

## THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

*(Historical Background - Establishment - Terms of Reference - Recent attempts to change the name and terms of reference - Decision of the Economic and Social Council to discontinue the Sub-Commission).*

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### INTRODUCTION

The Sub-Commission on Prevention of Discrimination and Protection of Minorities, established by the Commission on Human Rights in 1947 is presently a body composed of eighteen experts selected by the Commission subject to the consent of the Governments of which the persons are nationals. The term of office of the members will expire at the end of 1968. Following a resolution of the Commission, the Economic and Social Council, desirous of having greater representation of the different regions, legal systems, cultures, as well as equitable geographical representation in the membership decided in resolution 1334 (XLIV) of 31 May 1968 to increase the membership to twenty-six as from 1969.

It is anticipated that the Commission, at its twenty-fifth session, which is scheduled to convene at the European Office of the United Nations, Geneva, from 17 February to 21 March 1969, will select the twenty-six members.

As a member of the Secretariat of the United Nations and as the Secretary of the Sub-Commission, I have followed its work very closely in the last six years and I think that the selection of the new members will open a new area of activity. I also think it



is high time to put the record straight as far as its activities between 1947 and 1968 are concerned. This I propose to do in instalments.

The present article deals with the historical background, the establishment and the terms of reference and with the recent attempts to change the name and terms of reference of the Sub-Commission. Another section is devoted to the decision taken by the Economic and Social Council in 1952 to discontinue the Sub-Commission. It will, I hope, show some of the difficulties of organizational, administrative and political character with which the Sub-Commission has had to cope. A last section is devoted to its composition throughout the years. Subsequent articles will deal with the problem of the protection of minorities, the prevention of discrimination and other topics with which the Sub-Commission has been concerned in the last twenty years.

## I. *Historical Background*

1. The functions *protection of minorities* and *prevention of discrimination* first appeared as possible terms of reference of the Commission on Human Rights in preliminary drafts of the Report of the Executive Committee of the United Nations Preparatory Commission. The first-draft report prepared by Committee 3 of the Executive Committee listed as separate functions:<sup>1</sup>

- c) protection of minorities (and solution of problems arising from inter-racial causes), and
- d) prevention of discrimination.

2. Because no verbatim records were kept of the proceedings of Committee 3, it is not possible to report accurately the discussion, if any, which led to the decision that items (c) and (d) should be terms of reference, and should be separate and distinct from one another.

3. The phrase, "and solution of problems arising from inter-racial causes," was dropped from part (c) of the proposed terms of reference when the final draft of the Committee's Report was

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<sup>1</sup> PC/EX/ES/36.



presented to the Executive Committee of the Preparatory Commission<sup>2</sup>.

4. The Preparatory Commission accepted the recommendation made in the Executive Committee's Report, including the terms of reference (c) protection of minorities, and (d) prevention of discrimination on grounds of race, sex, language or religion. They appear in that form in the final Report<sup>3</sup>.

5. The Economic and Social Council, at its first session in February 1946, had established the Commission on Human Rights, to consist initially of a nucleus of only nine members, and decided that its work should be directed toward submitting proposals, recommendations, and reports regarding *inter alia*:

“c) the protection of minorities;

“d) the prevention of discrimination on the grounds of race, sex, language or religion.”<sup>4</sup>

6. Discussions in the “nuclear” commission, which met in April-May 1966, touched upon the protection of minorities and the prevention of discrimination on several occasions. At its eighth meeting, the “nuclear” commission decided to recommend that - in addition to the already existing Sub-Commission on the Status of Women (upon which the Council on 21 June 1946 conferred the status of a full Commission - only one new Sub-Commission, on the Freedom of Information and the Press, should be established<sup>5</sup>. At its twelfth meeting, Dr. Hsia of China stated that in recommending only one additional Sub-Commission, the Commission would be leaving a great many of the problems which had been referred to it for study by the full Commission. He questioned whether it might not be better to create a Sub-Commission on the protection of minorities. Mr. Dusan Brkish of Yugoslavia suggested that it might be necessary to consider still a third Sub-Commission, which would deal with the prevention of discrimination on the grounds of race, sex, language or religion.

7. Because the “nuclear” Commission had already decided to recommend only one additional Sub-Commission, Mr. Brkish

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2 PC/EX/ES/36/Rev. 1.

3 Chapter II, Section 4, page 36.

4 Resolution 5 (I), February 16, 1946.

5 E/HR/16.



accepted, and the members of the Commission unanimously agreed upon, a recommendation by Prof. Cassin of France that the Secretariat should be instructed to collect all available information on the problem of discrimination. Prof. Cassin also suggested that the Secretariat might be asked to start a collection of documents pertaining to minorities.<sup>6</sup>

8. The Report of the "nuclear" Commission to the second session of the Economic and Social Council in June 1946 contained a number of references to the prevention of discrimination and the protection of minorities. In particular the report<sup>7</sup> stated.

"The Commission recognized that when the Economic and Social Council comes to consider the question of how to implement an International Bill of Rights, it may find that political actions are necessary. This may also be the case where the protection of national minorities is concerned. The Commission, therefore, requests the Economic and Social Council to take this problem into consideration in determining the status power of the Commission on Human Rights, of its Sub-Commission, and any other agency established to safeguard the observance of Human Rights.

"The Commission considered that the number of Sub-Commissions for the time being should be limited and that in addition to the existing Sub-Commission on the Status of Women, a Sub-Commission on Freedom of Information should be established.

"It was agreed that the Secretariat should be instructed to collect all documents concerning item (c) and (d) of the terms of reference - protection of minorities and prevention of discrimination on grounds of race, sex, language or religion - as a preliminary step to future consideration of the question of the establishment of Sub-Commissions on these subjects..."

9. At the Fifth Meeting of the Second Session of the Economic and Social Council, Mr. Feonov, Delegate for the Union of Soviet Socialist Republics, made the statement, in the course of a debate relating to the report of the "nuclear" Commission on Human Rights, that in his opinion it appeared that the Commission had considered the question of the protection of minorities and the elimination of discrimination as being of less importance and urgency than the question of freedom of information. He stated that his government did not agree with this point of view.<sup>8</sup>

10. At the fifth meeting of the Council's Drafting Committee on Reports in the Social Field, the delegation of the Soviet Union

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6 E/HR/23.

7 E/38/Rev. 1, pages 5 and 6.

8 E/PV/5, pages 49 and 50.



circulated two proposals, one to establish a Sub-Commission on the Protection of Minorities and the other to establish a Sub-Commission on the Prevention of Discrimination.<sup>9</sup> Speaking in support of the adoption of these proposals, Mr. Orlov of the Soviet Union said that his delegation felt the necessity for creating both these Sub-Commissions. The Drafting Committee recommended adoption of Sections (a) and (b) of both proposals, but took no action on Sections (c), (d), and (e). The Council later accepted the Drafting Committee's recommendation,<sup>10</sup> and by its resolution 9 (II) of 21 June 1946, it empowered the Commission on Human Rights<sup>11</sup> to establish one Sub-Commission on the protection of minorities and another on the prevention of discrimination on the ground of race, sex, language or religion.

## II. *Establishment*

11. The Commission on Human Rights held its first session at Lake Success, New York, from 27 January to 10 February 1947. In the course of that session, the representative of the United States, Mrs. Franklin D. Roosevelt, submitted a suggestion that the two proposed Sub-Commissions should be combined into one.<sup>12</sup> The Commission decided to establish a single Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. It decided that its functions would be:

- a) In the first instance, to examine what provisions should be adopted in the definition of the principles which are to be applied in the field of prevention of discrimination

<sup>9</sup> E/SOC/5, pages 8 and 9.

<sup>10</sup> E/56/Rev. 2, page 3.

<sup>11</sup> On the basis of the recommendations of the "nuclear" Commission, the Council, at its second session in June 1946, decided that the full Commission should consist of eighteen members. The membership was increased to twenty-one in 1962 and to thirty-two in 1967. Mrs. Roosevelt (U.S.A.) served as Chairman of the Commission throughout the first five years, and was succeeded by Mr. Malik (Lebanon) in 1951 and 1952, by Mr. M. Azmi (Egypt) in 1953 and 1954. Mr. René Cassin served as Chairman in 1955 and 1956; Mr. F.M. Serrano (Philippines) in 1957; Mr. Gunewardene (Ceylon) in 1958 and 1959; Mr. M. Amadeo (Argentina) 1960; Mr. C.S. Jha (India) 1961; Mr. G. Hakim (Lebanon) 1962; Mr. A.R. Pazhwak (Afghanistan) in 1963; Mr. E. Poncey Carbo (Ecuador) 1964; Mr. S.P. López (Philippines) 1965; Mr. F. Volio Jiménez (Costa Rica) 1966; Mr. P. Nedbailo (Ukrainian SSR) 1967; Mr. Ibrahima Boye (Senegal) 1968.

<sup>12</sup> E/CN. 4/6.



on grounds of race, sex, language or religion, and in the field of the protection of minorities, and to make recommendations to the Commission on urgent problems in these fields.

- b) To perform any other functions which may be entrusted to it by the Economic and Social Council or the Commission on Human Rights.<sup>13</sup>

The Commission recommended:

- a) That in the first instance, the Commission not having had the time to select the members of the Sub-Commission, the Economic and Social Council choose at its Fourth Session the members of the Sub-Commission in consultation with the Secretary-General and subject to the consent of the Governments of the countries of which the persons are nationals.
- b) That this choice be made from among lists of persons submitted by such Human Rights Commission members as care to make nominations, each member nominating not more than twelve persons from Members of the United Nations.<sup>14</sup>

### III. *Terms of reference*

12. In the course of the first session of the Sub-Commission, the original terms of reference (functions) as laid down by the Commission (see para. 11, *supra*) were discussed at some length. One expert, Miss *Monroe* (United Kingdom) found the terms very wide and thought that from the practical point of view, the Sub-Commission would do well to set up definite targets;<sup>15</sup> another expert, Mr. *Nisot* (Belgium) thought it was not within the members' competence to discuss the terms, which had been laid

<sup>13</sup> Report to the Economic and Social Council on the first session of the Commission, E/259, page 3.

