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COMMISSION ON HUMAN RIGHTS

Ninth Session

SUMMARY RECORD OF THE THREE HUNDRED AND NINETY-SIXTH MEETING

held at the Palais des Nations, Geneva,  
on Thursday, 21 May 1953, at 3 p.m.

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Present:

Chairman: Mr. AZMI (Egypt)  
Rapporteur: Mr. KAECKENBEECK (Belgium)

Members:

Mr. WHITLAM	Australia
Mr. DIAZ-CASANUEVA	Chile
Mr. CHENG PAONAN	China
Mr. ABDEL-GHANI	Egypt
Mr. CASSIN	France
Mrs. CHATTOPADHYAY	India
Mr. HARFOUCHE	Lebanon
Mr. INGLÉS	Philippines
Mr. DRUTO	Poland
Mrs. RÖSSEL	Sweden
Mr. KRIVEN	Ukrainian Soviet Socialist Republic
Mr. MOROSOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. LORD	United States of America
Mr. GREEN	
Mr. PEROTTI	Uruguay
Mr. JEVREMOVIĆ	Yugoslavia

Also present:

Mr. ROY	Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
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Representative of a specialized agency:

Representatives of non-governmental organizations:

Category A

World Federation of United  
Nations Associations

Mrs. SALMON

Category B and Register

Catholic International Union for Social  
Service

Miss de ROMER

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

Liaison Committee of Women's International  
Organizations

Miss BOWIE

Women's International League for Peace and  
Freedom

Mrs. BAER

World Jewish Congress

Mr. RIEGNER

World's Young Women's Christian Association

Miss ARNOLD

World Union of Catholic Women's  
Organizations

Miss de ROMER

Secretariat:

Mr. Humphrey

Representative of the  
Secretary-General

Mr. Das )  
Mrs. Bruce )

Secretaries to the  
Commission

1. 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)

Mr. WHITLAM (Australia), explaining his votes cast at the previous meeting, said that he had abstained from voting on the Indian draft resolution as a whole because his delegation was unable to nominate any candidates during the present session, and would in any event have preferred the elections to the Sub-Commission to have been made by the Economic and Social Council itself. Certain particular considerations also had weighed with him. He thought the implied reflexion in the preamble on the present members of the Sub-Commission inappropriate, and that to fix the length of sessions of the Sub-Commission at three weeks was unnecessarily rigid. He had voted for the proposal that the Sub-Commission should hold its next session in January 1954, because he believed that that would give ample time for preparation. His delegation firmly believed that the Sub-Commission should continue to consist of experts, as well as that new elections were necessary.

Mr. ABDEL-GHANI (Egypt), also explaining his votes, said that he had voted for the Indian draft resolution as a whole because the Egyptian Government had always been in favour of continuing the Sub-Commission. At the same time, he agreed that it was time to elect new members. He had abstained from voting on the preamble because he, too, considered that it contained an implied reflexion on the work of the present members of the Sub-Commission. In the interests of continuity, some of the present members should certainly be re-elected. He thought the Commission should be convened at least once a year for a minimum of three weeks, regularity of sessions also being essential. At the present time discrimination was a contagious disease, with which Africa especially was sorely threatened.

2. REPORTS OF THE FOURTH AND FIFTH SESSIONS OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES (item 4 of the agenda) (E/CN.4/641, E/CN.4/641/Corr.1, E/CN.4/670, E/CN.4/679) (resumed from the 394th meeting)

The CHAIRMAN, inviting the Commission to take up the reports of the fourth and fifth sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/641, E/CN.4/641/Corr.1 and E/CN.4/670),

commended to it the proposal made by the Secretary-General in paragraph 2 of his note (E/CN.4/679), namely, that the Sub-Commission's recommendations be considered in three categories. He suggested that that examination should be followed by consideration of the draft resolutions on the Sub-Commission's future work (draft resolutions F, G, H, I, J, K, L and M in Annex I to the report on the fifth session - E/CN.4/670, pages 32 to 38).

