

COMMISSION ON HUMAN RIGHTS

SECOND SESSION

SUMMARY RECORD OF THIRTY-FIRST MEETING

Held at the Palais des Nations, Geneva,
on Monday, 8 December, 1947, at 12 noon.

Present:

- Chairman: Mrs. Franklin D. Roosevelt (United States of America)
- Rapporteur: Dr. C. Malik (Lebanon)
- Members: Col. W.R. Hodgson (Australia)
Prof. F. Dehousse (Belgium)
Mr. A.S. Stepanenko (Byelorussian S.S.R.)
Mr. Nan-Ju Wu (China)
Mr. O. Loutfi (Egypt)
Mrs. Hansa Mehta (India)
Mr. A.G. Pourevaly (Iran)
Mr. M. Amado (Panama)
Gen. C.P. Romulo (Philippine Republic)
Mr. M. Klekovkin (Ukrainian S.S.R.)
Mr. A.E. Bogomolov (U.S.S.R.)
Lord Dukeston (United Kingdom)
Dr. V. Ribnikar (Yugoslavia)
- Representatives of
the Commission on
the Status of Women: Mrs. B. Begtrup, Chairman
Mrs. E. Uralova, Rapporteur
- Specialized Agencies: Mr. J. de Givry (I.L.O.)
Mr. J. Havet (UNESCO)
Mr. Weis (Preparatory Commission for
the International Refugee
Organization)

Non-Governmental
Organizations:

Category A:

Miss Toni Sender (American
Federation of Labour)

Mr. P.V.S. Serrarens (International
Federation of Christian
Trade Unions)

Mr. A.R. de Clery (Inter-
parliamentary Union)

Non-Governmental
Organizations:

Category B:

Mr. O.F. Nolde (Commission of the
Churches on International
Affairs)

Mr. J.M.E. Duchosal (Comité
Internationale de la
Croix Rouge)

Dr. Bienenfeld (Consultative
Council of Jewish Organiza-
tions)

Miss de Romar (Union Internationale
des Ligues Feminines
Catholiques. Union
Catholique Internationale
de Service Social)

Miss van Eeghen (International
Council of Women)

1. Report of the Sub-Commission on the Prevention of
Discrimination and the Protection of Minorities (Doc.E/CN.4/52).

The CHAIRMAN requested Mr. E.E. EKSTRAND (Sweden),
Chairman of the Sub-Commission on the Prevention of
Discrimination and Protection of Minorities, to present the
report of the Sub-Commission.

Mr. EKSTRAND said that he had the honour to present to
the Commission the Report of the first session of the Sub-
Commission on the Prevention of Discrimination and the
Protection of Minorities.

The CHAIRMAN thanked Mr. EKSTRAND and expressed her
appreciation of the work done by the Sub-Commission.

General ROMULO (Philippine Republic) moved that a vote of thanks should be sent to the Sub-Commission.

The CHAIRMAN, in the absence of further observations, said she considered that General ROMULO's motion was accepted. She then requested Mr. EKSTRAND to comment on the Sub-Commission's Report.

Mr. EKSTRAND stated that the Sub-Commission felt that its Terms of Reference were not sufficiently precise, and that future work might be facilitated if they were clarified. His comments on the suggestions of the Sub-Commission for Articles to be included in the Draft Declaration on Human Rights were as follows:

Article 6: After a lengthy discussion, in order to clarify concepts of the rights and freedoms mentioned in the Article, the Sub-Commission had recommended certain additional qualifications to the text submitted by the Drafting Committee. The Sub-Commission had also recommended that clauses condemning incitement to violence against religious groups, nations, races or minorities should be included in the Declaration of Rights or in the proposed Convention.

Article 13: The Sub-Commission had submitted a new text for Article 13.

Article 15: The Sub-Commission was of opinion that no decision could be taken on the matter until it had been discussed by the Commission on the Status of Women.

Article 28: The Sub-Commission had adopted the text drawn up by the Drafting Committee.

Article 36: A new text had been adopted by the Sub-Commission in consideration of the fact that there are certain countries in which more than one script, as well as more than one language, is in use.

The Sub-Commission felt that machinery for the prevention of discrimination and the protection of minorities was necessary but considered it was not yet in a position to make recommendations regarding it.