<sup>14</sup> *Ibid*, page 4. For the Composition of the Sub-Commission throughout the years, see paras. 45-68 below.

<sup>15</sup> E/CN.4/Sub.2/SR.3.



down by the Commission;<sup>16</sup> Mr. *Spanien* (France) agreed with Mr. Nisot that the terms could not be modified by the Sub-Commission. It was agreed that the terms of reference could not be changed, but that suggestions could be made regarding them.<sup>17</sup> Mr. Roy (Haiti) proposed that the Commission be asked to reconsider the Sub-Commission's terms of reference in order to clarify and extend them. The proposal was adopted by 9 votes in favour, none against and 3 abstentions.<sup>18</sup> The Sub-Commission finally decided to submit to the Commission the following recommendation:<sup>19</sup>

13. The Commission at its second session decided to postpone until its third session the re-examination of the terms of reference of the Sub-Commission.<sup>20</sup>

14. Item 4 (a) of the agenda of the Commission at its fifth session (1949) dealt with the terms of reference of the Sub-Commission. At its 83rd meeting, the Commission established a Committee on the Prevention of Discrimination and the Protection of Minorities, composed of the representatives of the United States (Chairman), Denmark (Rapporteur), China, France, India, Union of Soviet Socialist Republics, United Kingdom, Uruguay and Yugoslavia. In the course of four meetings,<sup>21</sup> on 10 and 11 May 1949, the Committee considered items 4 and 8 of the Commission's agenda and submitted a report<sup>22</sup> to the Commission, which was considered from the 84th to 87th meetings.<sup>23</sup> Various representatives<sup>24</sup> expressed satisfaction with the proposed

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16 *Ibid.*

17 The Chairman's statement. *Ibid.*

18 E/CN. 4/Sub. 2/SR. 16.

19 E/CN. 4/52, Section X.

20 Report to the Council on the work of the second session of the Commission, E/600, para. 42.

21 E/CN. 4/AC. 7/SR. 1 to 4.

22 E/CN. 4/181.

23 E/CN. 4/SR. 84 to 87.

24 Statements of Mr. Santa-Cruz (Chile) (E/CN. 4/SR. 84, p. 3); Mr. Simsarian (U.S.A.) (E/CN. 4/SR. 84, p. 6); Mr. Woulbroun (Belgium) (E/CN. 4/SR. 85, p. 3); Mr. Cassin (France) (E/CN. 4/SR. 85, pp. 3 and 4); Mr. Soerensen (Denmark) (E/CN. 4/SR. 87, p. 6).



terms of reference. They were sufficiently broad to enable the Sub-Commission to devote itself to the study of concrete problems and that if more detailed directives were included in the terms of reference, they would merely restrict the Sub-Commission. Some representatives, and especially the representative of the Union of Soviet Socialist Republics considered the terms incomplete because they contained no provision that would enable the Sub-Commission to take action regarding collective rights. It was true that the draft resolution provided for the protection of racial, national, religious and linguistic minorities; that was not sufficient, however, for consideration must be given to certain peoples of the world who would not be regarded as minorities and who did not enjoy the equal rights that the Charter had affirmed for all nations large and small.<sup>25</sup> Before a vote was taken on the draft resolution contained in the report of the Committee, the representative of the Soviet Union introduced a new proposal on the terms of reference of the Sub-Commission.<sup>26</sup> Under these terms the Sub-Commission's responsibilities were extended to make appropriate recommendations to the Commission and to participate in periodical visits to trusteeship territories provided by the Trusteeship Council with a view to the preparation of measures to extend the full enjoyment of human rights and fundamental freedoms to the population of non-self-governing territories, including colonies. The Commission voted on those sections of the USSR text which differed in substance from the text proposed by the Committee and rejected each of the proposed amendments and additions. It thereupon adopted as a whole by 12 votes to none, with 3 abstentions, the draft resolution proposed by the Committee.

15. The new terms of reference as adopted by the Commission on 16 May 1949 read as follows:<sup>27</sup>

*The Commission on Human Rights*

*Resolves* that the terms of reference of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities be clarified and extended in scope to read as follows:

<sup>25</sup> Statement of Mr. Pavlov (E/CN. 4/SR. 85, pp. 2 and 3); Mr. Ingles (Philippines) (E/CN. 4/SR. 87, p. 4).

<sup>26</sup> E/CN. 4/185 and E/CN. 4/185/Corr. 1.

<sup>27</sup> Report of the fifth session of the Commission, E/1371, para. 13.



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

16. The new terms of reference were discussed at the second session (1949) of the Sub-Commission at its 21st to 23rd meetings inclusive, in connexion with item 4 of the agenda entitled: "Business arising out of the new terms of reference of the Sub-Commission". Different and sometimes conflicting views were expressed. One expert, Mr. *Meneses-Pallares* (Ecuador) pointed out that while the Sub-Commission's terms of reference had been broadened, its scope had in fact been restricted. The Sub-Commission had been asked to undertake studies and make recommendations, which meant it was asked to carry out work which was of a purely theoretical and analytical character. The Sub-Commission's duty was to interpret its terms of reference in the broadest possible manner. In that connexion, Mr. *Meneses-Pallares* made the following suggestions:

- 1) With regard to discrimination the Sub-Commission should:
  - (a) analyse its origins and various forms;
  - (b) study the means at its disposal to fight discrimination as well as the necessary measures to improve those means;
  - (c) co-ordinate international action in that respect.
- 2) With regard to the protection of minorities, the Sub-Commission should:
  - (a) analyze existing minority groups and their tendencies;
  - (b) study the measures which might be taken on the basis of the Universal Declaration of Human Rights to ensure the protection of minorities;
  - (c) study methods to enable good use to be made of the cultural contributions which minorities might possibly make to the cause of internal peace.<sup>28</sup>

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28 E/CN. 4/Sub. 2/SR. 21, pp. 3 and 4.



Another expert, Mr. *Masani* (India) felt that, far from being restrictive in nature, the Sub-Commission's new terms of reference widened both its competence and the range of its work. He pointed out that while sub-paragraph b) of the terms of reference merely reproduced the former terms of reference, sub-paragraph d) opened up a number of new possibilities by its reference to the Universal Declaration of Human Rights and to the various long-range tasks which the Sub-Commission had been asked to undertake. There was no longer any obligation for it to carry out a given task in a restricted period of time, or merely to draft provisions of a legislative character. The Sub-Commission had entered a new phase, which was the study and examination of questions of a permanent character.<sup>29</sup>

Mr. *Spanien* (France) did not agree that the new terms of reference were much more restricted than the previous ones. A comparison of the two texts would clearly show that the Sub-Commission had initially been called upon only to settle urgent problems and had therefore been temporary in character. The new terms made the Sub-Commission a permanent institution which dealt not only with urgent problems, but also with long-term studies. The Sub-Commission could thenceforth deal fully and, as it were, independently with the problems entrusted to it. It was perfectly true the States Members of the United Nations were jealous of their sovereignty, but the Sub-Commission should not be dismayed; its objective was precisely to make recommendations and to propose wherever they were necessary. Naturally it must not propose derogations from the provisions of the Charter, but it was its duty to recommend any changes compatible with those provisions.<sup>30</sup>

In connexion with the item under consideration, one expert, Mr. *Daniels* (U.S.A.) had proposed a draft resolution<sup>31</sup> on the handling of petitions stating that his proposal came within the terms of reference which provided that the Sub-Commission should undertake studies, particularly in the light of the Universal Declaration of Human Rights.<sup>32</sup> In introducing his proposal,<sup>33</sup>

29 E/CN. 4/Sub. 2/SR. 21, page 4.

30 E/CN. 4/Sub. 2/SR. 22, pages 6 and 7.

31 E/CN. 4/Sub. 2/42.

32 E/CN. 4/Sub. 2/SR. 20, page 19.

33 E/CN. 4/Sub. 2/22, pages 2 and 3.



Mr. Daniels stated that it merely outlined a procedure that would allow the Sub-Commission to perform its functions effectively; that it referred to communications on discrimination and requested the Secretary-General to communicate petitions and allowed the Sub-Commission great flexibility in investigating them; it suggested the appointment of a committee of three members to examine certain particular cases. The Committee would be authorized to request information and to render its assistance informally to the State concerned with a view to reaching a solution. If necessary, it would delegate its powers to the Secretariat, with which it would work. The work of the Committee would be carried out without publicity, which would have the advantage of making it possible for the question to be settled before it reached the political level. On another occasion<sup>34</sup>, Mr. Daniels stated that it must be decided whether the Sub-Commission was to undertake creative work or whether it was to withdraw into the attitude of "timidity". There would be no risk of its taking the wrong path, for above it there were jurists and diplomats who would lead it back to the right path, should it go astray. It must adopt recommendations, insist upon those recommendations being implemented and fight against the "timidity" which was hindering the work of higher organs of the United Nations. Mr. Daniels' proposal, after being considered from the point of view of its acceptability under the Sub-Commission's terms of reference, was reconsidered in connexion with another item of the agenda on communications. Mr. Daniels had re-drafted<sup>35</sup> his original proposal in the light of amendments suggested by members of the Sub-Commission. It was adopted on 22 June 1949 by 7 votes to 4, with 1 abstention.