Mr. MOROSOV (Union of Soviet Socialist Republics) agreed that the Sub-Commission's programme of work should be dealt with separately, but suggested that it be added as a fourth group to the three listed in the Secretary-General's note. Such an arrangement, following the texts of the recommendations, would not only save time, but would meet the convenience of delegations that wished to submit proposals. There would thus be a general discussion on each of the four main groups, during which representatives could speak to the Sub-Commission's recommendations, or to amendments thereto, or to both. After the programme of work had been discussed, the Commission could make observations, in the light of the previous discussion, on points not included in the main groups. That procedure would have the further advantage of avoiding confusion between the fifteen draft resolutions submitted by the Sub-Commission for the Commission's consideration.

Mr. HOARE (United Kingdom), supporting the views expressed by the Soviet Union representative, said that, after it had disposed of the draft resolutions, the Commission would have a clearer over-all view of the question.

Mr. ROY, Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, speaking at the invitation of the CHAIRMAN, agreed with the two previous speakers. For his part, he did not think that there was any need for a general discussion on the reports. He was himself responsible for the procedural suggestion in the Secretary-General's note. He would, however, like to stress that the draft resolutions annexed to the Sub-Commission's fifth report could not be regarded as a single entity. It would be preferable to consider them separately in turn, a procedure which would provide the members of the Commission with a suitable opportunity of submitting any comments they might have to make.

He then introduced draft resolution B on the collection of anti-discrimination provisions (E/CN.4/670, Annex I), draft resolution A, on the representation of the Sub-Commission at the Commission's present session, having already been disposed of.

Draft resolution B - Collection of anti-discrimination provisions

Mr. DIAZ-CASANUEVA (Chile) thought that the present text, which excluded valuable material to be found in such documents as special conventions, national constitutions and the like outside the framework of the United Nations, was unduly restrictive, and should be broadened.

Replying to the CHAIRMAN, Mr. HUMPHREY (Secretariat) explained that the Sub-Commission's request, being purely technical and having no financial or political implications, could be addressed to the Secretary-General direct, without passing through the Economic and Social Council.

Mr. KAECKENBEECK (Belgium) was glad to hear the comment of the Secretary-General's representative, as such a procedure would expedite the Commission's work. If necessary, he was prepared to introduce a suitable proposal.

The objection raised by the Chilean representative could, he thought, be met by inserting the phrase "beginning with those" after the words "anti-discrimination provisions" in the second line of the last paragraph of the Sub-Commission's draft resolution. The collection of the anti-discrimination provisions formulated under the League of Nations system or by organs of, or under the auspices of, the United Nations would then merely constitute the first stage of the work.

Mr. HOARE (United Kingdom), agreeing with the representative of the Secretary-General about the Commission's competence, pointed out as a rider that the inclusion in the Commission's own report of such an instruction to the Secretary-General might result in the Council itself voting down the proposal.

Mr. CHENG PAONAN (China) suggested, first, that the phrases "Recommends to the Economic and Social Council the adoption of the following draft resolution: the Economic and Social Council" be deleted; secondly, that the word "all" be deleted from before the phrase "anti-discrimination provisions" in the final paragraph; and finally, that the words ", in particular those" be inserted between the words "provisions" and "formulated" in the second line of that paragraph.

Those changes would, he thought, meet the points made by the Chilean representative and the representative of the Secretary-General.

Mr. HUMPHREY (Secretariat), explaining the origin of the proposal under consideration, said that it had been one of the suggestions concerning the continuation of the work previously done by the Sub-Commission, made to the Council.

by the Secretary-General when the suppression of the Sub-Commission had been under consideration (E/2229, pages 19 and 20). For a start, the digest of anti-discrimination provisions would be mimeographed, but it could, if necessary, be printed later.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that he would support the proposal, as it seemed a sensible arrangement. He thought, however, that as it stood the text would make the work unnecessarily difficult. Any provisions formulated under the League of Nations system should be ignored, as they would be out of date, and he failed to see why the elaboration of provisions "in the case of new States" should have been emphasized. There were many States of some historical consequence whose legislations needed overhauling in that respect. There also seemed to be a divergence between the French and Russian texts of the phrase "to serve as a body of suitable precedents". He would therefore suggest that separate votes be taken on those three points. Lastly, he would ask the Chairman of the Sub-Commission whether the material would be kept in the form of a card index, or would be published.

