respective news agencies, that any individuals within their jurisdiction expressing empathy vis-à-vis Qatar would be subjected to criminal sanctions in the form of hefty fines and/or detention. A group of editors-in-chief of Qatari newspapers met by the team stated that an Adviser to the Royal Court in KSA, reportedly, was orchestrating the media campaign against Qatar, referring to the mobilization of a "social media army". They also alleged that person had been urging people, via tweeter, to denounce individuals supporting Qatar or Qataris through a hotline number, which had reportedly generated 800 calls.

20. The effect of this media campaign may amount to a form of incitement. It has also undoubtedly created anxiety among many people in KSA, UAE and Bahrain who have had

close family, amical or commercial ties with Qataris. Most journalists met by the team referred to the fear this situation has instilled among their colleagues and friends in KSA, UAE and Bahrain. Several interlocutors further noted they would be contacted by relatives and friends in KSA through non-KSA phone numbers for fear of being tracked.

21. The Governments of KSA, UAE and Bahrain have suspended the circulation and broadcasting of all Qatari and Qatar-based media and, as satellite diffusion cannot be controlled, they prohibited commercial entities (such as hotels) to offer access to such media (namely Al Jazeera, BEIN Sports and associated channels). The case of Al Jazeera is emblematic as the closure of this broadcaster and affiliate stations remains one of the requirements set by the Quartet to restore diplomatic ties with Qatar.

22. All interlocutors met by the team stated that the Government of Qatar had clearly instructed all Qataris, Qatari based institutions, companies and media not to criticize the citizens of KSA, UAE and Bahrain. The Qatari and Qatar-based media met by the team, including Al Jazeera, all declared they had encouraged their staff members from the Quartet countries to remain in Doha. The editor-in-chief of Al Raya Al Qataria, a daily newspaper, noted that 50 to 60 per cent of his journalists were Egyptians and that while all had left Qatar after the call of their Government on its citizens to come home, 40 per cent of them had returned to Qatar after obtaining formal approval from the Egyptian authorities. Al Jazeera reported that only three of their 26 journalists from KSA had left while its 349 Egyptian and three Bahraini employees had continued to work for the broadcaster.

2. Suspension and restrictions of freedom of movement and communications

23. One of the most immediate and visible impact of the decision of 5 June has been the border closures (air, sea and land), with considerable effects on freedom of movement to and from Qatar. On 17 November, the team was informed that the Government of KSA had closed down its border with Qatar. Some interruption of telecommunications (namely phone connections) was also reported to the team. Besides the economic implications for Qatar, the suspension and restrictions of freedom of movement and communications have affected the exercise of various rights, as described in subsequent sections of this chapter.

24. On 5 June, the authorities of KSA and UAE notified their ports and shipping authorities they would not receive Qatari vessels or ship owned by Qatari companies or individuals. The KSA General Authority of Civil Aviation prohibited the landing of any Qatari planes in KSA airports, while Abu Dhabi-based Etihad, Dubai-based fly-Dubai and long-haul carrier Emirates announced the suspension of flights to Qatar. Qatar Airways was forced to suspend all flights to KSA, UAE, Bahrain and Egypt until further notice, and to reroute most of its West-bound flights.

25. Shortly thereafter, the Government of Qatar issued a statement assuring that Qatar's

seaports would remain open for trade, and airspace for trade, transport and travel, except with the countries that had closed their borders and airspace with Qatar. The statement indicated that the Government of Qatar would not take any measures of reprisal against citizens of KSA, UAE, Bahrain and Egypt working in Qatar.

26. The considerable restrictions on movement of people and goods had an immediate impact on various human rights. Some had a punctual effect but most have had continuing implications to date. These measures first constituted a direct violation of freedom of movement, particularly as they were not communicated formally and were not legally motivated. The lack of freedom of movement between Qatar and the other countries is sanctioning Qataris and residents of Qatar, as well as residents of KSA, UAE and Bahrain. At least temporarily, the restrictions of movement disrupted the exercise of freedom of religion as they were imposed in the midst of Ramadan and the Hajj pilgrimage. The implications for family life are also important given the bonds between the countries concerned. Moreover, many young people were forced to interrupt their studies or could not take exams. Durable consequences of the restrictions of movement are a deprivation of the rights to work and to access to property for those who were residing, working and / or engaged in trade cross-border. These aspects are described in the subsequent sections of this chapter.

