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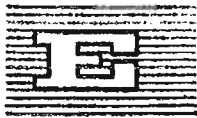


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COMMISSION ON HUMAN RIGHTS

Ninth Session

SUMMARY RECORD OF THE THREE HUNDRED AND NINETY-FIFTH MEETING

held at the Palais des Nations, Geneva,
on Thursday, 21 May 1953, at 10.00 a.m.

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Discrimination and Protection of Minorities
(item 5 of the agenda) (E/CN.4/680, E/CN.4/680/Add.1,
E/CN.4/687) (continued)

Present:

Chairman:

Mr. AZMI (Egypt)

Rapporteur:

Mr. KAECKENBEECK (Belgium)

Members:

Mr. WHITLAM

Australia

Mr. CHENG PAONAN

China

Mr. ABDEL-GHANI

Egypt

Mr. JUVIGNY

France

Mr. CHATTOPADHYAY

India

Representatives of non-governmental organizations (continued):

Category B and Register

Consultative Council of Jewish Organizations	Mr. BRUNSCHWIG
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Federation of Business and Professional Women	Mrs. SCHRADER-RIVOLLET
International Federation of University Women	Miss BOWIE
International Union for Child Welfare	Mrs. SMALL
Liaison Committee of Women's International Organizations	Miss BOWIE
Pax Romana	Miss ARCHINARD
Women's International League for Peace and Freedom	Mrs. BAER
World Jewish Congress	Mr. RIEGNER

Secretariat:

Mr. Humphrey	Representative of the Secretary-General
Mr. Das) Mrs. Bruce)	Secretaries to the Commission

MEMBERSHIP OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES (item 5 of the agenda) (E/CN.4/680, E/CN.4/680/Add.1, E/CN.4/687) (continued)

Mrs. CHATTOPADHYAY (India), presenting her draft resolution on membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities⁽¹⁾, explained that no date had been inserted in the last paragraph because it was clear from the previous day's discussion that further information was needed. It seemed that the term of office of the present members of the Sub-Commission extended until 31 December 1953, so that, should the Commission recommend September 1953 for the Sub-Commission's next session, it would have to decide whether that session should be attended by the outgoing or by the newly-elected members. The Indian Government was strongly in favour of holding the next session soon - during 1953 if at all possible. She would suggest that the Sub-Commission might be convened later than September, even though the General Assembly would then be in session.

The CHAIRMAN drew attention to rule 69 of the rules of procedure of the Council's functional commissions, according to which members of sub-commissions remained in office until 31 December following the election of their successors. The Council could, however, decide otherwise, and rule that the next session of the Sub-Commission be attended by the newly-elected members.

(1) The Indian draft resolution read:

" The Commission on Human Rights

Considering that the term of office of the members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities should expire on 31 December of this year and that it is necessary to elect the new members of this Sub-Commission;

Decides to elect the new members during this session of the Commission after considering item 4 of its agenda;

Decides that the term of office of the members of the Sub-Commission shall be three years;

Decides that the Sub-Commission shall meet at least once a year and that this annual session shall last three weeks;

Requests the Economic and Social Council to convene the next session of the Sub-Commission in"

There would be some difficulty in holding the session any later than the first half of September, since the regular sessions of the General Assembly usually opened in the second half of that month, and it was the tradition that commissions and sub-commissions should not meet during sessions of the Assembly. The alternatives were, therefore, to hold either a session with the outgoing members in September 1953, or one with the newly-elected members in January or February 1954.

Mr. ROY, Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, speaking at the invitation of the CHAIRMAN, asked whether it was really out of the question for a commission or sub-commission to meet at the same time as the General Assembly, and whether the rule on the subject was categorical. He also asked whether the Secretariat could state by what decision the session of the Sub-Commission had been fixed for September 1953.

Mr. HUMPHREY (Secretariat) said that there was no hard and fast rule prohibiting meetings of commissions or sub-commissions during sessions of the General Assembly. Such a meeting would, however, give rise to great difficulties in the provision of the necessary staff and services, and any proposal to that effect would have to be referred to the Council's Interim Committee on Programme of Conferences. He reminded the Commission that the Council had tentatively allowed for a session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1953, but had asked for the Commission's views on the expediency of such a meeting.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that his delegation would support the Indian draft resolution. To convene the Sub-Commission while the General Assembly was in session would create insuperable difficulties for the Secretariat. It was perfectly feasible to summon it for September 1953, and the Commission should not pass the responsibility for doing so on to the Council.