Mr. ROY, Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, pointed out that the proposal envisaged the compilation not of a card-index catalogue, but of a digest, a term which he thought was explicit enough. It was not possible at the moment to say how large the digest would be, or whether it would consist of one or of several volumes.

Mr. DIAZ-CASANUEVA (Chile) supported the Chinese amendments, which had the advantage of broadening the scope of the text of the Sub-Commission's draft, and therefore met the point he had himself made earlier.

Mr. KAECKENBEECK (Belgium) observed that the Chinese proposal was based on considerations other than those he had himself put forward. For his own part, he had conceived of the work taking place in several stages, of which the first would be the collection of anti-discrimination provisions formulated under the League of Nations system or by organs of, or under the auspices of, the United Nations. However, to facilitate the Commission's work, he was prepared to support the Chinese representative's proposal.

The CHAIRMAN said he would put to the vote in succession the Chinese amendment, in three parts, and the three points made by the Soviet Union representative.

The first Chinese amendment was adopted by 14 votes to none.

The second Chinese amendment was adopted by 10 votes to 4, with 3 abstentions.

The third Chinese amendment was adopted by 11 votes to none, with 3 abstentions.

It was decided by 14 votes to 3 that the words "under the League of Nations system or" should be retained.

It was decided by 7 votes to 5, with 5 abstentions, that the words "to serve as a body of suitable precedents" should be retained.

It was decided by 6 votes to 2, with 9 abstentions, that the words "particularly in the case of new States" should be deleted.

Draft resolution B on collection of anti-discrimination provisions, as amended, was adopted by 13 votes to none, with 3 abstentions.

Mr. INGLES (Philippines), explaining his vote, said that he had voted in favour of the deletion of the words "to serve as a body of suitable precedents". However, since they had been retained, he had abstained from voting on the draft resolution as a whole.

The origins of resolution B went back to the Sub-Commission's report on its fourth session and the comments thereon submitted by the Secretary-General (E/2229). It would appear that the Sub-Commission had taken the view that there was no need to make a study of provisions on non-discrimination in order to lay down a series of standard provisions, since existing provisions could serve as precedents. Now, however, the scope of the proposal had been widened to include provisions formulated not only under the auspices of the United Nations and its organs, but also under the League of Nations system, as well as provisions entirely outside the framework of those two organizations. The last-named might possibly be good, but the Commission could not be sure of their nature, especially when they formed part of national legislation. He was not sure that the deletion of the word "all" from the last paragraph would remove that uncertainty, and he could only hope that in making his study the Secretary-General would exercise his discretion and include only such provisions as were in keeping with the high standards set by the United Nations.

Draft resolution E: Abolition of Discriminatory Measures; and the United Kingdom amendments thereto

Mr. ROY, Chairman of the Sub-Commission on Prevention of Discrimination and



Protection of Minorities, expressed his satisfaction that the Sub-Commission's views on the abolition of discriminatory measures were in harmony with those which the Soviet Union representative had put forward earlier in the present session. Indeed, the Sub-Commission had felt that measures for the prevention of discrimination should be taken not only in Trust and Non-Self-Governing Territories, but also, should occasion arise, in metropolitan countries themselves. He would emphasize that no member of the Sub-Commission had voted against draft resolution E.