The Sub-Commission having agreed to permit Mr. *Borisov* (USSR) and Mr. *Nisot* (Belgium) to explain their votes, the following statements were inserted into the report:<sup>36</sup>

*Mr. Borisov:*

"I voted against the above-mentioned procedure for examining petitions on the ground that the procedure proposed by Mr. Daniels opens the door to arbitrary methods in selecting petitions for examination and thus is

34 E/CN. 4/Sub. 2/SR. 22, page 8.

35 E/CN. 4/Sub. 2/266.

36 E/CN. 4/351, para. 30.



incompatible with the tasks and aims of the Sub-Commission in regard to the prevention of discrimination and the protection of minorities."

Mr. Nisot:

"The proposal adopted by the Sub-Commission aims at setting up a Committee for the purpose of examining petitions and calling upon the States concerned to furnish supplementary information and explanations. Thus there would be established a machinery of inquiry and investigation which could, in principle, operate against any State. It would be for the Sub-Commission to set that machinery working as a consequence of the initiative taken by the petitioner. In that case, States would in fact be called upon to justify themselves and to render account to the extent deemed advisable by the Committee acting on the basis of the data, whether true or false, supplied by the petitioner himself, who becomes a real accuser, in good or bad faith. Even if the States put into the dock in this way should allege that the question was one which, under paragraph 7 of Article 2 of the Charter, was essentially within their domestic jurisdiction, that allegation would not suffice; its justification would be subject to appraisal by the Sub-Commission in view of the directives it would have to give to the Committee on Petitions so that it might carry on its investigation.

"I will not attempt to show today how incompatible with the Charter is a proposal which aims at subjecting to such a system States which have not agreed beforehand by treaty to undergo its rigours.

"I will merely state in adopting its proposal the Sub-Commission has exceeded its powers. On the one hand, it has provided for the implementation of the protection of human rights, which the Commission on Human Rights expressly requested it not to do. On the other hand, it has infringed resolutions 75 (V) and 116 (VI) of the Economic and Social Council, from which it appears that the Sub-Commission is not, at the present stage, empowered to take any measures concerning petitions relating to human rights."

17. The reports of the second and third sessions of the Sub-Commission were considered at the sixth (1950) session of the Commission. At that session, the Commission took *inter alia* note of the draft resolution relating to the handling of petitions of the Sub-Commission and was of the opinion that, until the Commission had decided upon measures of implementation of the international covenant on human rights, it would be premature to sanction any procedure for dealing with complaints or petitions by a Sub-Commission other than that at present in force for dealing with communications relating to human rights.<sup>37</sup>

<sup>37</sup> Official Records of the Economic and Social Council, Fifth year, Eleventh session, Supp. No. 5 (E/1681, para. 56).



18. The report of the Sub-Commission's second session contains the following paragraph relating to the new terms of reference:<sup>38</sup>

"The Sub-Commission took note of its new terms of reference as adopted by the Commission on Human Rights on 16 May 1949. It welcomed these as being less restrictive than its former mandate. It decided that the exact scope of these new terms of reference could only be clarified in the course of subsequent discussion by the Sub-Commission of specific proposals arising from the agenda."

IV. *Recent attempts of change the name and terms of reference of the Sub-Commission*

19. At its twenty-first session (1965), the Commission discussed a draft resolution relating to the future membership and terms of reference of the Sub-Commission, submitted by the representatives of Costa Rica, India, Liberia, the Netherlands and the Philippines.<sup>39</sup> The draft resolution recommended to the Council: (1) that the Council should decide to change the name of the Sub-Commission to "Permanent Committee of Experts of the Commission on Human Rights", and to increase its membership to eighteen, one third of which would be elected each year for a term of three years; and (2) that it should authorize the Permanent Committee of Experts, in addition to the specific tasks previously assigned to the Sub-Commission, to undertake studies and submit reports and recommendations concerning any matter in the field of human rights and fundamental freedoms, as may be requested by the Commission on Human Rights and the Economic and Social Council.

20. During the debate on the five-Power proposal, some representatives pointed out that the broadening of the functions of the Sub-Commission was a recognition of a situation which had existed for some time past.<sup>40</sup> Some representatives<sup>41</sup> who objected to broadening the terms of reference of the Sub-Commission, doubted whether its members, although experts in the field

38 E/CN. 4/351, para. 11.

39 E/CN. 4/L. 768.

40 Statement of Mr. Cohn (Israel) (E/CN. 4/SR. 847, page 8); Mr. Pant (India) (E/CN. 4/SR. 847, page 11).

41 See particularly the statement of Mr. Ermacora (Austria) (E/CN. 4/SR. 846, page 14).



of prevention of discrimination and protection of minorities, would be equally qualified to deal with all other problems relating to human rights. It was felt that very careful consideration of all aspects of that proposal was needed before entrusting to that subsidiary organ a number of new functions which might upset rather than develop its activities. The problem of the change of name of the Sub-Commission to to "Permanent Committee of Experts on Human Rights" was also discussed at some length. In the view of the authors<sup>42</sup> of that proposal, supported by some other representatives<sup>43</sup>, this change of title would reflect more accurately the nature of the new functions to be performed by the Sub-Commission. The recognition of a permanent status would allow that body to deal with matters in a more authoritative fashion and give greater weight to its deliberations and recommendations. Some other representatives<sup>44</sup> opposed this proposal on the ground, *inter alia*, that rule 66 of the rules of procedure of the Functional Commissions of the Economic and Social Council, which provided for the setting up of Sub-Commissions, made no provision for the establishment of permanent committees of experts. Moreover they argued that the financial implications of the establishment of a body of a permanent nature would be great. Several representatives<sup>45</sup> agreed that the question of the change of name with all its implications was of great importance, and they considered the possibility of discussing the matter further during the next session of the Commission.

21. In resolution 4 (XXI), adopted at its 848th meeting on 13 April 1965, the Commission *inter alia* decided to give further consideration, at its twenty-second session to the proposals contained in the draft resolution (E/CN. 4/L. 768).

42 Statements by Mr. Pant (India) (E/CN. 4/SR. 846, page 12 and 847, page 10); Mr. Redondo (Costa Rica) (E/CN. 4/SR. 846, page 14); Mr. Brillantes (Philippines) (E/CN. 4/SR. 847, page 11).

43 Statements by Mr. Cohn (Israel) (E/CN. 4/SR. 847, pages 7 and 8); Mr. M. Abram (U.S.A.) (E/CN. 4/SR. 847, page 5).

44 Statements by Mr. Nassinovsky (USSR) (E/CN. 4/SR. 846, page 13 and 847, page 12); Mr. Ermacora (Austria) (E/CN. 4/SR. 846, page 14).

45 Statements by Mr. Huidobro (Chile) (E/CN. 4/SR. 847, page 4); Mr. Pinto (Dahomey) (E/CN. 4/SR. 846, page 14); Mr. Samuel Hoare (U.K.) (E/CN. 4/SR. 847, pages 6 to 8).



22. The Sub-Commission was informed at its eighteenth session (1966) of the discussions<sup>46</sup> in the Commission relating to its name and terms of reference. Several members<sup>47</sup> expressed misgivings concerning the change in the Sub-Commission's name and the terms of reference proposed in the draft resolution before the Commission on Human Rights. They felt that, under its present name, the identity of the Sub-Commission had been clearly established as a body primarily concerned with the prevention of discrimination and the protection of minorities. It was felt that in converting the Sub-Commission into a "Permanent Committee of Experts of the Commission on Human Rights" with the terms of reference proposed in draft resolution E/CN. 4/L. 768) referred to above, the Sub-Commission would lose its identity and the prestige it had acquired as a result of the widespread recognition of its work. There was also some fear that its activities might be retarded rather than promoted by any undue enlargement of its functions.

Mr. Ingles pointed out<sup>48</sup> that in order to expand the activities of the Sub-Commission it was not necessary to amend the existing terms of reference, which provide that the Commission may assign other duties to the Sub-Commission.

In the view of Mr. Martínez-Báez,<sup>49</sup> the term "permanent" committee or "permanent" commission was invariably used in international law to designate a body composed of a small number of the members of the present body which acted for that body between sessions. He felt therefore that the new name proposed for the Sub-Commission would be a misnomer.

Mr. Abu Rannat<sup>50</sup> and Mr. Ingles<sup>51</sup> objected to the term "committee of" as indicating a kind of subordination of the Sub-Commission to the Commission.

46 The debate on this question is summarized in Chapter VI of the report of the report of the twenty-first session of the Commission. See *Official Records of the Economic and Social Council, Thirty-ninth session, Supplement No. 8*, pages 121-127.

47 Statements by Mr. Calvocoressi (United Kingdom) (E/CN. 4/Sub. 2/SR. 471, page 5); Mr. Ferguson (U.S.A.) (E/CN. 4/Sub. 2/SR. 471, page 7); Mr. Ingles (Philippines) (E/CN. 4/Sub. 2/SR. 471, page 11); Mr. Ostrovsky (U.S.S.R.) (E/CN. 4. 4/Sub. 2/SR. 472, page 3) and Mr. Schiller (Austria) (E/CN. 4/Sub. 2/SR. 472, page 7).

48 E/CN. 4/Sub. 2/SR. 471, page 11.

49 E/CN. 4/Sub. 2/SR. 472, page 6.

50 E/CN. 4/Sub. 2/SR. 472, page 9.

51 E/CN. 4/Sub. 2/SR. 471, pages 10 and 11.



Mr. Juvigny<sup>52</sup> felt that the removal from its name of the specific reference to prevention of discrimination and protection of minorities would not necessarily prevent the Sub-Commission from continuing to work in those fields, and that neither the change in name nor an expansion of the terms of reference should impair the usefulness of the work of the Sub-Commission.