27. While the Government of Egypt did not issue a formal order to Qatari citizens to leave its territory, Qatari students who tried to return to Egypt in August 2017, after the summer holiday, were not issued visas or were requested to apply for security clearance upon obtaining visas. Students interviewed by the team and the NHRC stated they still had not obtained security clearance. On 18 November, the National Council for Human Rights in Egypt informed the NHRC of Qatar that it had lifted restrictions for some categories of the Qatari population and that students would be granted visas. At the time of the mission, it was too early to assess whether this measure was being implemented.

28. More broadly, the suspension of movement of people and goods between Qatar and the three Gulf countries of the Quartet has had considerable implications for Qatar's economy, impeding trade and financial flows, and considerably increasing the costs of transportation and goods as the Government (and individuals) has had to resort to alternative options.

29. Although imports from the other Gulf States were modest, the bulk of trade flow before the crisis occurred through KSA and UAE in particular (via land, sea and air), including overland from Jordan and Lebanon, and via cargo ship that would dock at ports in KSA and UAE, from which merchandise would be transported by trucks to other Gulf destinations, including Qatar. Thus, Qatar was heavily dependent on its two neighbours to access items vital for the subsistence of its population, such as food and medicines, and for its economy. Qatari officials met by the team, notably the Customs Authority, underlined that the abrupt closure by the authorities of KSA of their border with Qatar had left any vehicles transporting perishable food items and other merchandise stranded in KSA. According to the Ministry of

Economy and Trade, before the crisis, some 800 trucks used to cross the land border from KSA into Qatar on a daily basis. In the couple of weeks that followed the 5 June decision, this situation caused some panicked reactions, with people rushing to supermarkets to stock up food.

30. In a meeting with Director's Managing Team of Qatar Airways, the team was informed that the closure of airspace was a major irritant as Qatar is largely surrounded by the airspace of KSA, UAE and Bahrain, with only a narrow corridor to the north available, requiring Qatar Airways' flights to be routed through Iran and then flow wide around Saudi Arabia to access destinations to the west and south. This, combined with the end of flights to and from KSA, UAE and Bahrain has significantly reduced Qatar's accessibility by air and increased travel times and costs.

31. While telecommunications between the three countries and Qatar have generally remained operational, some people reported experiencing difficulties in contacting people in KSA, UAE and Bahrain, or have been using foreign phone numbers to call people in Qatar for fear of sanctions. Some interlocutors also stated that they would be no response when they would contact institutions in KSA and UAE (for instance universities). Postal services have ceased to function between Qatar and the three countries, and access to some Qatari websites has been blocked by the authorities in KSA, UAE and Bahrain.

3. Separation of families and related issues of nationality and residence

32. The decision of 5 June has led to cases of temporary or potentially durable separation of families across the countries concerned, which has caused psychological distress as well as some difficulties for some individuals to economically support their relatives left in Qatar or the other countries.

33. Moreover, the crisis has underscored the urgency of addressing the long-standing issues of nationality and residence in the Gulf countries, including in Qatar. Indeed, the non-Qatari spouses and children of Qataris have faced acute uncertainties, even if the majority have reportedly remained in Qatar. The NHRC received a high number of calls, particularly in June, from women who were afraid to be unable to apply for the renewal of their national passport and Qatar residence ID, and feared being expelled from Qatar or compelled to return to their country of origin, and being consequently separated from their husband and children.

34. As of 5 June 2017, according to official data, the State of Qatar counted some 6,474 mixed marriages involving citizens of Qatar, KSA, UAE and Bahrain (5,137 Qatari men and 1,337 Qatari women). The authorities of KSA, UAE and Bahrain ordered their citizens to leave Qatar within 14 days, with their children, under threat of civil penalties, including deprivation of their nationality, and criminal sanctions. However, the team did not get any information that such cases had occurred.

35. Many of those who have not returned, fearing separation from their family, were concerned they may not be able to renew their passport, particularly given the closure of the KSA, UAE and Bahrain Embassies. This generated particular anxiety for those whose passport was close to expiring as a valid passport was required to apply for and obtain the extension of a residence permit in Qatar (which is valid for 10 years) and to access various services. However, the Ministry of Interior informed the team that after the 5 June crises the Government of Qatar had lifted such a condition to address the situation of non-Qatari residents from KSA, UAE and Bahrain.

