

UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL



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COMMISSION ON HUMAN RIGHTS

Sixth session

REPORT OF THE AD HOC COMMITTEE ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

1. The ad hoc Committee on Prevention of Discrimination and Protection of Minorities, established by the Commission on Human Rights at its 150th meeting, held two meetings on Thursday, 13 April 1950. The following Members of the Commission on Human Rights attended:

Chairman and
Rapporteur:

Mr. Sorensen (Denmark)

Members:

Mr. Ramadan (Egypt)

Mr. Theodoropoulos (Greece)

Mrs. Mehta (India)

Mr. Mendez (Philippines)

Mrs. Roosevelt (United States
of America)

2. At its first meeting, Mr. Sorensen (Denmark) was elected Chairman and Rapporteur. In the absence of Mrs. Roosevelt (United States) at the second meeting of the Committee, Mr. Simsarian served as alternate.

3. The Committee had been requested by the Commission to study two items of the Commission's agenda:

Item 8: Reports of the second and third sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (documents E/CN.4/351, E/CN.4/351/Corr.1 and Corr.2, E/CN.4/358 and E/CN.4/358/Add.1)

Item 11: Report of the Secretary-General on the Question of the Continuing Validity of the Minorities Treaties and Declarations (Economic and Social Council resolution 116 C(VI) and E/1371, paragraph 28; document E/CN.4/367).

4. The expression of the views of the members of the Committee is embodied in

/the summary
E/CN.4/450

the summary records of the meetings (E/CN.4/AC.11/SR.1 and 2).

5. With respect to item 11 of the Commission's agenda, the Committee decided to make only a procedural recommendation. At its first meeting, it received the Secretary-General's "Study of the Legal Validity of the Undertakings Concerning Minorities" (E/CN.4/367). It did not examine this study in detail, as the members had not had the time to read it. It was the general feeling of members of the Committee that the document required careful consideration by Governments, and that it might therefore be advisable for the Commission on Human Rights to postpone consideration of it until its seventh session. It was pointed out, also, that the information which Governments would be invited to furnish the Secretary-General on the legal status of minorities (draft resolution B, paragraph a (ii)) might have some bearing on this problem. The Committee agreed, however, that the study should, in the meantime, be transmitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for its information. It decided to submit a draft resolution to the Commission on this matter (draft resolution A, annex to this report).

6. With respect to item 8 of the Commission's agenda, the Committee examined in detail the reports of the second and third sessions of the Sub-Commission, and made the following decisions:

Draft resolutions I and II

7. The Committee examined draft resolutions I and II, submitted by the Sub-Commission (annex, report of the Sub-Commission's third session (E/CN.4/358)), on legal measures for the prevention of discrimination and educational measures for the prevention of discrimination respectively. It decided upon certain drafting changes to be made in each of these draft resolutions, and agreed to forward them, as amended, to the Commission. The amended texts appear in the annex to this report as draft resolutions B(a)(i) and D.

Draft resolutions III, IV, and V

8. With respect to draft resolutions III, IV, and V, submitted by the Sub-Commission, relating respectively to a definition of minorities, information on the status of minorities, and interim measures to be taken for the protection of minorities, the Committee had before it a proposal by the representative of the United States (E/CN.4/AC.11/L.1). This proposal, as amended by the Committee, was adopted in the following form, as a draft resolution recommended for adoption by the Commission:

/The Commission on

The Commission on Human Rights,

Having considered the three resolutions recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities relating to a definition of minorities, interim measures to be taken for the protection of minorities, and information on the status of minorities, and

Recognizing that the Sub-Commission decided at its third session that the protection of minorities by international agreement should be considered further at its next session, and

Recognizing that the Sub-Commission will have additional information at its next session from Member Governments regarding minorities which it proposes to consider before completing its recommendations relating to their protection by international agreement,

Decides to approve the resolution requesting information on the status of minorities,

Decides that it is premature to forward to the Economic and Social Council the resolution relating to a definition of minorities and the resolution on interim measures to be taken for the protection of minorities,

Decides accordingly not to forward these two resolutions to the Economic and Social Council, but to give tentative approval to these resolutions for their use by the Sub-Commission as a basis for the development of further proposals on minorities, drawing the attention of the Sub-Commission to the discussions of these resolutions in the Commission on Human Rights; and

Invites the Sub-Commission, following its consideration of information received as a result of its request to Governments for information, to make recommendations to the Commission on Human Rights:

(1) regarding the rights of minorities which deserve protection by international agreement or otherwise, taking into consideration the rights proposed to be provided in the International Covenant on Human Rights, and

(2) regarding measures to ascertain, by means of questionnaires and similar methods, from each Government, whether Member or non-Member, the existence of groups which possess minorities characteristics and desire the protection of minorities rights.

