



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/SR.463
26 April 1954

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

Tenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND SIXTY-THIRD MEETING

Held at Headquarters, New York,
on Tuesday, 6 April 1954, at 10.50 a.m.

CONTENTS

Report of the sixth session of the Sub-Commission on Prevention of
Discrimination and Protection of Minorities (continued)

Study of the present position as regards minorities throughout the
world (E/CN.4/703, E/CN.4/L.370 and 371) (continued)

Draft resolution C - measures to expedite the work of the Sub-
Commission (E/CN.4/703, annex I)

(13 p.)

54-10723

PRESENT:

<u>Chairman:</u>	Mr. CASSIN	(France)
<u>Rapporteur:</u>	Mr. INGLES	Philippines
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISCT	Belgium
	Mr. ORTEGA	Chile
	Mr. CHENG PAONAN	China
	Mr. GHORBAL	Egypt
	Mr. JUVIGNY	France
	Mr. ROUSSOS	Greece
	Mr. DAYAL	India
	Mr. PIRACHA	Pakistan
	Mr. BIRECKI	Poland
	Mr. ASIROGLU	Turkey
	Mr. SAPOZHNIKOV	Ukrainian Soviet Socialist Republic
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
	Mrs. LORD	United States of America
	Mr. RODRIGUEZ FABREGAT	Uruguay

Representative of a specialized agency:

Mr. MANNING	International Labour Organisation
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Representatives of non-governmental organizations:

<u>Category B:</u>	Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
	Mr. LONGARZO	International Conference of Catholic Charities
	Miss SMITH	International Federation of Women Lawyers
	Mr. JACOBY	World Jewish Congress

Representatives of non-governmental organizations:(continued)

Mrs. POLSTEIN)	World Union for Progressive
Mr. RONALES)	Judaism
Mr. PENCE	World's Alliance of Young Men's Christian Associations

Secretariat:

Mr. SCHWELB	Deputy Director of the Division of Human Rights
Mrs. BRUCE)	Secretaries of the Commission
Mr. DAS)	

REPORT OF THE SIXTH SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES: STUDY OF THE PRESENT POSITION AS REGARDS
MINORITIES THROUGHOUT THE WORLD (E/CN.4/703, E/CN.4/L.370 and 371) (continued)

Mr. DAYAL (India) introduced a draft resolution on the study of the present position as regards minorities throughout the world (E/CN.4/L.370), submitted jointly by his delegation and the delegations of Chile, China, Egypt and Pakistan. The sponsors had felt that, draft resolution B having been defeated, the Commission should adopt some resolution on the important subject involved, giving the Sub-Commission positive guidance. Several representatives had indicated that they had opposed draft resolution B because they were against the method of appointing an independent expert rather than against the proposed study itself. The joint draft resolution was a compromise which took that view into account. He hoped that it would command general support.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that the joint draft resolution was in line with his own view that in rejecting draft resolution B the Commission had voted against the method proposed by the Sub-Commission but had not intended to preclude that body from undertaking the study in question. He would abstain on the preamble of the joint draft resolution, because he considered unsatisfactory some paragraphs of resolution F, to which it referred, but would vote for the operative paragraph and for the draft resolution as a whole.

Mr. HOARE (United Kingdom) remarked that although the joint draft resolution was reminiscent of his own earlier amendment to draft resolution B (E/CN.4/L.368), the dismemberment suffered by the text had altered its meaning. In the absence of a reference to Economic and Social Council resolution 502 B II (XVI), the request to the Sub-Commission to "give further study to the whole question" might be taken as referring to resolution F, which was mentioned in the preamble of the joint draft resolution. That would open the door to a

continuation of the study outlined in resolution F, the sole difference being that no outside expert would be appointed. He was opposed to such a course, as also to the mention of resolution F in the preamble, since that resolution had been severely criticized in the Commission. He was therefore unable to support the joint draft resolution.

Mr. INGLES (Philippines) remarked that his delegation had voted in favour of draft resolution B. The delegations which had voted against it had done so for one of two reasons: some had wished to oppose the method proposed for the study and others the study itself. The joint draft resolution would make it possible for the Commission to take a clear-cut decision on the second point. He would vote for that text as representing the best compromise possible in the circumstances and thus enable the Sub-Commission to carry out its study by some other method than the appointment of an expert.