He thought it worth mentioning that the Sub-Commission's report was dated 23 October 1952, that was, before the General Assembly had adopted resolution 644 (VII) of 10 December 1952 on racial discrimination in Non-Self-Governing Territories. He was authorized to state on behalf of the Sub-Commission that it was ready to accept the first United Kingdom amendment, namely, to add at the end of the first subparagraph of the Sub-Commission's draft resolution the phrase "and resolution 644 (VII) of the General Assembly on racial discrimination in Non-Self-Governing Territories". Such reference to the General Assembly's latest decision on the subject would be perfectly appropriate, following the reference to General Assembly resolution 323 (IV), which dealt with the question as it affected Non-Self-Governing Territories, and the reference to resolution 127 (VI) of the Trusteeship Council, which dealt with the problem in relation to Trust Territories.

Mr. HOARE (United Kingdom) said that the Chairman of the Sub-Commission had clearly explained the purpose of the draft resolution, and he need only state in introducing the United Kingdom amendments<sup>(1)</sup> that they were fully in conformity with that purpose and merely brought the terms of the resolution up to date. Reference was made therein to General Assembly resolution 323 (IV) and Trusteeship Council resolution 127 (VI), which contained provisions very similar to the recommendations in the last paragraph of draft resolution E. Since that text had been drafted by the Sub-Commission, the General Assembly had, as stated by the Chairman of the Sub-Commission, adopted resolution 644 (VII), which referred inter alia to the abolition in Non-Self-Governing Territories of discriminatory laws and practices contrary to the principles of the Charter, and to the examination by Administering Members of all

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(1) For text of the United Kingdom amendments, see Annex to this summary record.

laws, statutes and ordinances. Thus the General Assembly had taken its previous resolutions a stage farther, and he considered that the Sub-Commission's draft resolution should be re-worded in the light of the newly-adopted recommendations. The Commission would note that all the United Kingdom amendments were drafting amendments.

Mr. INGLÉS (Philippines) agreed that the first and second United Kingdom amendments were simply drafting changes consequent upon the adoption of General Assembly resolution 644 (VII), and accordingly considered them to be wholly acceptable. But he was unable to take the same view of the third and fourth amendments. It was perfectly clear from the Sub-Commission's text that it was concerned not only with the prevention of discrimination, but also with the protection of minorities. Consequently, the word "territories" should be retained in the third and fourth paragraphs. The recommendations adopted by the General Assembly did not offer a final solution to the problem. Indeed, it was a matter of common knowledge that recommendations concerning the abolition of corporal punishment in Non-Self-Governing Territories had been ignored, and it would be advisable for the Commission and the Economic and Social Council once more to urge the abolition of discriminatory measures there.

He would therefore vote for the first two, and against the last two, United Kingdom amendments.

Mr. GREEN (United States of America) said that the operative (last) paragraph of draft resolution E referred to the review by governments of their national legislation and administrative practices. The recommendation was of very great importance and the suggested review was undoubtedly desirable, but laws and administrative measures, however satisfactory on paper, must enjoy public support. A long process of education and training in tolerance would have to be completed before the laws and administrative practices could become effective.

Mr. HOARE (United Kingdom) was unable to appreciate the Philippine representative's classification of the United Kingdom amendments in two categories, and failed to see why he should wish to retain the reference to Non-Self-Governing Territories.

Mr. INGLÉS (Philippines) pointed out that draft resolution E consisted of

three introductory paragraphs and one operative paragraph, in which reference was made both to the abolition of discriminatory measures and to the protection of minorities. It followed therefore that, though it might be possible to delete the reference to racial discrimination in Non-Self-Governing Territories from the second paragraph, it was impossible to delete it from the third paragraph, which explicitly referred to minorities, or from the fourth (operative) paragraph. General Assembly resolution 644 (VII) dealt with the problem of racial discrimination, and not with that of minorities, and, as the United States representative had just suggested, the concept underlying the operative paragraph of draft resolution E was broader than that underlying the latest General Assembly resolution. The latter confined itself to recommending that Administering Members should examine all laws, statutes and ordinances, and said nothing about administrative practices.

Mr. ABDEL-GHANI (Egypt) wondered whether the Commission would be in order in referring to a General Assembly resolution which had not been referred to the Commission under item 4 or item 5 of its agenda. The proper occasion to consider that resolution would be in connexion with item 10, which related specifically to it.