Mr. Santa Cruz<sup>53</sup> and Mr. Vattani<sup>54</sup> shared Mr. Juvigny's view that in the course of their studies on discrimination, the Special Rapporteur had had necessarily to inquire into human rights beyond the immediate scope of their specific terms of reference. Furthermore, it was Mr. Juvigny's view that the representatives of Governments in the higher organs of the United Nations should effect a suitable compromise on the change of name to safeguard the specific tasks which the Sub-Commission had hitherto undertaken.

In Mr. Juvigny's opinion<sup>55</sup>, the Sub-Commission could perform a function similar to that of the ILO Committee of Experts, by evaluating the progress made in implementing the human rights proclaimed in the United Nations declarations and conventions.

Mr. Santa Cruz<sup>56</sup> suggested as a suitable title "Committee of Experts on Human Rights, the Prevention of Discrimination of Minorities" and Mr. Martinez-Báez<sup>57</sup> stated that the problem might be avoided if the new name were "Sub-Commission of Experts for the Study of Problems of Human Rights".

23. The Commission at its twenty-second session (1966) decided<sup>58</sup> without objection not to take action on the proposal made at the twenty-first session (E/CN. 4/L. 768) and to postpone the consideration of the question.

24. Although the item was on the agenda of the twenty-third session (item 13 3), the Commission, at its 940 th meeting on 22

52 E/CN. 4/Sub. 2/SR. 472, pages 3 and 4.

53 E/CN. 4/Sub. 2/SR. 472, pages 8 and 9.

54 E/CN. 4/Sub. 2/SR. 472, pages 9 and 10.

55 E/CN. 4/Sub. 2/SR. 472, pages 5 and 6.

56 E/CN. 4/Sub. 2/SR. 472, page 8.

57 E/CN. 4/Sub. 2/SR. 472, page 6.

58 *Official Records of the Economic and Social Council, Forty-first session, Supplement No. 8*, page 119.



March 1967, again decided to postpone it until its twenty-fourth session<sup>59</sup>.

V. *Decision of the Economic and Social Council to discontinue the Sub-Commission*

25. The future of the Sub-Commission was discussed by the Council at its thirteenth session<sup>60</sup> (30 July-21 September 1951, Geneva) when it considered the report of the *Ad Hoc* Committee on the Organization and Operation of the Council and its Commissions<sup>61</sup>.

26. At its eleventh session, in resolution 295 (XI), the Council had requested its President to appoint the above-cited *Ad Hoc* Committee, consisting of not more than eight members of the Council, together with the President. Such a Committee was established during the thirteenth session of the Council.<sup>62</sup> It recommended that the Sub-Commission be discontinued and that its work be taken over by the Commission on Human Rights.

27. In determining its recommendations to the Council the Committee based itself upon the following general principles:

- a) "...the first function of subsidiary organs of the Council is to extend to the Council help and advice of a kind which the Council is unable to obtain from its own resources or through the Secretariat. The initiative should always lie with the Council, therefore, to decide if it requires specific additional help or advice in the solution of a particular problem and, if so, what type of help or advice. If a problem calls for expert analysis, the subsidiary organ should consist of a panel of experts, chosen for their personal qualifications; if the Council wishes to take political soundings, the subsidiary organ should consist of representatives of Governments. It is unusually inadvisable to combine both these functions in a single body."<sup>63</sup>

<sup>59</sup> *Ibid.*, Forty-second session, Supplement No. 6, paragraph 559.

<sup>60</sup> Coordination Committee meetings 92 to 96; plenary meetings 555 and 557.

<sup>61</sup> E/1995.

<sup>62</sup> The Committee was composed of the following members: Australia, Brazil, China, France, India, U.S.S.R., United Kingdom, U.S.A. and the Chairman, Mr. H. Santa Cruz (Chile).

<sup>63</sup> E/1995, para. 15.



b) "Since no two problems are alike, it follows from this principle that a subsidiary organ of the Council will make a maximum contribution to the Council's work when its constitution and terms of reference are tailored to fit a single problem, and that it should go out of existence when its task is completed. As new problems arise, arrangements should be made *ad hoc* to deal with them. These arrangements may include the setting up of a subsidiary organ, with its constitution and terms of reference specially designed to fit the problem concerned, if the Council, after careful consideration, decides that the Secretariat cannot provide the help or advice which it requires. Subsidiary bodies should only be set up, however, to perform tasks of the highest priority, of real international concern, which require immediate consideration and which can best be solved by international cooperation. The Committee considers that only a system of this kind is flexible enough to provide the Council with the quality of help and advice which it requires in order to deal effectively with the many and diverse problems of a changing world..."<sup>64</sup>.

c) "Applying these fundamental principles in the light of experience, the Committee has reached the conclusion that the present system of large permanent commissions, whose members are neither entirely independent experts nor avowedly governmental representatives, is unlikely to produce, in most instances, the type of preparatory work which the Council requires, and that there is a need for extensive reorganization. The present system has serious administrative drawbacks in that it accentuates the ever present dangers of proliferation and overlapping and places an unnecessary strain upon governments, specialized agencies and particularly the Secretariat. It has also meant in practice that the commissions have come to perform to an ever greater extent functions which properly belong to the Council itself; this gives rise to unnecessary repetitive debate, and overloads the Council's agenda with minor matters, thereby impeding positive action upon matters of major importance."<sup>65</sup>

64 *Ibid.*, para. 16

65 *Ibid.*, para. 17.



28. The *ad hoc* Committee, after rejecting by six votes against and one in favour, a proposal to recommend that the Sub-Commission should continue in its present form, by six votes in favour and one against with one abstention voted to recommend that the Sub-Commission be discontinued, its work being taken over by the Commission. The majority maintained that the Sub-Commission had had difficulty in establishing a satisfactory work programme. It had been concerned mostly with work relating to minorities, but its recommendations had not been found acceptable by the Commission. On the subject of discrimination it had made no effective progress. The terms of reference of the Sub-Commission had originally been comprised in those of the Commission and the majority thought that the work of the Sub-Commission should be re-absorbed by the Commission and the Council. It was argued in favour of the continuation of the Sub-Commission that the struggle against discriminatory measures was one of the most important tasks of the United Nations and therefore that the work merited the maintenance of a separate organ.

29. When the recommendations of the *ad hoc* Committee were discussed in the Council, there was considerable difference of view concerning the Sub-Commission. All speakers<sup>66</sup> stressed the significance of the problems of discrimination and minorities and the necessity of constructive action by the Council. Many believed that the discontinuance of the Sub-Commission would lead to great public disappointment and to the impression that the Council was not maintaining an active search for solutions to problems in these fields. The majority<sup>67</sup> felt that the Sub-Commission had not produced positive and concrete proposals and that a new approach to the problem was required.

30. In resolution 414 B I (XIII), the Council decided to discontinue the Sub-Commission until 31 December 1954, its work being taken over by the Council, the Commission, the Secretary-General or *ad hoc* bodies as appropriate. Desiring to pursue its

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<sup>66</sup> See statements by Mr. Ingles (Philippines); Mr. Morosov (U.S.S.R.); Mr. Kotschnig (U.S.A.); Mr. Nosek (Czechoslovakia); Mr. Calderon Puig (Mexico); Mr. Figueroa (Chile); Miss Kalinowska (Poland); Mr. Sterner (Sweden). *Official Records of the Economic and Social Council, Thirteenth session, 555 th meeting*, 17 September 1951.

<sup>67</sup> Statements by Mr. Kotschnig (U.S.A.); Mr. Sterner (Sweden); Mr. Tsao (China); 555 th meeting.



efforts to abolish all forms of discrimination and to protect minorities, and to continue the work of the Sub-Commission, the Council requested the Secretary-General to conduct an inquiry among Member States, concerning items relating to prevention of discrimination and the protection of minorities which should be placed on the agenda of the forthcoming Council sessions, procedures for the preliminary study of these items and the preparation of reports, and the lines along which the Council might be called upon to continue its tasks in this field. The Secretary-General was further requested, after consulting with the specialized agencies, particularly UNESCO, to report to a session of the Council in 1952 on the results of his enquiry, on his own suggestions, and on any that might be formulated by the Sub-Commission at its forthcoming session.

31. The *fourth session* of the Sub-Commission was held in New York (1 October - 16 October 1951). The decision of the Council to discontinue the Sub-Commission was brought to the attention of the experts in a note by the Secretary-General<sup>68</sup> and an item entitled: "Decision of the Economic and Social Council to discontinue the Sub-Commission, and future work of the United Nations for Prevention of Discrimination and the Protection of Minorities" was inserted into the agenda of the session (Item 10).

32. The item was considered at the 75th to 82nd meetings. The Sub-Commission heard statements by representatives of the Consultative Council of Jewish Organizations (75th meeting), the Co-ordinating Board of Jewish Organizations (74th meeting), the International League for the Rights of Man (75th meeting), the World Federation of Trade Unions (76th meeting), the World Jewish Congress (79th meeting), and the World Union for Progressive Judaism (82nd meeting). All of the speakers deplored the decision of the Council to discontinue the Sub-Commission, and expressed the view that the work of the United Nations in the field of prevention of discrimination and protection of minorities should on the contrary be intensified.