Since the new elections to the Sub-Commission were to be held during the Commission's present session, the newly-appointed members should begin to sit in September 1953. Outstandingly qualified though the outgoing experts might be, they would find themselves in an unhappy psychological atmosphere if called upon to serve after they had been replaced, which could not fail to impair the efficiency of the Sub-Commission's work. He would like to see the Sub-Commission address

itself to its task with renewed vigour, but that was not likely to be encouraged by electing experts forthwith and then making them wait a year or more before they took up their duties. His suggestion was not unfair to the outgoing members, since their efforts had led to a number of praiseworthy recommendations, the value of many of which had been made plain by their incorporation in the Universal Declaration of Human Rights.

Mrs. LORD (United States of America), on a point of order, pointed out that at its fifth session, in 1949, the Commission had adopted a resolution extending the term of office of members of the Sub-Commission for a period of three years. It would therefore appear that their term had expired at the end of 1952.

Mr. HUMPHREY (Secretariat) drew attention to paragraph 4 of the relevant note by the Secretary-General (E/CN.4/680). Once the Council had taken the decision to convene a session of the Sub-Commission, in 1952, the earliest opportunity at which the question of the Sub-Commission's composition could be submitted to the Commission on Human Rights had become the latter's ninth (present) session. Under the rule of procedure quoted by the Chairman, members of sub-commissions remained in office until the end of the year in which their successors were elected.

Mr. MOROSOV (Union of Soviet Socialist Republics) was somewhat confused as to exactly when Members' terms of office were to end and begin. He understood that that of the outgoing members would continue until 31 December 1953, but if new elections were held at the Commission's present session, the next session of the Sub-Commission should be attended by the new members, since the outgoing experts would continue to hold office only so long as the Council did not decide "otherwise" (rule 69 of the rules of procedure); in other words, they would continue to sit "by default". The period of their effective service should cease as soon as the new members were elected.

He proposed that the phrase "the term of office of the members should expire on 31 December of this year and that" be deleted from the preamble to the draft resolution.

Mr. JUVIGNY (France) said that so far no decision had been taken by the Economic and Social Council to bring to an end the term of office of present members of the Sub-Commission, as stipulated in rule 69 of the rules of procedure. He

wondered, therefore, whether the Commission could legally terminate them merely by deciding to hold fresh elections.

The idea behind the United States representative's question was presumably that, since the present members of the Sub-Commission had first been elected in 1947 for a period of two years, their term of office should have expired on 31 December 1949, under rule 69. It had, however, subsequently been extended for three more years, that was to the end of 1952. If that reasoning was sound, the term of office of present members of the Sub-Commission had actually run out on 31 December 1952.

Mr. WHITLAM (Australia) agreed with the Chairman and the representative of the Secretary-General that, in the absence of a decision to the contrary by the Council, the term of office would, under rule 69, continue until 31 December 1953. It was open to the Council to decide whether to convene the old or the new members, and he considered the Commission should make clear in a resolution which it thought was the proper course.

The CHAIRMAN summed up the position as follows; the term of office of present members of the Sub-Commission had been prolonged until 31 December 1952. Its work, however, had effectively been suspended for one year, although the Sub-Commission itself had continued to exist, and the Council's decision concerning the session in 1953 was tantamount to prolonging its life for a further twelve months. Indeed, in the absence of fresh elections, the terms of office of the present members would automatically be extended after 31 December 1953 to 31 December 1954, and so on.

The fact that, as the Soviet Union representative had stressed, the extended term of office as fixed in the resolution adopted by the Commission at its fifth session had actually expired on 31 December 1952, though a strong argument in favour of convoking the newly-elected members for the next session, did not vitiate the effect of rule 69. The Commission was in a kind of impasse, for it could only bring the term of office of the present members of the Sub-Commission to an end by holding new elections, but, no matter how soon it did so, the old members would still be entitled to sit on the Sub-Commission until 31 December 1953, unless the Economic and Social Council specifically decided otherwise.

In some quarters the Council had the reputation of regarding its commissions and sub-commissions with a jaundiced eye; it had, for instance, decided to discontinue the Sub-Commission on Freedom of Information and of the Press. It might well be that it would not agree to any departure from the procedure laid down in rule 69, in which event the Sub-Commission would not be able to meet at all in 1953.