Mr. HOARE (United Kingdom), replying to the suggestion of the Philippine representative that the General Assembly resolution needed further reinforcement, said that he considered that the recommendation therein to the effect that Administering Members should abolish discriminatory laws and practices, and should examine all laws and their application with a view to the abolition of such discriminatory provisions or practices, was even wider in scope than draft resolution E.

As to the Egyptian representative's point, surely the fact that the General Assembly had explicitly called the attention of the Commission on Human Rights to the resolution (paragraph 7), in itself justified the inclusion of a reference to it in the text at present under discussion. Furthermore, the Chairman of the Sub-Commission had also expressed the view that resolution 644 (VII) should be taken into account.

Mr. MOROSOV (Union of Soviet Socialist Republics) pointed out that he had been able to scan the United Kingdom amendments, which had only just been made available, only superficially. He thereby apologized in advance, should his comments not be wholly pertinent.

It was impossible to deny the resourcefulness of the United Kingdom representative, who frequently described his amendments as drafting amendments when in point of fact they were very far from such. In the present case, he agreed that the first amendment was a purely drafting one, and would be prepared to accept it, the more so inasmuch as the inclusion of a reference to General Assembly resolution 644 (VII) would be an acknowledgment of the progressive movement of ideas in the world.

However, he shared the Egyptian representative's concern about that resolution being discussed at the present time, and wished to make it clear that in the view of the Soviet Union delegation, reference to it in draft resolution E must not be interpreted as equivalent to a final review of the issues involved. Item 10 of the agenda would still have to be dealt with by the Commission.

As for the second United Kingdom amendment, the text of the second paragraph as drafted by the Sub-Commission was wholly satisfactory, and correctly emphasized the fact that Non-Self-Governing Territories must be as carefully protected against discrimination as Trust Territories. The latter, it was true, enjoyed special guarantees and benefited by special procedures laid down in the Charter. But in respect of discrimination and the protection of minorities both types of territory must be treated alike. He did not agree with the Philippine representative that the second amendment was purely a matter of drafting. Actually, the second paragraph of draft resolution E did not even call for simple editorial emendation. But he did agree that the third and fourth amendments were substantive and affected the principles underlying the draft resolution. Accordingly, the Soviet Union delegation could not accept them, and would vote against the fourth.

He would draw attention to the fact that the words "that may exist in countries and territories under their jurisdiction" in the final paragraph of draft resolution E were directly linked with the recommendation for the review of national legislation and administrative practices, as well as with the abolition of existing measures of discrimination. That was a point of cardinal importance, and he did not consider that the draft resolution was in any way out of date. On the contrary, by stressing the necessity for the abolition of existing measures of discrimination it went farther than did General Assembly resolution 644 (VII). If amended on the lines proposed by the United Kingdom delegation, draft resolution E would be weakened.

The meeting rose at 6.20 p.m.

ANNEX

The United Kingdom amendments to draft resolution E on the abolition of discriminatory measures (E/CN.4/670, page 31) read as follows:

"1. Paragraph beginning "Having noted":

Add at the end

"and resolution 644 (VII) of the General Assembly on racial discrimination in Non-Self-Governing Territories".

2. Paragraph beginning "Considering":

Delete the words

"and in Non-Self-Governing Territories other than those encompassed by the Trusteeship System";

insert the words "and other Non-Self-Governing" between the word "Trust" and the word "Territories".

3. Paragraph beginning "Considering further":

Delete the words "or territories".

4. Paragraph beginning "Recommends":

Delete the words "that may exist in countries and territories under their jurisdiction";

substitute the words "to taking" for the words "of taking";

delete the words "if any, in these countries and territories".

✓The paragraph in question would then read:

"Recommends to Governments of States members of the United Nations that they review their national legislation and administrative practice with a view to abolishing all measures of discrimination and to taking effective measures for the protection of minorities." ] "