Concerning the scope of the terminology regarding the prevention of discrimination and the protection of minorities the Sub-Commission felt that it could not frame juridical definitions; it had submitted some considerations for the study of the Commission.

The Sub-Commission had proposed that certain studies should be undertaken, since it was considered that an essential factor in eliminating discrimination was better knowledge and understanding between different peoples.

The Sub-Commission had noted that between the two world wars, certain Declarations and Conventions had been concluded relating to international obligations to combat discrimination and to protect minorities. The Sub-Commission felt that it would be necessary to know to what extent such Declarations and Conventions might still be binding.

Colonel HODGSON (Australia) said that he agreed with the CHAIRMAN of the Sub-Commission regarding the wide scope of the Terms of Reference of the Sub-Commission and that he appreciated the difficulties of interpretation which had arisen. He went on to say, however, that much discussion had taken place in the meetings of the Commission as to whether priority should be given to the study of the Declaration, or the Bill or Convention. He asked why the Sub-Commission had concentrated its efforts entirely on the Declaration, without taking into account the Convention, and why Working Groups had not been established to consider both questions.

He also pointed out that some of the views expressed in the Sub-Commission's Report were in conflict with the views expressed of Representatives of Members of the Commission. He wished it to be clearly understood that the Members of the Sub-Commission were speaking as experts and not as Representatives of Governments.

Mr. EKSTRAND said that there had been some differences of opinion as to the scope of the Sub-Commission's Terms of Reference, but it had been decided that only the Articles specifically suggested for referral to the Sub-Commission would be studied. He pointed out that the method of procedure had been chosen with the object of saving time. Regarding the differences of opinion between members of the Sub-Commission and representatives of the Commission, he stated that the Sub-Commission had recognized that its Members were experts, not Representatives of Governments.

Mr. DEHCUSSE (Belgium) said that it was clear that the Sub-Commission could take into account only documents which were at its disposal at the time of its meetings. It was equally clear that when the Commission studied the Report of the Sub-Commission, it would be necessary to take into account the debates which had taken place in the Commission's meetings.

Dr. MALIK (Lebanon) said that it had been stated that the Sub-Commission had before it for consideration Annex F of Document E/CN.4/21. It had also been stated that that was the only document referred to the Sub-Commission. He said he would like to ask who had referred the document to the Sub-Commission in that form, and why. He also asked whether the Sub-Commission did not have Document E/CN.4/21 in its entirety before it, including not only Annex F but

also Annexes G and H. He stated that he was unable to understand why the Sub-Commission had concentrated its efforts on Annex F only.

Mr. EKSTRAND pointed out that, although the Document in question had been distributed to Members of the Sub-Commission, they had decided to consider only the Articles expressly suggested for submission to them.

Professor HUMPHREY (Director of the Human Rights Division), with the Chairman's permission, drew attention to Document E/CN.4/Sub.2/9, which had been prepared by the Secretariat for the information of the Sub-Commission. He directed the attention of representatives to the first two paragraphs in particular. Commenting on paragraph 1 he said that the fact that the Sub-Commission had met before the present Session of the Commission had raised difficulties. The Secretariat had drawn the attention of the Sub-Commission particularly to points on which the Drafting Committee had expressed a desire to have its advice.

Dr. MALIK (Lebanon) said it appeared that, in the submission of the Articles to the Sub-Commission by the Secretariat, mention was made only of the Declaration. That seemed to him rather strange, in view of the fact that at the end of Annex G there was the following reference to the Sub-Commission: "These suggestions will be completed by provisions prohibiting distinctions based on race, sex, language and religion. No attempt is made to draft these Provisions in advance of the Reports of the Sub-Commission on Discrimination and Minorities and also of the Commission on the Status of Women." Apparently the opinions of the Sub-Commission on these questions had been desired, and unfortunately they were not available. He also referred

to the fact that in the Terms of Reference of the Sub-Commission mention was made of "defining principles to be applied." In his opinion that phrase concerned the Convention rather than the Declaration.