He asked whether the sponsors of the joint draft resolution would be prepared to add to the preamble the additional words which had appeared in the preamble of draft resolution B; the meaning of the operative paragraph would then be clear and the United Kingdom representative's objection would be met.

Mr. JUVIGNY (France) shared the views of the United Kingdom representative. By its vote on draft resolution B the Commission had rejected the method proposed by the Sub-Commission; the proposal in paragraph 4 of the Sub-Commission's resolution F - that the study should be selective in character - was, however, as much part of the method as the appointment of an expert and it too had been rejected by the Commission. Yet the joint draft resolution, in speaking of "special measures", seemed to resurrect the idea of a selective study.

He was surprised to see in the preamble a reference to resolution F, with which the Commission had been largely in disagreement. Thus, the joint draft resolution seemed to be ambiguous in several respects and the position might be

clearer without it; the Sub-Commission would then know, in view of the rejection of draft resolution B, that it was to be governed by Economic and Social Council resolution 502 (XVI).

Mr. PIRACHA (Pakistan) remarked that the preamble to which the United Kingdom representative had objected was in essence what the Commission had adopted when voting on draft resolution B and to which the representative of the United Kingdom had raised no objection. He would accept the Philippine amendment which would make the two texts identical and he hoped that the United Kingdom representative's objection would thus be removed.

Mr. NISOT (Belgium) questioned the need for any mention of resolution F, with which many members of the Commission had found fault. Furthermore, the reference in the operative part of the joint draft resolution to "the application of special measures" might be misinterpreted to mean that recommendations concerning specific States could be made, a course clearly contrary to Article 2, paragraph 7, of the Charter.

Mr. DAYAL (India) was disappointed to see that delegations which at earlier meetings had concentrated their objections on the appointment of an expert had today found new objections to the joint draft resolution, which had been prepared in the hope of meeting their views and which would enable the Sub-Commission to proceed with the proposed study without calling on the services of an independent expert.

The phrase in the operative part to which the Belgian representative had taken exception had been quoted verbatim from Economic and Social Council resolution 502 B II (XVI).

Mr. BIRECKI (Poland) said that in rejecting draft resolution B the majority of the Commission had not intended to reject the Sub-Commission's proposal for a study. He therefore welcomed the joint draft resolution, the adoption of which would make that point clear and he would vote in favour of it, in spite of the fact that he was not entirely satisfied with the reference to resolution F', with some parts of which he did not agree.

Mr. GHOREAL (Egypt) remarked that by noting resolution F the Commission would express neither approval nor disapproval of its contents but would merely acknowledge its existence, which was an indisputable fact. Nor did the operative paragraph constitute an endorsement of resolution F, since it did not authorize the appointment of an independent expert.

He failed to see any reason for the Belgian representative's fears with regard to the possible interpretation of that paragraph. It was drafted in the most general terms and was not intended to apply to particular States. It therefore in no way encroached on the provisions of Article 2, paragraph 7, of the Charter.

Mr. NISOT (Belgium) said that "special measures" could hardly be described as general language. He introduced an amendment (E/CN.4/L.371), which was self-explanatory, to the joint draft resolution.

Mr. ASIROGLU (Turkey) said that he had voted against draft resolution B because it had provided for the appointment of an independent expert to carry out a selective study. As the joint draft resolution did not exclude the possibility of such a study, he would oppose it.

Mr. WHITLAM (Australia) said that if the Egyptian representative's interpretation of the effect of the joint draft resolution on the study proposed in resolution F had been generally accepted, he might have been able to abstain in the vote on that text. The majority of the representatives, however, seemed to agree with the Philippine representative, who had interpreted the joint draft resolution as meaning that draft resolution F would be retained, with the exception of the provision relating to the independent expert. His delegation being committed to the proposition that the selective study outlined in that text should not be undertaken until more work had been done on the entire question of minorities and in particular on the definition of the term "minority", he would be compelled to vote against the joint draft resolution.