33. At its 82nd meeting on 12 October 1951, the Sub-Commission adopted unanimously a resolution<sup>69</sup> in which *inter alia*, po-

68 E/CN. 4/Sub. 2/134.

69 Report of the Fourth Session of the Sub-Commission, E/CN. 4/641, para. 64.



inted out that it had functioned since its establishment under the limitations that its sessions were repeatedly postponed, cancelled or shifted about the calendar without regard to the rhythm of its work; and that each of its four sessions was of less than three weeks duration; recalled that despite these handicaps it had been able to forward a number of recommendations to the Commission;<sup>70</sup> recalled further that it requested the Secretary-General to prepare numerous technical studies relating to prevention of discrimination and protection of minorities, many of which had upon completion proved of general interest and value;<sup>71</sup> considered that the knowledge and experience it had gained during its four sessions should not be cast aside; considered that a body of independent experts constitutes a suitable forum for the discussion of these problems; considered that its existence had made it possible for persons from a large number of countries and regions to participate in the effort of the United Nations directed toward prevention of discrimination and protection of minorities than would otherwise be possible; considered that its discontinuance creates the impression that the struggle against discrimination and for the protection of minorities has been weakened, or at least that insufficient regard is being paid to the importance which these problems have in the eyes of a large number of people throughout the world, as has been emphasized by representatives of nongovernmental organizations having consultative status; emphasized the paramount importance of full realization and implementation of the principle of nondiscrimination, as set forth in the Charter of the United Nations and in the Universal Declaration of Human Rights, which in its opinion should be a primary objective in the work of all organs and agencies of the United Nations; considered that these are exceedingly complex and delicate questions, as the General Assembly already had recognized in resolution 217 C (III); considered that the Commission has an overloaded agenda and would be assisted in its work in the field of prevention of discrimination and protection of minorities if precise proposals and recommendations were formulated for its consideration by a subsidiary body; considered that in the thirteenth session of the Council there was an almost even division in respect of the proposal to discontinue the Sub-Commission;

70 List of which was attached to the resolution in a footnote.

71 List also attached to the resolution.



requested the Commission to recommend that the Council reconsider its decision so as to ensure that the functions of prevention of discrimination and protection of minorities are carried out by a body of independent experts appropriate to the purpose; noted however that neither the Commission nor the Council is scheduled to convene before the sixth session of the General Assembly and requested the Secretary-General to convey directly to the General Assembly, in connexion with its discussion during its sixth session of the Report of the Council, the deep regret of the Sub-Commission that it will not be able to continue its work on the study called for in resolution 217 C (III) of the General Assembly, at least until 31 December 1954.

*Decision taken at the Sixth Session of the General Assembly*

34. At the sixth session of the Assembly and at the 412th meeting of the Third Committee, on 30 January 1952, Mr. Steining, the Secretary of the Committee, on behalf of the Secretary-General drew the Committee's attention to the above-mentioned resolution of the Sub-Commission.

35. At the 413rd meeting of the Committee, the representative of Haiti, Mr. Roy, submitted a draft resolution (A/C. 3/L. 237) which following a procedural debate was withdrawn and submitted to the joint second and third Committee.<sup>72</sup> The draft resolution by Haiti invited the Council (i) to authorize the Sub-Commission to convene for another session in 1952 to complete its terms of office; and (ii) to take all necessary positive steps to continue the work on the prevention of discrimination and the protection of minorities in the United Nations. An amendment by the U.S.S.R.<sup>73</sup> proposing that the words "to convene for another session in 1952 to complete its terms of office" be replaced by the words "continue its work so that it might complete its mandate and especially to convene a session in 1952" was accepted by Mr. Roy.

36. Following are excerpts from the statements made by various representatives during the debate at the joint second and third Committee:

<sup>72</sup> This document was submitted to the said Committee under the symbol A/C. 2 and 3/L. 56 and A/C. 2 and 3/L. 56 /Rev. 1 and considered at the 65th and 66th meetings of the Joint Committee.

<sup>73</sup> A/C. 2 and 3/L. 59.



*Mr. Roy (Haiti):*

"..... The Assembly must for the second time invite the Council to reconsider its decision, since the Commission on Human Rights had too heavy an agenda to be able to take over some of the functions entrusted to the Sub-Commission; nor should the knowledge and experience acquired by the latter during its last four sessions be abandoned. It should also be remembered that, at the thirteenth session of the Council, opinion had been divided on the proposal to discontinue the Sub-Commission, that proposal being finally adopted only by a majority of one or two votes. The situation had been the same in 1950, when the Council had decided to suppress a session of the Sub-Commission."<sup>74</sup>

*Miss Strauss (United States of America):*

"..... It would be unwise for the Assembly to interfere in the organization of the Council and its commissions and the Council was free to set up commissions and sub-commissions and to discontinue them when they had fulfilled their task. .... The United States delegation unreservedly supported the decisions of the Council to discontinue the Sub-Commission. That did not mean, however, that the United States favoured any decrease in the work being done by the United Nations in those fields. Her delegation's attitude was inspired solely by a desire to make the work of the United Nations as effective as possible, particularly by eliminating any duplication between the work of the Sub-Commission and that of the Commission."<sup>75</sup>

*Mr. Corley Smith (United Kingdom):*

".....In accordance with Article 68 of the Charter, the Council was empowered to set up commissions in economic and social fields and for the promotion of human rights, as well as such other commissions as might be required for the performance of its functions. Hitherto those commissions had in theory been composed of independent experts, but as the members were appointed by their governments, the Commissions became in fact inter-governmental bodies whose discussions frequently duplicated those of other inter-governmental bodies..... He believed that it was more fruitful to entrust the preparation of the Council's work to groups of independent experts than to large permanent Commissions which met in public and prepared their reports in public. .... Finally, the Council should not be overburdened by a great number of subsidiary organs".<sup>76</sup>

*Mr. Santa Cruz (Chile):*

".....He stressed the importance of the activities of the Council and its commissions: they were those activities that most directly affected all peoples, and particularly under-developed countries, and those countries should be brought to take any ever-increasing interest in them..... He unreservedly supported the draft resolution submitted by Haiti..... on the Sub-Commission."<sup>77</sup>

74 General Assembly, Sixth Session, Official Records Joint Second and Third Committee, 65 th meeting, 1 February 1952, paragraphs 17-21.

75 *Ibid.*, paras. 22-30.

76 *Ibid.*, para. 37-42.

77 *Ibid.*, para. 46.



Mr. *Hessel* (France):

".....The Council proposals were not of a radical nature; they merely envisaged an experimental period of three years, during which some of the Council's subsidiary organs would be discontinued, their work being taken over by other bodies."<sup>78</sup>

Mr. *Reyes* (Philippines):

".....The Sub-Commission had been involved in a vicious circle, in had not been given sufficient time to perform its work and had then been accused of performing it badly. It should be given a chance to continue its important work. The effect of discontinuing at a time when there was such a widespread denial (of the rights of minorities) might well convince public opinion that the United Nations was indifferent to the safeguarding of human rights. Moreover, there was a close connexion between national and international progress in the field of human rights. Every decision taken by the United Nations with a view to ensuring increased respect for them stimulated further similar efforts not only among Members but also among non-Member States; on other hand every retrogressive step by the United Nations with regard to human rights meant that the latter were that much in danger throughout the world. He deplored the tendency of some members of the Council, the very ones whose countries were socially most advanced and who were therefore best fitted to leaf United Nations endeavours in that respect, to underestimate the importance of social problems and to shelve them-especially the controversial ones-until such time as all political problems were solved. .... If work on social problems was to be put off until political problems had been solved, it might never make any headway at all."<sup>79</sup>

Mr. *De Alba* (Mexico):

".....The United Nations had the privilege and the duty of leading the fight to abolish the odious practice of discrimination against racial, national, religious and linguistic minorities and it had so far been to its credit that it had not failed in that task. The league of Nations had been faced with the same problem, but it had failed to solve it, and that failure had bred the germs which had finally led to its destruction. The United Nations had approached the question in a different way and had tried to throw light on the conditions which seemed to give rise to discriminatory practices. The Council could not evade its responsibility for the main share in that vital and continuing work, and he could not therefore support the proposal that the Sub-Commission should be discontinued. .... The french writer, Gabriel Marcel had written that the United Nations was condemned to futile endeavours as long as it continued to handle abstract ideas instead of realities. The bodies whose activities the Council was now proposing to discontinue or curtail were concerned with the realities of today, and to accept the proposals made in that respect by the Council would be to sever one of the threads which still bound the United Nations to reality".<sup>80</sup>

78 *Ibid.*, 66th meeting, 1 February 1952, para. 2.

79 *Ibid.*, paras. 4-6

80 *Ibid.*, paras. 11-15.



Mr. *Pleic* (Yugoslavia):

".....The fact that the same problem was discussed by a number of United Nations bodies was no argument in favour of abolishing one or several of the bodies concerned: duplicated and repeated discussion not only reduced the incidence of error but also served as a useful means for informing lay and expert opinion..... The Sub-Commission had done useful work-notwithstanding the allegations to the contrary - and therefore agreed in principle with the Haitian revised draft resolution."<sup>81</sup>

Mr. *Albornoz* (Ecuador):

".....The Sub-Commission had done particularly useful work and it would be une unwise, and even unjust, to discontinue it without permitting it to conclude its normal term of office."<sup>82</sup>

Mr. *De Sirret* (Belgium):

"The Sub-Commission dealt with problems of vital importance, but..... there was no proof that the Secretariat could not perform the work involved equally efficiently".<sup>83</sup>

Mrs. *Wright* (Denmark):

"Her delegation would vote for the Haitian revised draft resolution, since the protection of minorities and the prevention of discrimination were also tasks which were far from being concluded."<sup>84</sup>

Mr. *Menemencioğlu* (Turkey):

".....He would be obliged to vote against the Haitian revised draft, if in its final form it implied that the Sub-Commission was to continue indefinitely".<sup>85</sup>

37. On 1 February 1952, the joint second and third Committee of the General Assembly voted on the revised Haitian draft (A/AC. 2 and 3/L. 56/Rev. 1) and adopted it by a roll-call vote of 32 to 9, with 7 abstentions.<sup>86</sup>

38. At its 373rd meeting on 4 February 1952, the General Assembly adopted Part III of the draft resolution submitted in the report of the joint second and third Committee.<sup>87</sup> The vote was taken by roll-call.