9. In the annex to this report, the text of the Sub-Commission's draft resolution IV, on information on the status of minorities, has been amalgamated with the text of its draft resolution I, on legal measures for the prevention of discrimination, bringing together the two proposals that the Secretary-General be requested to invite Governments to submit information concerning the prevention of discrimination and the protection of minorities (draft resolution B, annex to this report). The draft resolution referred to in paragraph 8 above, without the reference to information on the status of minorities, appears in the annex to this report as draft resolution E. The Sub-Commission's draft resolutions III and V (as amended), referred to in the Committee's draft resolution E, appear as an appendix to this report.

10. In its discussion of the Sub-Commission's draft resolution III, on the definition of minorities, the Committee confined itself to the question of loyalty. Several members of the Committee were not prepared to discuss the substance of the proposed definition of minorities.

11. In its discussion of the Sub-Commission's draft resolution V, on interim measures to be taken for the protection of minorities, members of the Committee expressed the view that the recommendation made by the Sub-Commission represented only a minimum to be achieved. The Committee decided to recommend several amendments to this draft resolution; these proposed amendments have been incorporated in a revised text, which appears in the appendix to this report. The revised text is intended to serve as a guide to the Sub-Commission in its reconsideration of this matter.

12. The Committee expressed the view that the Sub-Commission should be asked to reconsider the whole problem in the light of its discussion and of any which might take place in the Commission on Human Rights, paying particular attention to the right of a minority to establish private schools teaching in the minority language and to the possible use of minorities languages in State-supported schools.

Draft resolution VI

13. The Committee decided to take no action on the Sub-Commission's draft resolution VI, on the handling of petitions, it being understood that this draft resolution would be considered in connexion with item 6 of the agenda of the Commission by the ad hoc Committee on Communications.

/Draft resolution VII

Draft resolution VII

14. The Committee examined the Sub-Commission's draft resolution VII, on co-operation of non-governmental organizations and, after revising its text, decided to submit it to the Commission for consideration. It appears in the annex to this report as draft resolution C.

Draft resolution VIII

15. The Committee decided, by a vote of 3 to 2, with 1 abstention, not to forward to the Commission the Sub-Commission's draft resolution VIII on national co-ordinating committees. A minority of members of the Committee felt that this draft resolution should be considered by the Commission in connexion with item 12 of its agenda, Local Human Rights Committees.

Draft resolution IX

16. The Committee decided unanimously to recommend that no action be taken by the Commission on the Sub-Commission's draft resolution IX, on the right of the Sub-Commission to forward proposals to the Economic and Social Council.

Recommendations Relating to the Draft International Covenant on Human Rights and Measures of Implementation

17. The Committee took note of the Suggestions made by the Sub-Commission relating to the draft International Covenant on Human Rights and Measures of Implementation, including:

- (a) The Sub-Commission's draft resolution III (second session), on a provision to be added to the draft International Covenant on Human Rights (E/CN.4/351, Annex); and
- (b) The various suggestions set forth in chapter VIII of the report of the third session of the Sub-Commission (E/CN.4/358).
- (c) Resolution G, report of the third session of the Sub-Commission.

18. It decided to call to the attention of the Commission draft resolution III (of the Sub-Commission's second session), and chapters VIII and IX (resolution G) of the report of the Sub-Commission's third session. Members of the Committee reserved the right to put forward amendments to the recommendations of the Sub-Commission at a later stage.

Urgent Matter

19. The Committee decided to recommend that its draft resolution B, on information from Governments (annex to this report), be acted upon as soon as conveniently possible by the Commission, in order that the dispatch of the necessary letters to Governments might be expedited.

ANNEX

DRAFT RESOLUTIONS ON THE REPORTS OF THE SECOND AND THIRD
SESSIONS OF THE SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION OF MINORITIES

A.

Study of the legal validity of the undertakings concerning
minorities

The Commission on Human Rights,

Noting the Study of the Legal Validity of the Undertakings Concerning Minorities (E/CN.4/367), prepared by the Secretary-General in accordance with resolution 116 C (VI) of the Economic and Social Council,

Transmits this study to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for its information, and

Postpones consideration of this study until its seventh session.

B.

Information from Governments relating to the prevention of
discrimination and the protection of minorities

The Commission on Human Rights,

Considering the need for thorough and precise information relating to the prevention of discrimination and the protection of minorities,

Requests the Secretary-General:

(a) to invite Governments, Members, and non-Members of the United Nations, to furnish him, as soon as practicable but in any case not later than 1 December 1950:

- (i) examples (with appropriate citations, where possible) of legislation, judicial decisions, and other types of action which have been found to be especially useful in that country in preventing discrimination in one or more of the fields covered by the Universal Declaration of Human Rights;
- (ii) full information regarding legislative measures for the protection of any minority within their jurisdiction, in the light of the provisional definition of minorities adopted by the Sub-Commission at its third session, and regarding the status of such minorities in the light of the provisions of the Universal Declaration of Human Rights; and

/(b) to distribute

(b) to distribute the information received from Governments in response to this invitation to the members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities prior to its fourth session!