36. In addition, the possible forfeiture of nationality risks making these people stateless. Saudi, Emirati and Bahraini women whose husband and children are Qatari fear pressure from their State of origin for them to leave Qatar. Those who contacted their embassies within the 14 days following 5 June were reportedly instructed to return alone to their country of origin.

37. The team was informed that in response to some reports of family separations, the Governments of KSA, UAE and Bahrain had stated they would grant exceptions for 'humanitarian cases of mixed families' to travel back and forth between Qatar and their territories. Yet, Qatari Government officials, including the Director of the Salwa border cross point with KSA, informed the team that such measures remained inappropriate, inefficient and random. Some families reported not using the hotlines, fearing to be identified by the KSA authority as citizens who remained in Qatar and to be subjected to intimidation.

38. Many people with relatives in KSA, UAE and Bahrain, including elderly or sick parents for instance, have reportedly refrained from traveling to these countries, fearing they would not be allowed to return to Qatar.

4. Impact on economic rights and the right to property

39. According to information received by the team, individuals from Qatar working in KSA, UAE and Bahrain, and / or with business interests in these countries, were forced to return to Qatar, reportedly with no access to their companies and other sources of activity and income since then. While the authorities could not determine the number of individuals affected with certainty, a national compensation claims commission established following the 5 June decision had documented at least 1,900 cases related to the right to property by the end of November 2017, with claims pertaining to private residences, stockshares, financial assets and livestock).

40. The team conducted interviews with some of the claimants, mostly Qatari nationals who have property in KSA and UAE, particularly commercial entities. They confirmed that financial transactions between Qatar and KSA, UAE and Bahrain had been suspended,

preventing people from receiving salaries or pensions, perceiving rents, paying bills, or supporting relatives. They also highlighted the absence of any formal and available litigation mechanism to claim and/or manage their assets. Indeed, legal cooperation has been suspended, including power of attorney. Furthermore, lawyers in these countries are unlikely to defend Qataris as this would likely be interpreted as an expression of sympathy towards Qatar.

41. The Chamber of commerce of Qatar described how it dealt with the impact of the crisis on entrepreneurs so as to mitigate the consequences on their work and property. From 5 June to 9 July, it identified supplies and alternatives to businesses that were blocked as a consequence of the 5 June decision. The Government of Qatar took measures to support entrepreneurs and coordinate logistical support. It shared a questionnaire with the 350.000 companies registered in Qatar and set up a hotline working 24/7 to receive complaints. It received 700 complaints. Since 10 July, the Chamber of Commerce has been trying to put in contact these entrepreneurs with potential contractors, mostly from Asia. It prioritized companies involved in the production of food, medicines and construction equipment. It also sent letter to creditors requesting a delay in payments and the waiving of penalties resulting from such delays.

42. The Customs authorities provided the team with statistics covering the period of 17 January to 30 June 2017, on products which were mainly imported from the Gulf countries, such as sugar (76 per cent was imported from these countries), oil (67 per cent), and dairy products (59 per cent), construction material (93 per cent), timber and gravel (47 per cent), cables for construction (51 per cent), showing the dependence of Qatar on its neighbours. The Qatar authorities immediately referred the situation to the World Organization of Customs. While the total importation from KSA, UAE and Bahrain amounted to some QAR 11.9 billion (USD 3 billion) in May 2017, it represented QAR 392 million (USD 107 million) in September 2017. This situation has provoked an increase of the price of commodities of 83 per cent (although the Government of Qatar has intervened to maintain it below the threshold of 3 per cent). Since June, the customs authorities have had no communications with the customs of the other Gulf countries.

5. Impact on the right to health

43. The team met with representatives of the Ministry of Health who raised some humanitarian consequences of the 5 June crises. As of 23 November, it had received 130 individuals reporting medical issues related to the crisis.

44. For instance, an individual previously treated in KSA and who returned to Qatar, had to travel to Germany to receive treatment as his means of payments from KSA were blocked in Qatar. Two patients from Qatar, who resided in KSA prior to the crisis, were transferred to Turkey and Kuwait to undergo surgery as they were reportedly unable to pursue their medical

treatment in KSA.