<sup>81</sup> *Ibid.*, paras. 21 and 22.

<sup>82</sup> *Ibid.*, para. 23.

<sup>83</sup> *Ibid.*, para. 30.

<sup>84</sup> *Ibid.*, para. 38.

<sup>85</sup> *Ibid.*, para. 67.

<sup>86</sup> *Ibid.*, para. 70.

<sup>87</sup> A/2113. See Official Records of the General Assembly, Sixth session, Agenda item 11, Annexes.



*Voted in favour:*

Ecuador, Egypt, Ethiopia, Haiti, Indonesia, Iran, Iraq, Liberia, Mexico, Pakistan, Paraguay, Peru, Philippines, Poland, Saudi Arabia, Syria, Ukrainian SSR, U.S.S.R., Uruguay, Venezuela, Yemen, Yugoslavia, Afghanistan, Argentina, Burma, Byelorussian SSR, Chile, Colombia, Czechoslovakia, Denmark and Dominican Republic.

*Voted against:*

Luxembourg, Netherlands, New Zealand, Nicaragua, Sweden, United Kingdom, United States, Australia, Belgium and Canada.

*Abstained:*

France, Greece, Honduras, Iceland, India, Norway, Thailand, Turkey, Bolivia, Brazil, China, Costa Rica and Cuba.

Draft resolution III was adopted by 31 votes to 10, with 13 abstentions.

39. In explaining his vote the representative of the U.S.S.R., Mr. Roshchin, stated the following:<sup>88</sup>

".....In voting in favour of draft resolution III, the U.S.S.R. delegation interprets the operative part thereof as meaning that the General Assembly invites the Council to authorize the Sub-Commission to continue its work and to convene sessions not only in 1952, but also in the years following.....".

*Resolution 532 B (VI) of 4 February 1952*

40. In this resolution the Assembly after noting the resolution of the Council and recalling the functions of the Sub-Commission noted that the Assembly (resolution 217 C (III) of 10 December 1948), the Council (resolution 191 (VIII) of 9 February 1949 and the Commission on Human Rights (resolution C, Official Records of the Council, Ninth session, Supp. No. 10, Chapter IV) had asked the Sub-Commission to make a thorough study of the problem of minorities, in order that the United Nations might be able to take effective measures for the protection of racial, national, religious or linguistic minorities; mindful of the extreme complexity and delicacy of these questions, as recognized by the Assembly in its resolution 217 C (III); emphasized that the full application and implementation of the principle of non-discrimination recommended in the Charter and the Universal Declaration of Human Rights are matters of supreme importance,

<sup>88</sup> Official Records of the General Assembly, Sixth session, 373 rd plenary meeting, para. 11.



and should constitute the primary objective in the work of all United Nations organs and institutions; considered that the prevention of discrimination and the protection of minorities are two of the most important branches of the positive work undertaken by the United Nations; invited the Council to authorize the Sub-Commission to continue its work so that it may fulfil its mission, and especially to convene a session in 1952 and to take any practical steps that may be necessary for the continuance, within the framework of the United Nations, of the work on the prevention of discrimination and the protection of minorities.

*Resolution 443 (XIV) of 26 June 1952 of the Council*

41. The Council had before it the report of the Secretary-General, prepared in accordance with resolution 414 B II (XIII), on future work concerning prevention of discrimination and the protection of minorities<sup>89</sup>. The report summarized the results of an inquiry among Member States concerning items relating to prevention of discrimination and protection of minorities which should be placed on the agenda of the forthcoming Council sessions, procedures for the preliminary study of these items and for the preparation of reports to provide basis for profitable discussion of such items by the Council, and the lines along which the Council might be called upon to continue its tasks in this field. The report also reviewed recommendations on future work formulated by the Sub-Commission at its fourth session.
42. The Council did not discuss the substance of the Secretary-General's report. The Social Committee of the Council had adopted a draft resolution and recommended it to the Council<sup>90</sup>. The Council considered the draft resolution and the various amendments<sup>91</sup> to it at its 620th and 621st plenary meetings.
43. Following are excerpts from the interventions of some representatives:

Mr. Sterner (Sweden):

".....While it was generally recognized that the membership of the Sub-Commission had included many highly competent people, the Sub-Commissi-

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<sup>89</sup> E/2229.

<sup>90</sup> See report of the Social Committee, E/2264, and 221st and 222nd meetings of the Committee.

<sup>91</sup> See E/L. 375; E/L. 377, E/L. 378/Rev. 1 and E/L. 379 in Official Records of the Council, Fourteenth session, Annexes, Agenda item 4.



on had not achieved very practical results. Its difficulties..... might also be due to its organization as a standing commission on which various political factions were represented."

Mr. *Rodríguez-Fabregat* (Uruguay):

".....Discrimination was one of the most basic problems of the day..... to question the renewal of the Sub-Commission's existence was to question the General Assembly resolution itself. The essential points in that resolution itself. The essential points in that resolution were that the Sub-Commission was to continue its work, and that it was to be convened in 1952. The draft resolution approved by the Social Committee (E/2264) covered precisely those points and was therefore unassailable."

Mr. *Fenaux* (Belgium):

".....Since the General Assembly had decided to revive the Sub-Commission, his delegation would of course concur in that decision, but it could not accept the Social Committee's draft resolution because the Commission on Human Rights should be given an opportunity to examine the Sub-Commission's report and to work out the Sub-Commission's terms of reference. He would therefore vote for the joint amendment submitted by France and the United Kingdom (E/L. 375) under which those entirely reasonable conditions had to be fulfilled before the Sub-Commission was reconvened."

Mr. *Boratynski* (Poland):

"The draft resolution adopted by the Social Committee was an exact implementation of General Assembly resolution 532 B (VI) which had itself been accepted by a substantial majority. Delegations which had been opposed in principle, to reviving the Sub-Commission had suffered a defeat on that occasion; but they had reopened the fight in the Social Committee and were apparently determined to continue it in the Council. The joint amendment submitted by France and the United Kingdom (E/L. 375) represented a last-ditch attempt to prevent the Sub-Commission from doing its work by postponing its next session until the Commission had worked out its terms of reference, which might easily delay that session until 1954."

Mr. *Mendez* (Philippines) felt that the draft resolution approved by the Social Committee faithfully carried out the instructions of the General Assembly, in that it specified both that the Sub-Commission should continue its work and that it should be convened in 1952.

Mr. *Lesage* (Canada) appealed to the United Kingdom and French delegations to withdraw their joint amendment.

Mr. *Kotschnig* (United States of America) associated himself with the Canadian representative's appeal that the joint amendment should be withdrawn.



At the 621st meeting the joint amendment by the United Kingdom and France was withdrawn. The draft resolution which the Social Committee had recommended the Council to adopt, as amended, was adopted by 16 votes to none, with 2 abstentions.

44. In this resolution the Council, noting resolution 532 B (VI) of the Assembly, decided to convene a session of the Sub-Commission in 1952 and requested the Sub-Commission to continue its work for the prevention of discrimination and the protection of minorities in accordance with General Assembly resolution 532 B (VI) and, in the light of a descriptive list presented by the Secretary-General of the various research projects and action programmes on discrimination and minority problems already initiated or being planned by various United Nations and bodies and specialized agencies, to prepare, during its fifth session in 1952, for submission to the Commission on Human Rights, a report on future work in the field of the prevention of discrimination and the protection of minorities. The Council also invited the Commission at its ninth session to consider the reports of the Sub-Commission on its fourth and fifth sessions and to report to the Council.

#### VI. Composition

45. At its fourth session (March 1947) the Council resolved<sup>92</sup> that, subject to the consent of their governments, the Sub-Commission would be composed of the following persons: Mr. A.P. Borisov (U.S.S.R.); Mr. C. F. Chang (China); Mr. J. Daniels (U.S.A.); Mr. E. E. Ekstrand (Sweden); Mr. W. M. McNamara (Australia); Mr. M. R. Masani (India); Miss E. Monroe (U.K.); Mr. J. Nisot (Belgium); Mr. A. Meneses Pallares (Ecuador); Mr. H. Roy (Haiti); Mr. R. Shafaq (Iran) and Mr. S. Spanien (France).

46. At its fifth session, the Commission decided to extend the terms of office of these members for a period of three years. It also decided to add one additional member to make the Sub-Commission more representative from the point of view of geographical distribution<sup>93</sup>.

<sup>92</sup> See resolution 46 C (IV).

<sup>93</sup> See E/1371, para. 13 B. The Council had approved the decision to add one member in its resolution 236 (IX). However, in its resolution 303 (XI) of 9 August 1951, the Council approved the decisions of the Commission to reduce the membership of the Sub-Commission from thirteen to twelve.



47. Normally, the Secretary-General would have placed the question of the membership of the Sub-Commission as an item on the provisional agenda of the eighth session (April-June 1952) of the Commission. He did not so in view of the decision of the Council, in its resolution 414 B I (XII) of 18-20 September 1951, to discontinue the Sub-Commission, after a final session in October 1951, until 31 December 1954<sup>94</sup>. Subsequently, the General Assembly, by its resolution 532 B (VI) of 4 February 1952 invited the Council to authorize the Sub-Commission to continue its work so that it might fulfil its mission.