Mr. RODRIGUEZ FABREGAT (Uruguay) pointed out that the situation which had led to the submission of the joint draft resolution had come about as a result of the rejection of the operative part of draft resolution B. The preamble to that draft resolution had, however, been adopted by the majority of the Commission; the rejection of the draft on a technical point did not, therefore, entail the rejection of the basic principles of the Sub-Commission's resolution F, to which reference had been made in the preamble. The fact that the Commission disagreed with the proposal to appoint a special expert must not prevent it from doing the least that was expected of it: namely, making express mention of the principles on which the protection of minorities rested. The Belgian representative's attempt to invoke Article 2, paragraph 7, of the Charter in that connexion was unfounded, since the problems of protecting human rights were above any consideration of domestic jurisdiction.

He agreed with some other speakers that some parts of the operative paragraph of the joint draft resolution could have been couched in more satisfactory terms. Nevertheless, he would vote for that text, because the maintenance of minority rights should not be hindered by quibbling over drafting details.

Mr. CHENG PAONAN (China) stated that his delegation disagreed with many of the provisions of the Sub-Commission's resolution F, but had voted for draft resolution B because it represented an important part of the Sub-Commission's work. For the same reasons, it had co-sponsored the joint draft resolution, in the belief that the Sub-Commission must have a starting point for its future studies on minorities.

The Egyptian representative had rightly pointed out that the expression "having noted" did not imply either agreement or disagreement with the contents of resolution F. Indeed, if the preambular paragraph were deleted, the Commission would not be taking an impartial view of the resolution but would imply its rejection of that text.

The Belgian representative's assertion that the operative part of the joint draft resolution would lead to encroachment of domestic jurisdiction was unfounded in the light of United Nations experience. There were many instances of

recommendations which had been made to States and had not been carried out because the States concerned had invoked Article 2; paragraph 7, of the Charter. No State could be forced to carry out instructions. Moreover, the term "special measures", to which the Belgian representative had taken exception, was justified by the fact that special measures would have to be prepared for the special groups concerned.

Mrs. LORD (United States of America) supported the Belgian proposal for the deletion of the preambular paragraph of the joint draft resolution. That text implied the endorsement of internal resolution F, with the exception of the references to the appointment of the special expert. Her delegation disagreed with some of the provisions of the internal resolution and would therefore be unable to vote for the joint draft resolution unless the first paragraph was deleted.

Mr. DAYAL (India) did not consider that the reference to resolution F could be deleted, since the whole debate on the question had been based on that text. To note the resolution did not imply that the Commission endorsed it; it had been adopted by the Sub-Commission and it was not for the Commission to accept or reject it. Moreover, the United Kingdom representative had not in his amendments proposed the deletion of the preambular paragraph of draft resolution B, which had likewise referred to resolution F.

The operative paragraph of the joint draft resolution was in line with the second paragraph of the amendment which the United Kingdom representative had proposed to draft resolution B. There were no grounds for alleging, as had some representatives, that that paragraph implied selective studies of individual cases. The only new concept introduced in the joint draft resolution was that of recommendations; the Egyptian representative had rightly pointed out that the Sub-Commission might perhaps not feel that it was in a position to make such recommendations.

The Belgian proposal to insert the words "of minorities" after the word "question" seemed to be redundant. The words "the application of special measures for", which the Belgian representative wished to replace by the words "methods to ensure", were taken directly from resolution 502 B II (XVI), to which the United Kingdom representative had given such prominence in his amendment. He could not see that the Belgian amendments improved the text of the joint draft resolution.

Mr. HOARE (United Kingdom) stated that the reason why he had not proposed the deletion of the preamble to draft resolution B was that his amendment had contained a final paragraph which had covered the point. Without such a paragraph, however, the reference to internal resolution F acquired a totally different meaning.

The Indian representative had said that selective studies were not implied in the joint draft, but the Philippine representative had interpreted that text as in no way precluding such studies. In view of the possibility of such an interpretation, his delegation would be obliged to vote against the joint draft resolution.