Mr. MOROSOV (Union of Soviet Socialist Republics) strongly supported the suggestion that fresh elections be held at the present session, and proposed that the Commission recommend to the Economic and Social Council that it convene the new Sub-Commission for September 1953. He suggested that, in interpreting rule 69, account must be taken of the fact that the original term of office of the present members of the Sub-Commission had been extended for a fixed, definite period. It was difficult to reconcile that explicit limitation with the idea of extension implicit in rule 69. He felt that, as the Commission regarded the Sub-Commission more favourably than did the Council, it should adopt the Indian draft resolution, deleting the first paragraph thereof and adding a recommendation that the Council convene the newly-appointed Sub-Commission for September 1953.

Mr. CHENG PAONAN (China) suggested that the first paragraph of the Indian draft resolution be amended to read:

"The Commission on Human Rights

Considering that the members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities have held office since 1 January 1948 and that it is desirable to elect new members of this Sub-Commission;"

He made that proposal because it was highly undesirable that the members of a functional sub-commission should remain in office for so long as six years. The holding of new elections would not, of course, preclude the same experts' re-election.

He would further suggest that the Sub-Commission's next session be held in January 1954. That would not involve undue delay and would still give the new members sufficient time to study the documents and acquaint themselves with the results so far achieved. It would also enable the Sub-Commission to report as required to the Commission, whose sessions usually began in March.

It was most important to avert the risk of the Council's referring the matter back to the Commission, since that would frustrate the Commission's desire that the Sub-Commission should meet within the next twelve months.

Mr. PEROTTI (Uruguay) agreed with the Chairman that the Council's decision that the Sub-Commission should meet from 1 to 11 September 1953 was tantamount to a tacit extension of the term of office of its members. The Indian proposal, however, would undoubtedly get round the difficulty, particularly if amended as suggested by the Chinese representative. The Commission should hold fresh elections at the present session, and might, if it saw fit, re-elect some of the more highly qualified experts. The results of the election would then be communicated to the Council, which could decide on what date the newly-elected Sub-Commission should take up its duties.

The Council would also have to decide whether the Sub-Commission should meet from 1 to 11 September 1953 or at the beginning of 1954.

He strongly supported the Chinese proposal, but if it failed to command general support, he could agree that the first paragraph as a whole be deleted, as suggested by the Soviet Union representative. The last operative paragraph might also be completed, to read:

"Requests the Economic and Social Council to convene a session of the Sub-Commission in September 1953 or not later than January 1954."

Mr. JUVIGNY (France) was afraid that the Chinese amendment might be interpreted as implying that existing members of the Sub-Commission should not be re-elected, despite the Chinese representative's own declaration that their re-election should not be precluded. He therefore suggested that the final phrase of the Chinese amendment be amended to read: "and that it is desirable to proceed to new elections".

Mr. CHENG PAONAN (China) accepted the French proposal.

Mrs. CHATTOPADHYAY (India) accepted the Chinese amendment as modified by the French proposal. She found it difficult, however, to agree to the date of January 1954, as proposed by the Uruguayan representative, and suggested that the decision on that point might be left to the Council.

The CHAIRMAN said that it was for the Commission to decide whether to amend or to delete the first paragraph of the Indian draft resolution. In the case of the date, however, it was the Council's prerogative to decide when its commissions and sub-commissions should meet, and he suggested that the more usual word "Invites" be used instead of the word "Requests" in the last paragraph. His

own inclination, based on experience, would be to mention the date of January 1954, but to invite the Council to convene the new Sub-Commission then. That would leave the door open for a final decision by the Council on whether or not the Sub-Commission should meet in September 1953 as at present composed.

Mr. PEROTTI (Uruguay) explained that it was by no means his intention to leave the Council a completely free hand in fixing the date for the Sub-Commission's session. Although it was true that, as the Chairman had said repeatedly, it was ultimately for the Council to fix the dates of sessions, the Uruguayan amendment would give it a clear indication of the Commission's wishes in the matter.

Mr. HUMPHREY (Secretariat) suggested that, since, as the Chairman had pointed out, it was undoubtedly the Council's prerogative to fix the dates of sessions of its subordinate bodies, it might be better to avoid the use of the word "Decides" in the penultimate paragraph of the draft resolution. Perhaps the last two paragraphs could be combined to read:

"Requests the Economic and Social Council (a) to provide for annual sessions of the Sub-Commission lasting for three weeks, and (b) to convene the next session of the Sub-Commission in".