48. The Council decided by resolution 443 (XIV) of 26 June 1952 to convene the fifth session of the Sub-Commission in 1952 and requested the Sub-Commission to continue its work in accordance with General Assembly resolution 532 B (VI), and to prepare a report on future work in the field of prevention of discrimination and protection of minorities.

49. The Commission at its ninth session (1953) discussed the membership of the Sub-Commission at its 394th to 396th meetings. It was generally agreed that, since the members of the Sub-Commission were elected in 1947, it would be desirable to elect new members; and that the terms of office of the new members should be three years, beginning on 1 January 1954 and ending on 31 December 1956. The Commission decided to recommend to the Council that the Sub-Commission should meet at least once a year and each session should last three weeks; and requested the Council to convene the sixth session in June 1954 so that its report might be discussed at the Commission's tenth session<sup>95</sup>. The report of the Commission (E/2447) and the recommendations contained therein was discussed in the Social Committee of the Council, at its sixteenth session (August 1953). Some members thought that all the work of the Sub-Commission had not come up to expectation (Mr. Rivas (Venezuela), Mr. Sterner (Sweden), Mr. Kotschnig (U.S.A.)); others appreciated its work and supported the proposal that the body should meet at least once a year (Mr. Manas (Cuba), Mr. Cheng Paonan (Ghana), Mr. Tuncel (Turkey)).

<sup>94</sup> For the attempt to discontinue the Sub-Commission, see paragraphs 25-44 above.

<sup>95</sup> E/2447, paragraph 224.



Mr. *Kotschnig* (U.S.A.) said that "it might prove desirable for the Sub-Commission not to meet every year in order to permit more thorough preparation of its work by the Secretariat and by Governments." He proposed the deletion of the words "at least" from the recommendation of the Commission (251st meeting of the Social Committee). At the 253rd meeting the Chairman of the Committee, Mr. *Munoz* (Argentina), submitted a revised text, the final paragraph of which read as follows:

"Decides that the Sub-Commission shall meet at least once a year and that each session shall last three weeks."

The words "at least" were noted separately. The Committee decided by 9 votes to 5, with 4 abstentions that the words should be retained. The draft resolution was adopted by 16 votes to none, with two abstentions. Mrs. *Ciselet* (Belgium) explained that her delegation had abstained because it was opposed to the continued existence of the Sub-Commission; Mr. *Kotschnig* (U.S.A.) said that his abstention did not denote any disagreement with the Sub-Commission's continuation. However, the inclusion of the words "at least" were thought to be more important than any other of the Council's commissions or other subsidiary bodies.

50. The Commission at its 409th meeting, elected twelve persons as members, subject to the consent of their Governments. The persons elected were:

Mr. C. D. *Ammoun* (Lebanon); Mr. J. *Bocobo*<sup>96</sup> (Philippines);

Mr. P. *Chatenet* (France); Mr. N. *Emelyanov*<sup>97</sup> (U.S.S.R.);

Mr. R. *Hiscocks* (U.K.); Mrs. *Oswald Lord*<sup>98</sup> (U.S.A.);

Mr. M. R. *Masani*<sup>99</sup> (India); Mr. M. A. *Mohammed* (Egypt);

96 The Secretary-General was notified on 7 March 1955 of the resignation of Mr. *Bocobo*. The Commission at its eleventh session (1955) unanimously elected Mr. *José D. Ingles* as a member. (See E/2731 and *Coor.* 1, paras. 66-68).

97 At its thirteenth session (1957), the Commission was informed of the death of Mr. *Emelyanov*. The representative of the U.S.S.R. nominated Mr. A. *Fomin*, who was elected. (See E/2970, para 224).

98 In a letter dated 31 March 1954, Mrs. *Lord* submitted her resignation. The Commission at its tenth session (1954) elected Mr. P. *Halpern*. (See E/2573, paras. 363 and 364).

99 The Secretary-General was advised by note verbale dated 17 July 1953 (E/CN. 4/699) that the Government of India regret their inability to approve the selection of Mr. *Masani*. The Commission at its tenth session elected Mr. A. *Krishnaswami*. (See E/2573, paras. 363 and 364).



Mr. H. Roy (Haiti); Mr. H. Santa Cruz (Chile);

Mr. M. Sorensen<sup>100</sup> (Denmark); Mr. J. Winiewicz (Poland).

51. At the twelfth session (1956) of the Commission, the representative of the Soviet Union introduced a proposal for the reelection of the members of the Sub-Commission. In the course of a brief and general discussion (519th and 520th meetings), the majority of the members of the Commission expressed the opinion that, in the interests of efficiency and continuity, the term of office of the members (see paragraph 50 *supra* should be extended).

52. At its 520th meeting the Commission adopted by 17 votes to none, with 1 abstention a resolution in which *inter alia* it decided that the members of the Sub-Commission shall be extended to 31 December 1959.

53. At its fifteenth session (1959) the Commission discussed the question of the membership of the Sub-Commission at its 620th, 625th, 626th and 635th meetings. It was generally agreed that, since the term of office of the present members expired on 31 December 1959, it would be desirable to elect new members; and that the term of office of the new members should be three years, ending 31 December 1962<sup>101</sup>.

54. Before proceeding to the election, the Commission considered the desirability of altering the composition of the Sub-Commission. A system of rotation, by which a certain proportion of the members would retire each year, was suggested as a means of ensuring greater flexibility without a loss of continuity in the Sub-Commission's work. However, the Commission took no decision on this suggestion.<sup>102</sup>

100 At the twelfth session (1956) of the Commission, the representative of the Secretary-General announced that he had been informed by the Government of Denmark that Mr. Max Sorensen had indicated that he would no longer be able to participate in the work of the Sub-Commission. At its 542nd meeting, the Commission had before it the nomination by the representative of Norway of Mr. Vieno Voitto Saario (Finland). There were no other nominations, and the Chairman declared Mr. Saario elected as a member (See E/2844, paras. 121 and 124).

101 *Official Records of the Economic and Social Council, Twenty-eighth session, Suppl. No. 8, E/3229, para. 232.*

102 *Ibid.*, para. 233.



55. Another suggestion, to increase the number of members in the Sub-Commission from twelve to fourteen, met with general acceptance. Members recalled that the Sub-Commission's work had stimulated a great deal of interest on the part of Member States, specialized agencies, and non-governmental organizations in consultative status. They pointed out that a large number of new States had been admitted to the United Nations since the membership had been fixed at twelve in 1947. Further, several members stressed the need to expand the membership with a view to securing an equitable geographical distribution and suitable representation from among new Members of the United Nations. Other members, however, believed that since the Sub-Commission was composed of experts, the principle of geographical distribution did not apply.<sup>103</sup>

56. The Commission at the 626th meeting, adopted by 11 votes to none, with 5 abstentions a resolution (resolution 11 (XVI), in which taking note the useful work done by the Sub-Commission, recognizing the interest shown by Member States, specialized agencies and non-governmental organizations in consultative status in the work of the Sub-Commission, taking into consideration the fact that since the membership was fixed at twelve in 1947 a large number of new Members have been admitted to the United Nations, decided, unless it is determined otherwise by the Council, to increase the membership of the Sub-Commission from twelve to fourteen.

57. Again at the same session, the Commission, from a list of candidates nominated by its members,<sup>104</sup> and by States non-members of the Commission,<sup>105</sup> elected at its 635th meeting twelve persons, subject to the consent of their Governments, for a period of three years, beginning 1 January 1960, as follows:

Mr. A. H. *Abdel-Ghani* (United Arab Republic); Mr. C. *Ammoun* (Lebanon);

Mr. A. A. *Fomin* (U.S.S.R.); Mr. P. *Halpern* (U.S.A.); Mr. C. R. *Hiscocks* (U.K.); Mr. J. D. *Ingles* (Philippines); Mr. P. *Juvigny* (France);

<sup>103</sup> *Ibid.*, para. 234.

<sup>104</sup> E/CN. 4/786 and Add. 1-7.

<sup>105</sup> E/CN. 4/788 and Add. 1-4.



Mr. W. *Ketrzynski* (Poland); Mr. A. *Krishnaswami* (India); Mr. F. *Matsch* (Austria); Mr. V. V. *Saario* (Finland); Mr. H. *Santa Cruz* (Chile).

58. The Council, at its twenty-eighth session (June-July 1959) by resolution 728 E (XXVIII) of 30 July 1959, approved the increase of membership from twelve to fourteen and decided to elect the two new members at the resumed twenty-eighth session.

59. At the resumed session of the Council,<sup>106</sup> Mr. M. *Abu Rannat* (Sudan) and Mr. E. *Rodriguez Fabregat* (Uruguay) were elected members.

60. The Commission at its eighteenth session (1962), from a list of candidates nominated by States Members,<sup>107</sup> elected fourteen persons, subject to the consent of their Governments, for a period of three years, beginning 1 January 1963 and ending 31 December 1965. The persons elected at the 725 th meeting on 5 April 1962 were:

Mr. M. *Abram* (U.S.A.); Mr. M. A. *Abu Rannat* (Sudan); Mr. C. *Ammoun*<sup>108</sup> (Lebanon); Mr. P. *Calvocoressi* (U.K.); Mr. F. *Capotorti* (Italy); Mr. G. *Fraga* (Mexico); Mr. J.D. *Ingles* (Philippines); Mr. B. *Ivanov* (U.S.S.R.); Mr. P. *Juigny* (France); Mr. W. *Ketrzynski* (Poland); Mr. A. *Krishnaswami* (India); Mr. F. *Matsch* (Austria); Mr. V. *Voitto Saario* (Finland); Mr. H. *Santa Cruz* (Chile).