Mr. ORTEGA (Chile) thought that the vote on draft resolution B and the explanations of individual votes had served as conclusive proof of the Commission's disapproval of the methods proposed in resolution F and of its agreement with the recommendation in Economic and Social Council resolution 502 B II (XVI) that further study should be given to the whole question. It was therefore unreasonable to assume that a reference to resolution F implied approval of that text. The very wording of the operative part of the joint draft resolution, which proposed further study of the definition of the term "minority", expressed disagreement with the Sub-Commission's view, stated in paragraph 2 of resolution F, that no further work on the problem of definition could serve any useful purpose. There were therefore no grounds for deleting the preambular paragraph of the joint draft, which stated the incontrovertible fact that the Commission had considered resolution F.

The Belgian proposal (E/CN.4/L.371) for the deletion of the preamble was rejected by 7 votes to 6, with 4 abstentions.

The preamble of the joint draft resolution (E/CN.4/L.370), with the Philippine oral amendment, was adopted by 7 votes to 6, with 4 abstentions.

Mr. NISOT (Belgium) withdrew his first amendment to the operative part, since the adoption of the preamble had rendered it superfluous.

The second Belgian amendment to the operative part was rejected by 10 votes to 7.

The operative part of the joint draft resolution was adopted by 10 votes to 5, with 2 abstentions.

The joint draft resolution as a whole, as amended, was adopted by 10 votes to 6, with 1 abstention.

Mr. HOARE (United Kingdom) explained that he had voted for the Belgian amendment to the operative part because he had preferred in relation to the terms of that resolution wording of a more general meaning than that taken from Council resolution 502 B II (XVI). He had voted thus without prejudice to the propriety of the original wording in the Council resolution or wherever else the context made the meaning clear.

Mr. WHITLAM (Australia) explained that he had voted against the preamble because the differing views expressed had wholly failed to make clear whether the Sub-Commission should construe the phrase "having noted" as meaning that the Commission had approved, disapproved or neither approved nor disapproved resolution F.

Mr. ASIROGLU (Turkey) explained that he by no means objected to studies on the question of minorities so long as they remained general, but the joint draft resolution might result in the initiation of selective studies.

Mr. ROUSSOS (Greece) explained that in abstaining on the preamble he had accepted the sponsors' assurances that the words "having noted" did not imply that the Commission took a definite position. He had abstained on the operative part. He hoped that the Sub-Commission would bear both the majority and the minority views in mind, since only thus could it perform constructive work.

REPORT OF THE SIXTH SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES: DRAFT RESOLUTION C - MEASURES TO EXPEDITE THE WORK
OF THE SUB-COMMISSION (E/CN.4/703, annex I)

Mr. JUVIGNY (France) said that at least one point of general agreement had emerged from the Commission's votes on draft resolution B; namely, that the Sub-Commission should not be authorized to appoint an independent expert to prepare the study of the present situation of minorities. The concluding phrase in paragraph 3 of draft resolution C was therefore inappropriate.

Mr. INGLES (Philippines) suggested that draft resolution C could be debated in a more orderly manner and much time could be saved if all references to experts were deleted, since any votes on that subject would be the same as the vote on the same subject in connexion with draft resolution B. The Commission would thus have to discuss two issues only: whether the Sub-Commission might appoint special rapporteurs for the studies enumerated in its resolution D and whether they should receive honoraria in addition to their travel and subsistence expenses. There was nothing to prevent the appointment of special rapporteurs, but General Assembly resolution 677 (VII) seemed to preclude them from receiving honoraria.

Mr. NISOT (Belgium) pointed out that, assuming the Philippine proposal was adopted, the final phrase in paragraph 1 would still be unnecessary, since the Sub-Commission was competent to appoint its own special rapporteurs.

Mr. MOROZOV (Union of Soviet Socialist Republics) supported the Philippine proposal.

Mr. RODRIGUEZ FABREGAT (Uruguay) was not sure that the deletion of the references to experts might not involve matters of substance, especially in connexion with paragraph 2. In any case, to construe the Commission's votes on draft resolution B as a unanimous rejection of the appointment of experts was not wholly justified. He could not accept the Philippine proposal until he had a clearer idea of what it would entail.

The CHAIRMAN suggested that the Commission might consider discussing draft resolution C paragraph by paragraph.

The meeting rose at 1 p.m.