45. Medical services in Qatar are known to be of high quality. Since September 2017, the Ministry of health recorded 388.000 visits to public health services by patients, including by 260.000 patients from KSA, UAE, Bahrain and Egypt whose residents in Qatar. The Qatar authorities stated they will continue to provide treatment to patients from these countries without any discrimination.

46. Medical public services employ 3.000 employees from the Quartet countries. Medical authorities also noted that Qatari individuals who will comply with the decision to leave or return to Qatar would affect their employment status and therefore their access to medical insurance or capacity to pay for medical services.

47. The suspension of trade has also affected Qatar's access to medicines (including life-saving items) and medical supply. Before 5 June, 50 to 60 per cent of Qatar pharmaceutical stock came from 20 suppliers companies based in the Gulf countries with most international pharmaceutical companies based in UAE. While the shortage of most drugs lasted only one day due to the Government's prompt identification of new suppliers, the Ministry of Health informed the team is was still seeking alternatives for 276 medicines. An illustrative case is that of anti-venom largely used in Qatar for snakebites, which can only be produced with snakes from the region and is therefore unavailable.

48. Recourse to suppliers from outside the region has led to an increase of the costs of products, transportation and insurance fees, and has incurred delays in getting some items. The State of Qatar has thus far been covering the extra cost to limit the impact on consumers.

49. Finally, the opening of new hospitals has been delayed due to construction material and other equipment being blocked in Dubai.

6. Effect on the right to education

50. The expulsion of Qatari students who were studying in KSA, UAE, Bahrain and Egypt has had a detrimental effect on the right to education as Qatari students who were prevented from either pursuing their studies or passing their exams. Students in KSA, Bahrain, and reportedly particularly in UAE, were ordered to immediately return to Qatar, often by the administration of universities. According to information collected by the team, this was generally not followed by any formal or personalized communication.

51. The management and professors of Qatar University informed the team that the university had initially received 171 requests for the placement of students who had had to leave KSA, UAE, Bahrain and Egypt. It reported being able to accommodate 66 students

while it transmitted the 105 other cases to the Ministry of Education for the review of the students' transcripts. The NHRC and the team followed up on some cases of students whose file was under review. They declared having been provided with at least two options by the Qatar University, namely to integrate that institution, usually by taking additional credit hours, or to be placed in a university abroad, for instance in Jordan and Malaysia. The efforts of Qatar University and the Ministry of Education to promptly identify solutions for each student are to be commended.

52. The Ministry of Education and Qatar University reported that students who had been enrolled in universities in UAE and Egypt were unable to get their transcripts, which hampered their placement as they were unable to produce any evidence of previous studies or examinations. Some UAE universities

Countries	Number of Qatari students affected by the crisis
KSA	62
UAE	157
Bahrain	28
Egypt	3004
Sources. Ministry of Higher Educations	

reportedly blocked access to their websites to Qatari students". In Egypt, the University of Cairo told Qatari students that they should collect their transcripts in person although the authorities were not providing visas to Qataris.

53. The Ministry of Education of Qatar on its part estimates that at least 201 Qatari students were not able to pursue their studies, mainly due to the lack of transcripts, different credit systems or because their specialization is not available in Qatar. For instance medical studies were only recently introduced at Qatar University and students reaching their fifth year are not able to enrol.

7. Long-standing human rights issues

54. During the mission, the team raised a number of long-standing human rights issues with relevant authorities, namely regarding the rights of migrant workers and the issue of citizenship.

55. The team raised the case of those who have been stripped from their Qatari citizenship in 2004, the authorities informed that most of them (mainly those that did not possess another nationality) had regained their Qatari citizenship in 2005. The authorities further noted that approximately 100 cases are still pending to date.

56. The team also raised the case of two individuals (Sheikh Taleb bin Lahem bin Shraim and Mr. Bin Al Shafi) who, according to reports received by the team before the mission, have been arbitrarily stripped from their Qatari citizenship in connection with their political opinion in the context of the current crisis. Qatari counterparts confirmed that this decision was taken by executive decrees in accordance with Law No. 38/2005 on the acquisition of Qatari Nationality. This implies it was taken without any due process, with no possible

remedies.