Mr. MOROSOV (Union of Soviet Socialist Republics) feared that the Commission was getting into difficulties. Did it really want a newly-elected Sub-Commission in office with the outgoing Sub-Commission standing by? If it wished the original members to meet again it had only to extend their term of office, but the consensus of opinion seemed to be that new elections were necessary. It would be possible to hold two meetings of the new Sub-Commission, in September 1953 and January 1954, but it would be inadvisable to convene a meeting of the old Sub-Commission, since experts who knew that they would not be taking part in subsequent discussions could hardly be expected to show much enthusiasm for the work. There would be problems connected with the transfer of responsibility, and some time would have to be spent on purely procedural matters; the session in September 1953 would enable such preliminary business to be disposed of. The new members could then meet again in January or February 1954, providing the Commission with a single report on the two sessions.

The Chairman had mentioned the possibility that the Economic and Social Council might be against the continuance of the Sub-Commission. But the Commission was better aware of the value of the latter's work, and should not lightly place its

life in jeopardy. It was its duty to put forward constructive recommendations, and the Soviet Union delegation would strongly deprecate any suggestion that the meeting in 1953 be abandoned.

The CHAIRMAN pointed out, first, that for the new members of the Sub-Commission to take office in September would be an infraction of rule 69 of the rules of procedure, which stipulated that, unless otherwise decided by the Council, the terms of office of members of sub-commissions should begin on 1 January following their election. Secondly, if the term of office of present members were to end on 31 December, as was also provided in rule 69, it would exceed three years. Thirdly, rule 67 provided that sub-commissions should normally meet once a year, and the Council might object on financial grounds to the Sub-Commission's holding two sessions within twelve months. He felt bound to challenge the Soviet Union representative's suggestion that retiring members might lack keenness and devotion to their work. In almost every case members of commissions sacrificed their personal interests to a cause which lay near their hearts, and he was convinced that the members of the Sub-Commission, even though they might be meeting for the last time in September, would carry out their duties with vigour and enthusiasm.

Mr. JUVIGNY (France) did not wish to express an opinion on whether the September session should be attended by the experts at present serving on the Sub-Commission, or by those about to be elected. He would merely draw attention to the fact that to ask the Council to convene two sessions with so short an interval between them might endanger the Sub-Commission's existence. It must be remembered that the Sub-Commission largely owed its survival to energetic action, particularly by its Chairman. The effect of the Indian proposal, if adopted, would be to enhance the Sub-Commission's stature and to put it on a semi-permanent footing, since it provided for an annual session of three weeks, instead of the fortnight hitherto allowed. In the interests of the Sub-Commission itself, which the Council perhaps viewed with less favour than did the Commission, it would be undesirable to give the impression that the Commission was bent on exploiting its victory. In the opinion of the French delegation, therefore, the Soviet Union proposal should not be adopted.

Mr. HOARE (United Kingdom) said that part of the difficulty lay in the fact that the Commission had been unable to deal with the Sub-Commission's work for

two years: two annual reports were before the present session, and there were even some residual questions from the report on the Sub-Commission's third session. The normal procedure would be for the Sub-Commission to meet each year and for its report to come before the Commission later that year. It was hoped to catch up with the arrears to a great extent at the present session; but for the Sub-Commission to meet twice before the Commission's next session would not only be contrary to the normal procedure, but might well result in new congestion for the Commission itself.

As to the question of date, irrespective of the degree of urgency or importance of the problems to be examined by the Sub-Commission, the latter's findings and recommendations could not be examined or put into effect before the Commission's tenth session in 1954. Moreover, he noticed in the proposals relating to the programme of work, in the report on the Sub-Commission's fifth session (E/CN.4/670), a suggestion that a special rapporteur be appointed to make a study of discrimination in the field of education. The programme could not be put into operation until the relevant decisions had been taken by the Commission and Council, and it consequently appeared that no action could be effectively taken in time to enable a session to be held in September.

Mr. MOROSOV (Union of Soviet Socialist Republics) believed that a majority of the Commission were in favour of a session of the Sub-Commission in September 1953. The Chairman's argument concerning the date on which the term of office of newly-elected members should begin was not very cogent, for rule 69 included the express reservation "Unless otherwise decided by the Council". The fear had been expressed that the Council might reject the recommendation that the Sub-Commission be convened in September 1953. Obviously, it was impossible to foretell how the Council would act, but that should not prevent the Commission from taking its own decision as it saw fit. Views differed as to whether or not the Sub-Commission should be continued, but he believed that it would be found that the majority was not in favour of terminating it, considering that it was doing important work in the interests of States Members of the United Nations. The value of that work would unquestionably be enhanced if the Sub-Commission were to hold two sessions; in any event, that scheduled for September 1953 should not be dropped.