C.

Co-operation of non-governmental organizations

The Commission on Human Rights,

Recognizing the valuable co-operation already given by various non-governmental organizations which have been brought into consultative status with the United Nations,

Recognizing the special and important role that such organizations can play in the development of the tasks of the Sub-Commission,

Requests the Secretary-General:

(a) To invite all such organizations to furnish annually, and at any other time desired by them, factual information relevant to the Sub-Commission's terms of reference; in particular, factual and statistical information such as may assist the Sub-Commission with respect to Article 2 of the Universal Declaration of Human Rights;

(b) To submit information received from such non-governmental organizations to the Governments concerned, and to furnish to the members of the Sub-Commission the information received from the non-governmental organizations, accompanied, if available, by any relevant commentaries or other data received by the Secretariat from the Governments concerned.

D.

Educational measures for the prevention of discrimination

The Commission on Human Rights

Recommends that the Economic and Social Council adopt the following draft resolution:

The Economic and Social Council,

Believing that much may be accomplished in the prevention of discrimination through education, and that lasting and positive results in preventing discrimination are attainable in the school;

Affirms its conviction that the principal goals of education in this field should be:

(1) to abolish all forms of social discrimination; / (2) to eradicate

(2) to eradicate such prejudices as may lead to the commission of unlawful acts of discrimination;

and to this end;

Calls upon all Member States to take all steps available to them to eliminate all forms of discrimination from their schools;

Emphasizes the part which private educational establishments and non-governmental organizations have to play in combatting prejudice and discrimination;

Invites UNESCO to give due emphasis to those practical activities in the field of education which are likely to lead to the eradication of prejudice and the elimination of discrimination, and, in this connexion, to bear in mind the opportunities for progress to this end afforded by adult educational activities;

Notes with pleasure the following resolutions in the 1950 programme of UNESCO, which it considers capable of producing practical results:

- (a) Resolution 2.3. The improvement of textbooks and teaching materials (which work could be directed to preventing the creation of prejudice which leads to discrimination);
 - (b) Resolution 2.2. The conduct of educational seminars (since the attitude of the teacher is among the most significant factors in preventing the formulation of prejudice);
 - (c) Resolution 2.4. The publication and distribution of selected materials from each seminar (which can be of use, both to teachers and in connexion with adult educational activities, to the general public);
- and

Urgently awaits UNESCO's forthcoming statement on race from the viewpoint of present scientific knowledge, and as soon as it is available:

- 1. Requests UNESCO to give priority and the necessary funds to the preparation, publication and dissemination of simple and readable books or pamphlets, based on scientific facts, explaining the fallacies of mistaken race theories and religious and other prejudices; and
- 2. Invites Member States to distribute such books or pamphlets widely among all their peoples, and to disseminate these ideas through their public education programmes.

E.

Proposals of the Sub-Commission relating to the definition
of minorities, and interim measures to be taken
for the protection of minorities

The Commission on Human Rights,

Having considered the draft resolutions recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities relating to a definition of minorities and interim measures to be taken for the protection of minorities*,

Recognizing that the Sub-Commission decided at its third session that the protection of minorities by international agreement should be considered further at its next session, and

Recognizing that the Sub-Commission will have additional information at its next session from Member Governments regarding minorities which it proposes to consider before completing its recommendations relating to their protection by international agreement,

Decides that it is premature to forward to the Economic and Social Council the resolution relating to a definition of minorities and the resolution on interim measures to be taken for the protection of minorities

Decides accordingly not to forward these two resolutions to the Economic and Social Council, but to give tentative approval to these resolutions for their use by the Sub-Commission as a basis for the development of further proposals on minorities, drawing the attention of the Sub-Commission to the discussions of these resolutions in the Commission on Human Rights; and

Invites the Sub-Commission, following its consideration of information received as a result of its request to Governments for information, to make recommendations to the Commission on Human Rights:

- (1) regarding the rights of minorities which deserve protection by international agreement or otherwise, taking into consideration the rights proposed to be provided in the International Covenant on Human Rights, and

* The texts of these two draft resolutions are appended to this Annex. In the case of the draft ~~resolution~~ on interim measures to be taken for the protection of minorities, certain amendments have been made by the ad hoc Committee.

(2) regarding measures to ascertain, by means of questionnaires and similar methods, from each Government, whether Member or non-Member, the existence of groups which possess minorities characteristics and desire the protection of minorities rights.