57. Many of the people met by the team described how Qatar had managed to turn the crisis into an opportunity, notably to accelerate the reform agenda of the Emir, including on human rights. Efforts are underway to develop a road map for an effective implementation of migrant and domestic laws; to prepare a new law on asylum, and to possibly ratification of the Refugee Convention of 1951; to review of the nationality law to provide additional rights to the children of Qatari women married to non-Qataris; to increase engagement with international human rights mechanisms. The team was encouraged by the Government renewed commitment to further strengthen its cooperation with OHCHR in promoting and protecting human rights in Qatar.

58. The team's discussions on the aforementioned issues are to be reflected in a separate report or other form of communication.

IV. Findings and observations

59. All Interlocutors met by the team mostly referred to the decision of 5 June as a “blockade”, and some evoked an “embargo”, a “boycott” or “unilateral sanctions” against the State of Qatar and its inhabitants (nationals and residents). Most emphasized the unprecedented divide and distrust this situation has generated, not least given the tight family bonds across the Gulf region. They also expressed concern about the uncertain and far-reaching consequences, with fears that this crisis may become protracted and/or deteriorate.

60. The team found that the unilateral measures, consisting of severe restrictions of movement, termination and disruption of trade, financial and investment flows, as well as suspension of social and cultural exchanges imposed on the State of Qatar, had immediately translated into actions applying to nationals and residents of Qatar, including citizens of KSA, UAE and Bahrain. Many of these measures have a potentially durable effect on the enjoyment of the human rights and fundamental freedoms of those affected. As there is no evidence of any legal decisions motivating these various measures, and due to the lack of any legal recourse for most individuals concerned, these measures can be considered as arbitrary. These actions were exacerbated by various and widespread forms of media defamation and campaigns hated against Qatar, its leadership and people.

61. The majority of the measures were broad and non-targeted, making no distinction between the Government of Qatar and its population. In that sense, they constitute core elements of the definition of unilateral coercive measures as proposed by the Human Rights Council Advisory Committee: *“the use of economic, trade or other measures taken by a State, group of States or international organizations acting autonomously to compel a change of policy of another State or to pressure individuals, groups or entities in targeted States to*

influence a course of action without the authorization of the Security Council". Moreover, measures targeting individuals on the basis of their Qatari nationality or their links with Qatar can be qualified as non-disproportionate and discriminatory.

62. The considerable economic impact of the crisis takes over the dimension of an economic warfare, with significant financial losses for the State, companies and individuals, and the confidence of investors being eroded. To date, the wealth of Qatar and its human potential have allowed the country to promptly absorb the shock and protect the population from potentially disastrous economic and social consequences. However, the shock of the decision and the immediate and serious effect of unilateral coercive measures on many individuals have had a major psychological impact on the overall population. This has been exacerbated by a hostile media campaign that flared up from early June and is ongoing. All interlocutors met by the team evoked the lack of trust or even fear this situation has generated, and concerns about the social fabric of very closely-knit societies eroding.

63. In some cases, Qatari institutions, notably the NHRC, have proactively sought prompt solutions, especially for individuals whose studies were interrupted. The NHRC immediately, and for several weeks following 5 June, received a considerably number of complaints. They undertook a series of communications with regional and international mechanisms and have endeavoured to engage with the national human rights institutions of KSA, UAE, Bahrain (to no avail to date) and Egypt (the latter has reportedly cooperated). The team received a detailed report prepared by the National Compensation Claims Commission on the impact of the crisis on individuals (including on human rights impact), and was informed that the National Compensation Claims Commission had hired a private American law firm company to look at options for potential legal actions against the States of KSA, UAE and Bahrain. The commission indicated that the legal file was in the hands of the Government for its consideration.

64. The majority of cases remain unresolved and are likely to durably affect the victims, particularly those having experienced family separation, loss of employment or who have been barred from access to their assets.

65. The crisis has been characterized by the absence of dialogue among the States concerned, with the mediation efforts initiated by Kuwait having stalled. The team noted strong resentment about the lack of action by regional organizations and about the role of the GCC, which many considered as de facto defunct. Given the origins and ramifications of the crisis in KSA, UAE and Bahrain, it would be critical to pursue opportunities to engage with the Governments of these countries to obtain a more comprehensive understanding of the situation, notably of the actions they have taken and the impact on their own citizens and residents.