As for budgetary considerations, he pointed out that no session had been held in 1952, and it was conceivable that none might be held in 1954. In any case, to ensure continuity of function after the election of the new Sub-Commission, a session should be convened for September 1953, thus allowing for an interval of three months before a session in January or February 1954, and for the preparation of full reports to the tenth session of the Commission.

Mr. ROY, Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, said that the present members of the Sub-Commission had been elected in March 1947, so that, in accordance with rule 69 of the rules of procedure, their term of office had begun on 1 January 1948. The Sub-Commission had, however, first met in November 1947, in other words, before its members had actually taken office.

The essential question before the Commission was whether the Sub-Commission should meet in September 1953 or in January 1954. If it was convened for January 1954, the question whether the retiring or the newly-elected members should attend would not arise.

Speaking in his official capacity, he hoped that the Sub-Commission would meet as soon as possible, namely, in September 1953. However, there were only three months between then and January 1954, and in any case the Sub-Commission's report could not be submitted to the Commission before the latter's tenth session in March 1954.

Mr. CHENG PAONAN (China) thought that if the draft resolution were made more precise a repetition of the present discussion in three years' time might be avoided. He would therefore ask the Indian representative whether she could agree that the words "shall be three years" in the second paragraph should be replaced by the words "shall terminate on 31 December 1956", and the words "in January 1954, so that the report of the Sub-Commission may be discussed at the tenth session of the Commission on Human Rights" inserted after the word "Sub-Commission" in the last paragraph.

Mr. MOROSOV (Union of Soviet Socialist Republics) pointed out that he had suggested that the Sub-Commission should meet both in September 1953 and in January or February 1954. If that suggestion was acceptable to the Indian representative, he would vote for the draft resolution, but he would not otherwise himself make a formal proposal to that effect.

Mrs. CHATTOPADHYAY (India) recalled that, in submitting her draft resolution, she had expressed a preference for a session in September 1953, feeling that it would create a bad precedent to allow a full year to pass without the Sub-Commission's having met. She had not at that time envisaged the possibility of another session so shortly afterwards as January 1954. Having heard the various arguments in favour of a session in January 1954, she felt - though with some regret - that that date would be preferable. She would have found the Soviet Union proposal acceptable, but in order to avoid the risk of the resolution being thrown out by the Council, she thought it better not to recommend that two sessions be held. She could accept the Chinese amendments.

Mr. PEROTTI (Uruguay) emphasized that his own amendment to the final paragraph was an attempt to achieve a compromise between the Soviet Union suggestion and the Indian draft resolution. His proposal, that the Council be requested "to convene the next session of the Sub-Commission in September 1953 or not later than January 1954", should, he thought, be acceptable to all members. The newly-elected Sub-Commission would thus be enabled to meet early enough for it to submit its report to the tenth session of the Commission.

Replying to Mrs. LORD (United States of America), he said that he had already made clear that his proposal referred to the convening of the newly-elected Sub-Commission. However, as the text of his amendment could not be circulated before the next meeting, he would withdraw it, to avoid holding up the discussion, and support the Chinese proposals.

Mr. ROY, Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, speaking on behalf of the members of the Sub-Commission, said that he would prefer the preamble to the draft resolution to be deleted, as it might be interpreted in a way that was not very flattering to present members of the Sub-Commission.

Mr. HOARE (United Kingdom) felt that the recommendation that the Sub-Commission should meet at least once a year was superfluous, since under rule 67 of the rules of procedure it had normally to meet once a year. Further, he thought it undesirable to lay down exactly how long the session should last. Not wishing to provoke a discussion on those points at that stage, he would content himself with abstaining from the vote on the third operative paragraph.

Mr. JUVIGNY (France) explained that the French delegation had voted for the draft resolution as amended, without prejudice to the financial implications of the decisions taken, regarding which it had not been able to consult the appropriate French government departments.

After an exchange of views,

it was decided that nominations for membership of the Sub-Commission on Prevention of Discrimination and Protection of Minorities should be submitted not later than the afternoon of Wednesday 27 May, and that the election should take place at the beginning of the final meeting of the session, to be held on the morning of Saturday 30 May, 1953.

Mr. JUVIGNY (France) said that, in the event of a delegation being prevented from submitting its list of candidates by the time laid down, the Commission should be accommodating, and not reject the list out of hand, seeing that the election was not to take place until Saturday 30 May.

The meeting rose at 1.15 p.m.