APPENDIX

I

Definition of minorities for purposes of protection by the
United Nations

(adopted by the Sub-Commission at its third session)

The Commission on Human Rights,

1. Recognizing that there are among the nationals of many States distinctive population groups, usually known as minorities, possessing ethnic, religious, or linguistic traditions or characteristics different from those of the rest of the population, and that among these are groups that need to be protected by special measures, national or international, so that they can preserve and develop the traditions or characteristics in question,
2. Recognizing, however, that not all such groups pose this problem of protection, which is not required:
 - (a) When the group in question, though numerically inferior to the rest of the population, is the dominant group therein; and
 - (b) When the group in question seeks complete identity of treatment with the rest of the population, in which case its problems are covered by those articles of the Charter of the United Nations, the Universal Declaration of Human Rights and the Draft International Covenant on Human Rights that are directed towards the prevention of discrimination,
3. Recognizing, at the same time, that any definition of minorities that is made with a view to their protection by the United Nations must take into account complex situations such as:
 - (a) The undesirability of imposing unwanted distinctions upon individuals belonging to a group who, while possessing the distinctive characteristics described above, do not wish to be treated differently from the rest of the population;
 - (b) The undesirability of interfering with the spontaneous developments which take place when impacts such as that of a new environment, or that of modern means of communication, produce a state of rapid racial, social, cultural or linguistic evolution;
 - (c) The risk of taking measures that might lend themselves to misuse amongst a minority whose members' spontaneous desire for a tranquil life as contented /citizens of a

citizens of a State might be disturbed by parties interested in fomenting amongst them a disloyalty to that State;

(d) The undesirability of affording protection to practices which are inconsistent with human rights as proclaimed in the Universal Declaration of Human Rights; and

(e) The difficulties raised by claims to the status of a minority by groups so small that special treatment would, for instance, place a disproportionate burden upon the resources of the State;

(4) Resolves that from the standpoint of such measures of protection of minorities as the United Nations may wish to take, and in the light of the exceptions and complexities set out above:

(a) The term minority includes only those non-dominant groups in a population which possess and wish to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population;

(b) Such minorities should properly include a number of persons sufficient by themselves to develop such characteristics; and

(c) The members of such minorities must be loyal to the State of which they are nationals.

II

Interim measures to be taken for the protection of minorities

(Adopted by the Sub-Commission at its third session, and amended by the ad hoc Committee on Prevention of Discrimination and Protection of Minorities. The Committee's proposed revisions are underlined; the original wording submitted by the Sub-Commission appears in brackets).

The Commission on Human Rights,

Recommends that the Economic and Social Council adopt and transmit to the General Assembly the following draft resolution, on interim measures to be taken for the protection of minorities:

The Economic and Social Council,

Considering that the problem of the fate of minorities was referred to the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities by the General Assembly in Part C of resolution 217(III),

/Considering

Considering that the Sub-Commission on Prevention of Discrimination and Protection of Minorities has adopted a definition of minorities for purposes of protection by the United Nations, in resolution C of its third session; and that the Sub-Commission is now engaged in a further study of the problem of minorities in order that the United Nations may be able to take effective measures for such protection,

Considering that the rights traditionally desired by minorities were extensively set forth in the minorities treaties and declarations which came into force after the First World War,

Considering that many of the rights traditionally claimed by minorities are proclaimed in the Universal Declaration of Human Rights, and that, pending the coming into force of an International Covenant on Human Rights, it is not feasible fully to determine what further measures will become necessary for the protection of minorities,

Considering, however, that neither the Universal Declaration of Human Rights nor the Draft International Covenant on Human Rights fully covers the right of using the minority language before the courts, or of teaching the minority language as one of the courses of study in State-supported schools,

Recommends that, as an interim means of (displaying its concern for) protecting minorities, the General Assembly adopt, and so place the full weight of its authority behind, the following draft resolution on facilities to be provided for minorities, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its second session:

The General Assembly,

Considering that the discriminatory treatment of minorities has been and could be a major cause of international tension leading to war,

Considering at the same time that rights accorded minorities entail a corresponding obligation on their part towards the larger society in which they live and must not, therefore, be used to threaten or undermine the unity and security of States,

Considering that provision has been made in the Universal Declaration of Human Rights and in the Draft International Covenant

/on Human Rights

on Human Rights for the recognition of such traditional minority rights as freedom of religion, speech, assembly and association,

Recommends that, in the interest of enabling recognized minority groups to maintain their cultural heritage when they desire to do so, Member Governments should provide as a minimum, adequate facilities, in districts, regions and territories where they represent a considerable proportion of the population, for:

(1) The use (in judicial procedure) before the courts of languages of such groups, in those cases where the member of the minority group does not speak or understand the language ordinarily used in the courts;

(2) The teaching in State-supported schools of languages of such groups, provided that such groups request it and that the request in reality expresses the spontaneous desire of such groups;

Affirms that such groups shall possess these or other rights so long as they are not used for the purpose of threatening or undermining the unity or security of States.