Annex 99

Letter from the United Nations High Commissioner for Human Rights to the Permanent Mission of the United Arab Emirates to the United Nations (29 June 2018)

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Geneva, 29 June 2018

Your Excellency,

I wish to thank you for your letter of 17 May 2018 in which you draw my attention to Qatar's continuous use of the OHCHR Technical Report in its interactions with relevant international stakeholders, including Treaty-based and Charter-based Bodies. The alleged misquotation of the aforementioned report in Qatar's recent communication to the Committee on the Elimination of the Racial Discrimination (CERD) is of particular concern. My Office will take immediate actions to ensure that a copy of the Technical report is accordingly shared with CERD.

I seize this opportunity to re-confirm that the OHCHR Mission to Qatar (17-24 November 2017) was technical in nature and did not aim at qualifying the *Gulf crisis* nor determining states' responsibilities/ liabilities with regard to the alleged violations committed therein. It rather focused on three set of objectives, namely: (i) engaging with all relevant stakeholders, including with the members of the *Quartet*, with a view to gathering information about the potential human rights impacts of the crisis ;(ii) exploring opportunities to provide technical assistance to national actors, and; (iii) reporting to the High Commissioner.

The Mission's report, which was initially shared with the Qatari National Human Rights Commission and subsequently with the Permanent Missions of the United Arab Emirates (UAE), Saudi Arabia, Egypt and Bahrain, was not meant to be public but became public. Ever since, and throughout the Gulf Crisis, my Office has been very keen to constructively engage with all relevant stakeholders, including the UAE, to ensure that the potential human rights impacts of the crisis are properly considered and dealt with accordingly. I truly regret that my Office various communications, including requests to conduct a similar mission to the UAE and other countries, went unanswered.

/..

His Excellency Ambassador Obaid Al-Zaabi
Permanent Mission of the United Arab Emirates to the United Nations
Geneva, Switzerland

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In this respect, allow me to renew my Office readiness to continue its constructive dialogue with the UAE on issues that relate to the potential human rights impacts of the Gulf crisis as well as future technical cooperation.

Please accept, Your Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'Zeid Ra'ad Al Hussein'.

Zeid Ra'ad Al Hussein
High Commissioner for Human Rights

Annex 100

Letter from the United Nations High Commissioner for Human Rights to the Minister of Foreign Affairs and International Cooperation of the United Arab Emirates (7 August 2018)



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7 August 2018

Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of the United Arab Emirates, and welcome the constructive engagement of your Government during the 29th session of the UPR Working Group in January 2018.

As the final outcome report on the review of the United Arab Emirates was recently adopted by the Human Rights Council at its 38th session, I am writing to follow up on a number of areas raised in two reports that my Office had prepared for the review – the compilation of UN information and the summary of stakeholders' submissions – which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR. In identifying these areas, I have also considered the recommendations made by 97 countries, the presentation and responses of the United Arab Emirates, and the action taken by the Government to implement the 100 recommendations it accepted during the second cycle of the UPR. The areas cover a range of issues and are set out in the annex to this letter.

I would like to highlight issues that were raised during the review of the United Arab Emirates and which I am particularly encouraged by: 1) efforts in combatting human trafficking, including through the adoption of Federal Act Law No.1 of 2015, which provides protection for victims of trafficking, and the 2012 and 2015 amendments to Federal Law No. 51 of 2006 on combating trafficking; 2) reforms for better protection of the rights of migrant workers; and 3) introduction of a number of initiatives to respect the rights of persons with disabilities following the recommendations of the Committee on the rights of persons with disabilities (CRPD/C/ARE/CO/1).

I encourage the United Arab Emirates to develop a comprehensive national human rights action plan in order to achieve concrete action in the areas contained in the annex and facilitate the preparations of the United Arab Emirates for the fourth cycle of the UPR. Such efforts should involve consultations with all stakeholders, in particular, civil society organisations, and, where necessary, the support of international organisations, including the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities under the leadership of the UN Resident Coordinator.

./..

H.E. Sheikh Abdullah bin Zayed Al Nahyan
 Minister of Foreign Affairs and International Cooperation
 United Arab Emirates

I further encourage the United Arab Emirates to establish a national mechanism for comprehensive reporting and follow up in relation to international and regional human rights mechanisms and treaty obligations. I strongly recommend the use of the practical guide that my Office released in 2016 on this topic and which is available at:

http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf

Please be advised that I will be sharing my advice with all Member States as they go through the third cycle with a view to assisting them to begin implementing the UPR recommendations early on, following the review. An important measure that can contribute positively to follow up action is voluntary mid-term reporting. I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the outcome report. In this regard, I encourage the United Arab Emirates to submit such a report, for the third cycle by 2020.