61. At its twenty-first session (1965), the question of the membership was considered at the 846th to 848th meetings of the Commission. From a list of candidates,<sup>109</sup> the Commission elected fourteen members for a period of three years beginning 1 January 1966 and ending 31 December 1968.

62. The persons elected on 12 April 1965 were:

Mr. M. *Abu Rannat* (Sudan); Mr. P. *Calvocoressi* (U.K.); Mr. F. *Capotorti* (Italy); Mr. C. *Ferguson* (U.S.A.); Mr.

<sup>106</sup> 1090th meeting, 14 December 1959.

<sup>107</sup> E/CN. 4/821 and Add. 1-9

<sup>108</sup> At its nineteenth session (1963), the Commission, from the nominations received, (E/CN. 4/849 and Add. 1-3) elected Mr. M. Awad ((United Arab Republic) for the remainder of the term of office of the late Mr. Ammoun.

<sup>109</sup> E/CN. 4/883 and Add. 1-8 and Add. 8/Corr. 1.



J. D. Ingles (Philippines); Mr. P. Juvigny (France); Mr. W. Ketrzynski (Poland);

Mr. A. Martinez Báez (Mexico); Mr. N. Pai (India); Mr. Y. Ostrovsky (U.S.S.R.); Mr. V. Voitto Saario (Finland); Mr. H. Santa Cruz (Chile);

Mr. E. Schiller (Austria); Mr. Z. W. Zeltner (Israel).

63. At the same session, the Commission had before it a proposal<sup>110</sup> to increase the membership to eighteen. In the view of several representatives, the proposed increase would have the great advantage, and indeed the main purpose, of ensuring in the Sub-Commission a more adequate representation of the different regions, legal systems and cultures of the world. The proposal, in that respect, was quite in harmony with the trend of the last few years to increase the membership of various organs of the United Nations. Besides, the Sub-Commission was being entrusted with tasks of increasing magnitude and importance, the importance of which required the participation of a greater number of members. It was recalled that the Economic and Social Council had approved previous requests made by the Commission for the increase of its own membership and that of the Sub-Commission<sup>111</sup>.

64. Some other representatives did not favour the increase. If the purpose of such a proposal was to ensure better representation of different regions, legal systems and cultures, this could have been achieved by taking that objective fully into account in the election of the new fourteen members. The present size of the Sub-Commission allowed intimate discussion and a fruitful interchange of ideas. It was felt that the small size of the United Nations organs generally made for increased efficiency because less time was involved in hearing the views of all its members. In their view, the larger the body, the longer the discussions and the duration of the sessions, with the consequent increase in the financial implications.<sup>112</sup>

65. — Some doubts were expressed as to the number of four which the proposal for increase contained. After an exchange of views

110 E/CN. 4/L. 768. In this connexion, see para. 19 *supra*.

111 *Official Records of the Economic and Social Council, Thirty-ninth session, Supp. No. 8, E/4024, para. 478.*

112 *Ibid.*, para. 479.



concerning the advisability of recommending an increase in membership to eighteen as against any other number, the increase of four was generally agreed as being the most apt to fulfil the aims of the proposal, namely to ensure the representation of more countries and regions without changing too drastically the structure and the methods of work of the Commission.<sup>113</sup>

66. At the 848th meeting held on 13 April 1965, the Commission adopted by 19 votes to none, with 2 abstentions, the draft resolution orally proposed by the representative of India,<sup>114</sup> in which it requested the Council to approve an increase in the membership of the Sub-Commission to eighteen in order to assure adequate representation to different regions, legal systems and cultures.

67. The Council at its thirty-ninth session (June-July 1965), by resolution 1074 G (XXXIX), adopted on 28 July 1965, approved the increase. In the debate in the Council,<sup>115</sup> representatives were generally in favour of the increase. Some representatives, however, did not believe that the enlargement would necessarily lead to fuller regional representation and maintained that the efficiency of a body was not necessarily enhanced by an increase in its size. Several representatives said that if the membership was increased, the new members should come from Asian or African countries.

68. At the twenty-second session (1966), it was decided<sup>116</sup> that the new members should hold office for two years as from 1 January 1967, so that the term of office of all members may expire at the same date: 31 December 1968. The Commission elected the following persons as members:

Mrs. Phoebe Asiyo (Kenya); Mr. Mohammed Awad (United Arab Republic);

Mr. John P. Humphrey (Canada); Mr. İlhan Unat (Turkey).

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<sup>113</sup> *Ibid.*, para 489.

<sup>114</sup> Resolution 4 (XXI).

<sup>115</sup> E/AC. 7/SR. 516-521; E/SR. 1391, 1392. See also *Official Records of the General Assembly, Twentieth session*, Supp. No. 3 (A/6003), paras. 487 and 488.

<sup>116</sup> *Official Records of the Economic and Social Council, Forty-first session. Supp. No. 8*, E/4184, paras. 468-473.



69. At the twenty-fourth session of the Commission (New York, 5 February – 12 March 1968), the representative of the United Republic of Tanzania, Mr. *Waldron-Ramsey* introduced a draft resolution (E/CN. 4/L.1022) in which the Economic and social council was requested to decide to increase the membership of the Sub-Commission with a view to greater representation of the different regions, legal systems and cultures, and also equitable geographical representation.<sup>117</sup> The draft resolution was later amended by its author. The increase was to be to twenty-six members as from 1969; the Commission on Human Rights was requested to elect at its twenty-fifth session twenty-six members from nominations of experts made by Member States of the United Nations on the following basis:

From Afro/Asian States:	12 members
From Western European and other States:	6 members
From Latin American States:	5 members
From Eastern European States:	3 members

70. During the debate which preceded the vote, many<sup>118</sup> members of the Commission expressed support for the enlargement of the Sub-Commission. The representative of Italy, Mr. *Sperduti* said that it was questionable whether such an increase was necessary or desirable. The problem of ensuring equitable representation of existing legal systems could be met by re-allocating seats on the Sub-Commission, which the Commission could see to when it elected that body's members.<sup>119</sup> Doubt was also expressed whether the proposal could be discussed under the item under consideration.<sup>120</sup>

71. Again before the vote, the representative of the United Republic of Tanzania<sup>121</sup> said that admittedly the number was big, but so were the problems which the Sub-Commission had to consider. One advantage of organs with a large membership was that their size made them less easy to manipulate; he did

117 E/CN. 4/SR. 979.

118 Ukrainian SSR, Union of Soviet Socialist Republics, Iran, United Arab Republic, Venezuela (see E/CN. 4/SR. 979–982).

119 E/CN. 4/SR. 982.

120 Statements by the representatives of France and the United Kingdom (E/CN. 4/SR. 979.)

121 E/CN. 4/SR. 983.



not see any need to propose changes in the terms of reference or the name of the Sub-Commission; although the African delegations were concerned with defending not the minorities but the majorities which were the oppressed in Africa. At its next session the Commission could perhaps consider the Sub-Commission's name and terms of reference, but now it should seek to remedy the calculated injustice and imbalance of its composition. As had been done in the case of other organs, that should be achieved by increasing its membership.

72. The draft resolution (E/CN. 4/L. 1022) as a whole, as amended, was adopted by 23 votes to 7 with 1 abstention.

73. In explanation of their votes various representatives stated:

Mr. *Forshell* (Sweden):

".....He was opposed in principle to the creation of expert bodies with a large membership, because they tended to be ineffective and it was very difficult to find experts, if a high standard of competence was to be maintained."

Sir *Samuel Hoare* (United Kingdom):

".....The Western countries were not against better geographical distribution, and would have been prepared to accept a Sub-Commission of eighteen on which their own representation would be reduced, but this had been rejected. The Tanzanian draft resolution was a thoroughly bad resolution and his delegation had voted against it".

Mr. *Carey* (United States of America):

".....In his view, the change proposed would be qualitative as well as quantitative; it would alter the nature of the Sub-Commission and transform it from an expert into a representative body."

Mr. *Bealy* (New Zealand):

".....An expansion could significantly alter its character".

Mr. *Nasinovsky* (Union of Soviet Socialist Republics):

".....It had voted for the draft resolution as a whole, because it believed that the present composition did not reflect the normal balance found in other United Nations organs. Aside from that, his delegation did not think highly of the Sub-Commission. It was based purely on individual representation, was very costly, did not do very useful work and did not produce very constructive results. He wondered whether the Sub-Commission was really necessary."

Mr. *Sperduti* (Italy):

".....Disagreed with the Soviet representative; on many occasions the Sub-Commission had demonstrated its efficiency and competence and the only reason why its findings had not been utilized was that the Commission's



agenda was always overburdened. Since it was a body of experts, it was not subject to the same criteria as those applied to an organ in which Governments were represented. While certain changes could be made in the Sub-Commission, its membership could never be expanded beyond certain limits".

Mr. *Heffeyte* (France):

".....An expanded membership might impair the efficiency of work of the experts. Moreover, he was not in agreement with the procedure of modifying the composition of United Nations bodies in an improvised and precipitate manner".

Mr. *Ermacora* (Austria):

".....It was illogical to consider increasing the membership the Sub-Commission when the Commission was still unable to examine the reports it had submitted".

74. The Economic and Social Council at its forty-fourth session, noting the above-mentioned resolution (resolution 9 (XXIV)) of the Commission on Human Rights<sup>122</sup> and desirous of having greater representation of the different regions, legal systems, cultures as well as equitable geographical representation in the membership of the Sub-Commission decided to increase the membership to twenty-six as from 1969 (resolution 1334 XLIV).

<sup>122</sup> See *Official Records of the Economic and Social Council, Forty-fourth session, Supplement No. 4 (E/4475), Chapter XVIII.*