Mr. EKSTRAND reminded the representatives of the time limit which had been set to the Sub-Commission's work. The Sub-Commission had dealt primarily with those questions which it considered had been expressly submitted to it. He felt that it had done its best in the time at its disposal. He felt that the Sub-Commission had agreed on certain principles; whether those principles were to be included in a Declaration or in a Convention was an important matter, one which the Sub-Commission had not felt itself competent to decide.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) proposed that the Commission should take notice of the Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and transmit it for further study to the Working Group on the Draft Declaration. He considered that many Articles which had been discussed by the Sub-Commission, in particular Articles 6, 13, 15, 28 and 36, were of interest to the Working Group on the Draft Declaration.

The CHAIRMAN felt that the Report of the Sub-Commission ought to be considered by all the representatives, and therefore by all the Working Groups.

Lord DUKESTON (United Kingdom) supported the remarks of Dr. MALIK and agreed with the Chairman's view that the Report of the Sub-Commission should be studied by the three Working Groups.

Mr. CASSIN (France) felt that no blame could be attached to the Sub-Commission for having been unable to

deal with in one meeting the amount of work laid down by its Terms of Reference; the Commission might easily find itself in a similar position. He pointed out that the task had been a tremendous one, and he appreciated the attention which had been given to the Declaration. His Government, while realising the importance of the Convention and of Implementation, believed it was better to proceed by gradual stages. He felt that in future sessions the Sub-Commission would be able to complete its work and advise the Commission on the drafting of articles for inclusion in the Convention on the protection of minorities and the prevention of discrimination. He hoped it would be possible for the Sub-Commission to be convened after the comments of Governments had been received and before the Commission met again, to consider questions in connection with the Convention and Implementation. He agreed with the Chairman that the Report should be remitted to the three Working Groups.

The CHAIRMAN stated that the point raised by Mr. CASSIN regarding the next session of the Sub-Commission would come up for consideration at a later date. She welcomed Dr. WU, representative of China, who had taken his seat for the first time during the present Session.

Dr. WU (China) stated his feeling that, because no provisions in respect of Discrimination and minorities had been included in Annex G of Document E/CN.4/21, the Sub-Commission had been right in excluding the Convention from its studies. In his opinion, the Report of the Sub-Commission furnished material to the Commission for drafting articles bearing on discrimination and minorities. In support of this contention he cited the recommendation of the Sub-Commission that clauses condemning incitement to

violence against religious groups, nations, races or minorities, should be included in the Declaration of Rights or in the proposed Convention. He disagreed with the Soviet Union representative that the Report should be referred only to the Working Group on the Declaration.

Mr. DEHOUSSE (Belgium) said that two factors had to be taken into account in passing judgment on the work of the Sub-Commission: (1) the Report had been established as a result of the first session of the Sub-Commission, and it was not to be expected that every question could be considered in one session; (2) had the Commission on Human Rights met before the Sub-Commission, some of the suggestions in the Report might have been altered, in the light of the discussions of the Commission. He wished to associate himself with the remarks of the representative of France. He felt that the Report contained some useful suggestions, and, speaking as the Rapporteur of the Third Working Group, he thought that sections IV and IX were of particular concern to that Group.

General ROMULO (Philippine Republic) proposed an amendment to the Soviet Union proposal: "That the observations and recommendations of the Sub-Commission be considered by the three Working Groups established by the Commission."

The CHAIRMAN said that, if the Soviet Union representative withdrew his resolution, it would be unnecessary to take any action, since there was nothing to prevent each Working Group from considering the Report of the Sub-Commission.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) said that he realized that it was the right of every representative to take cognisance of the Report submitted by the Sub-Commission. In his resolution he had stressed the point

that the contents of the Report were of particular interest to the Working Group dealing with the Declaration. If the general opinion was that the Report should be considered by every representative and use made of its contents in the Working Groups, he was willing to agree to that.

The CHAIRMAN said that, in that case, the Report would be considered as accepted. She thanked Mr. EKSTRAND, and referred the Report for study to each member of the Commission, pointing out that it would be available for use in the Working Groups, should that be considered desirable.

She went on to say that, while recognizing that the drafting of one point might take several months, she considered the task of the Working Groups was in the nature of preliminary work. It was important that general principles, which could be sent to Governments for comment, should be laid down. The Drafting Committee and the third session of the Commission could determine the final wording.

The meeting rose at 1.25 p.m.