As the Secretary-General states in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *“The Human Rights Council’s universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council’s recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals.”*

I look forward to discussing with you ways in which my Office may assist the United Arab Emirates to take action in the areas I have identified.

Please accept, Excellency, the assurances of my highest consideration.



Zeid Ra'ad Al Hussein
High Commissioner for Human Rights

cc.: H.E. Dr. Anwar bin Mohammed Gargash
Minister of State for Foreign Affairs

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Sign and ratify core international human rights treaties, including ICCPR, ICESCR, and the Optional Protocols thereto, ICRMW, ICPPED, OP-CAT, OP-CRC-AC, OP-CRC-IC, OP-CEDAW, OP-CRPD, the Rome Statute of the International Criminal Court, ILO Convention no. 87 concerning Freedom of Association and Protection of the Right to Organise, ILO Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, ILO Convention No. 189 concerning Domestic Workers, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the 1954 and 1961 statelessness conventions, and the Convention against Discrimination in Education.
- Withdraw its reservations to the Convention on the Elimination of All Forms of Discrimination against Women.
- Issue a standing invitation to the special procedures of the Human Rights Council.

National Human Rights Framework

- Establish a national human rights institution in line with the Paris Principles and develop a national human rights action plan, as voluntary pledges made by the United Arab Emirates for the 3rd cycle of the UPR.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Enact comprehensive anti-discrimination legislation, which prohibits discrimination on all grounds, including colour, language, political or other opinion, descent, national, ethnic or social origin, property, disability, sexual orientation and gender identity or other status, and is applied not only between citizens but also to non-citizens.

Human rights and counter terrorism

- Review the 2014 counter-terrorism law, which provides for the death penalty for individuals whose activities were found to “undermine national unity or social peace”, neither of which are defined in the law. Ensure that the law does not contradict the international obligations of the United Arab Emirates and that children over 16 years will not be subjected to the death penalty under the law.

B. Civil and political rights

Right to life, liberty and security of person

- Establish a moratorium on the death penalty. Should it be maintained, it may be applied only to the “most serious crimes”. It should never be imposed in the absence of fair trials.

- Incorporate into legislation a definition of torture in accordance with the Convention against Torture; investigate all allegations of torture promptly and thoroughly; and bring to justice all perpetrators. Never accept before a court evidence or confessions believed to have been obtained through torture or cruel, inhuman or degrading treatment or punishment.
- Release immediately and unconditionally those who have been arbitrarily detained. These include the following peaceful activists who were arrested for exercising their fundamental right to freedom of expression on social media: Ahmed Mansoor, Osama al-Najjar, Nasser bin-Ghaith, and Tayseer al-Najjar.
- Ensure that all arrests and detentions are carried out in compliance with the international human rights standards guaranteeing the liberty and security of the person, especially those arrested on State security or terrorism-related charges. Secret detention facilities should be abolished and incommunicado detentions should be ceased immediately.

Administration of justice, including impunity and the rule of law

- Ensure the separation of powers and strengthen the independence of the judiciary, which is under the control of the executive branch and the State security service. Address, in particular, the lack of transparency of judicial appointment procedures.
- Reconcile inconsistencies and discrepancies in the application of federal laws across the different Emirates so as to increase the transparency and efficiency of the administration of justice.
- Ensure due process and respect the right to a fair trial, especially with regard to State security-related offences. Inform detainees of the charges against them and providing the accused with access to legal counsel. Hearings must be public and a review by an independent higher tribunal must be available.
- Improve access to justice for migrant workers, domestic workers and stateless persons (bidoon). Ensure quality legal aid for them, and for non-Arabic speakers, provide translations and interpretation in court.
- End the harassment and intimidation against peaceful activists and human rights defenders.

Fundamental freedoms

- Uphold freedom of expression, especially of peaceful activists and human rights defenders exercising their fundamental right to freedom of expression on social media.
- Repeal the 1980 law on publications, which restricts freedom of expression. The criminal defamation provisions in the Penal Code, the 2012 cybercrime law, and the 2014 anti-terrorism law should be placed in the Civil Code.

Prohibition of all forms of slavery

- Continue to combat trafficking in persons by fully implementing the National Committee to Combat Human Trafficking Strategic Plan and strengthening prevention and prohibition, prosecution, punishment, the protection of the victims and the promotion of international cooperation.

Right to privacy and family life

- Ensure that the cybercrime law respects the right to privacy. Interception activities by the security and intelligence agencies should comply with the principles of legality, proportionality and necessity.
- Respect the right to family life of couples in mixed marriages and their children and take necessary measures to prevent their separations.
- Enforce the legal minimum age of marriage of 18 years for both girls and boys. Polygamy should be prohibited.

C. Economic, social and cultural rights

Right to an adequate standard of living

- Continue efforts to ensure the right to an adequate standard of living for all, including the most vulnerable and marginalized in the society.

Right to health

- Further strengthen the public health system and provide free, quality, and basic healthcare services to all.

Right to education

- Continue efforts to ensure the right to education of all children without discrimination, regardless of their nationalities, by providing them with free compulsory primary education.

D. Rights of specific persons or groups

Women

- Enshrine in the Constitution and national legislation the principle of equality of women and men.
- Continue efforts to implement the National Strategy for the Empowerment and Advancement of Emirati Women (2015-2021).
- Repeal all discriminatory laws against women, especially those contained in the Penal Code and the Personal Status Law, and eliminate all forms of discrimination against women in the areas of marriage, divorce, custody of children, inheritance, transfer of nationality, and the administration of justice, among others.
- Combat violence against women, including domestic violence. Promulgate the federal act on domestic violence, as voluntary pledge made by the United Arab Emirates for the 3rd cycle of the UPR.

- Further encourage the participation of women in public and political life.

Children

- Continue efforts to implement the Federal Rights of the Child Act No. 3 (the “Wadeema Act”). Protect children from abuse and neglect, and prohibit all forms of violence against children, including corporal punishment of children in all settings.
- Raise the age of criminal responsibility, currently set at seven years.

Persons with disabilities

- Bring the definition of disability in the legislation in line with the Convention on the Rights of Persons with Disabilities.
- Continue to implement the National Policy for the Empowerment of Persons with Disabilities and the Strategic Plan for the Promotion of the Rights of Children with Disabilities in order to further promote equal opportunity for persons with disabilities and their active participation in the society.

Migrants, refugees and asylum seekers

- Continue to protect the rights of migrant workers through legislative and institutional measures, including through abolishing the *kafalah* (sponsorship) system for migrant workers.
- Ensure that domestic workers will benefit from the labour law protections. Particular attention should be paid to vulnerabilities of female domestic workers, including their long working hours, confinement to the house, insufficient rest, and gender-based violence against them. Reinforce inspections and prosecutions in case of violations of their rights, and enhance their access to remedies.
- Adopt a legal and policy framework to recognize refugees and asylum seekers.

Stateless persons

- Continue efforts to resolve statelessness in the country by guaranteeing equality to Emirati women in passing on their nationality to their children; accept applications for citizenship from bidoons; and cease the practice of arbitrarily depriving nationality to punish human rights defenders.
- Ensure that stateless children have access to birth registration, health care and education.

Annex 101

OHCHR, *Press briefing note on United Arab Emirates*
(4 January 2019)

4/5/2019

OHCHR | Press briefing note on United Arab Emirates

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Press briefing note on United Arab Emirates

Spokesperson for the UN High Commissioner for Human Rights: Ravina Shamdasani**Location:** Geneva**Date:** 4 January 2019**Subject:** United Arab Emirates

In a similar case, the Court of State Security in the United Arab Emirates (UAE) on Monday upheld a 10-year prison sentence and one-million dirham fine (about USD272,000) against prominent Emirati human rights defender Ahmed Mansoor. Mansoor was initially convicted in May 2018 on charges of using social media to "publish false information that harm national unity and damage the country's reputation". This was in relation to tweets he posted that were critical of the Government. As the Court of State Security is UAE's highest court, he has no further appeal rights under the UAE's judicial system.

We are concerned that Mansoor's conviction and harsh sentencing relate to his exercise of the right to freedom of expression and opinion. We urge the Government of the UAE to promptly and unconditionally release Mansoor and to ensure that individuals are not penalised for expressing views critical of the Government or its allies.

END

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