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COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION
OF MINORITIES
Fifth session

ACTIVITIES OF THE UNITED NATIONS IN THE FIELDS OF PREVENTION
OF DISCRIMINATION AND PROTECTION OF MINORITIES

Memorandum by the Secretary-General

INTRODUCTION

1. At its second session (June 1949) the Sub-Commission on Prevention of Discrimination and Protection of Minorities requested the Secretary-General, inter alia, (E/CN.4/351, p. 8): "to furnish the members of the Sub-Commission with relevant data on the activities of all organs of the United Nations and its specialized agencies in the fields of the prevention of discrimination and the protection of minorities, as and when it becomes available".
2. The present memorandum, prepared in compliance with the above request, contains information on the activities of the General Assembly during its sixth session (held from 6 November 1951 to 5 February 1952), the Economic and Social Council during its twelfth, thirteenth and fourteenth sessions (held respectively from 20 February to 21 March 1951, from 30 July to 21 September 1951, and from 20 May to 1 August 1952), and the Trusteeship Council during its eighth and ninth sessions (held respectively from 20 January to 16 March 1951 and from 5 June to 30 July 1951).
3. Although as a general rule, activities in the field of the status of women have not been included in this memorandum, certain parts of Economic and Social Council resolutions 385 (XIII) and 445 (XIV), as well as certain resolutions adopted by the Commission at its fifth and sixth sessions, have been reproduced in Part II in view of their importance.

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/4. Pursuant
E/CN.4/Sub.2/145

4. Pursuant to Economic and Social Council resolution 443 (XIV), the Secretary-General has prepared for the consideration of the Sub-Commission a descriptive list of various research projects and action programmes on discrimination and minority problems already initiated or being planned by various United Nations organs and bodies and specialized agencies. This descriptive list will be found in document E/CN.4/Sub.2/144.

PART I. GENERAL ASSEMBLY

A. Treatment of people of Indian origin in the Union of South Africa^{1/}

5. By resolution 511 (VI), the General Assembly "considering that a policy of 'racial segregation' (apartheid) is necessarily based on doctrines of racial discrimination", and noting that the promulgation on 30 March 1951 by the Government of the Union of South Africa of five proclamations under the Group Areas Act renders operative thereby the provisions of that Act in direct contravention of paragraph 3 of resolution 395 (V), recommended that a Commission of three members nominated by the Governments of the Union of South Africa, Pakistan and India be established to carry through appropriate negotiations. By resolution 511 (VI), the General Assembly further called upon the Government of the Union of South Africa to suspend the implementation or enforcement of the provisions of the Group Areas Act pending the conclusion of the negotiations.

B. Libya^{2/}

6. The General Assembly, by resolution 515 (VI), noted the second Annual Report of the United Nations Commissioner in Libya, prepared in consultation with the Council for Libya (A/1949). Annex I of this Report contains the text of the Constitution of the United Kingdom of Libya as promulgated on 7 October 1951.^{3/}

^{1/} See E/CN.4/Sub.2/128, part I, C.

^{2/} See E/CN.4/Sub.2/128, part I, A.

^{3/} It will be recalled that under General Assembly resolution 289 (IV), the United Nations Commissioner and the Council for Libya were appointed to assist the people of Libya in the formulation of the Constitution and the establishment of an independent government.

7. The preamble of the Constitution states that the representatives of the people of Libya have decided to "guarantee the principles of liberty, equality and fraternity".

8. Article 11 reads as follows: "Libyans shall be equal before the law. They shall enjoy equal civil and political rights, shall have the same opportunities and be subject to the same public duties and obligations, without distinction of religion, belief, race language, wealth, kinship or political or social opinion."

9. Article 192 sets forth that "the State shall guarantee respect for the systems of personal status of non-Moslems".

C. Eritrea

10. By resolution 530 (VI), the General Assembly approved the following provisions relating to Eritrea:

"Italian cemeteries, monuments and ossuaries in Eritrea shall be respected." (Article I (6)).

11. Article VII (1) establishes that "the property, rights and interests of Italian nationals, including Italian juridical persons, in Eritrea shall, provided they have been acquired in accordance with the laws prevailing at the time of acquisition, be respected. They shall not be treated less favourably than the property, rights and interests of other foreign nationals, including foreign juridical persons." A similar guarantee protects the property, rights and interests in Italy of former Italian nationals belonging to Eritrea (Article VII (4)).

D. The Question of Race Conflict in South Africa Resulting from the Policies of Apartheid of the Government of the Union of South Africa

12. In a letter dated 12 September 1952, addressed to the Secretary-General by the permanent representatives of Afghanistan, Burma, Egypt, India, Indonesia, Iraq, Iran, Lebanon, Pakistan, the Philippines, Saudi Arabia, Syria and Yemen, inclusion of the following item in the agenda of the seventh regular session of the General Assembly was requested (A/2183):

"The question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa."

/E. Sub-Commission

E. Sub-Commission on the Prevention of Discrimination and Protection of Minorities

13. The General Assembly, by resolution 532 B (VI), noting that the Economic and Social Council had decided to discontinue the Sub-Commission on Prevention of Discrimination and Protection of Minorities until 31 December 1954 (414 Section B, I (d) (XII)), emphasizing the supreme importance of the full implementation of the principle of non-discrimination, and considering further that the prevention of discrimination and the protection of minorities are two of the most important branches of the positive work undertaken by the United Nations, invited the Economic and Social Council:

(a) to authorize the Sub-Commission to continue its work, and especially to convene a session in 1952;

(b) to take any practical steps that may be necessary for the continuance of the work on the prevention of discrimination and the protection of minorities.^{4/}

F. Information from Non-Self-Governing Territories

Standard Form

14. By resolution 551 (VI), the General Assembly revised the Standard Form for the guidance of Members in the preparation of information to be transmitted under Article 73 e of the Charter^{5/} and made provision therein for information relating to the problem of discrimination and the protection of minority groups. These provisions are contained in section B. 5 of the Explanatory Preface of the standard form, in Part III (Social Conditions), in particular, B (c) and C, and in Part IV (Educational Conditions), in particular B (d), C, G (d) and J (a). It should further be noted that appendix VIII of the revised standard form relating to the statistics of cultural institutions, contains a column with the heading "Nature of restrictions, if any", with respect to admittance to libraries and museums.

^{4/} See Part II. A.

^{5/} The original Standard Form was approved by General Assembly resolution 142 (II).

G. Other activities of the Committee on Information from Non-Self-Governing Territories

15. By resolution 565 (VI), the General Assembly took note of the report of the special Committee on Information transmitted under Article 73 e of the Charter^{6/} and approved the arrangements proposed by the Committee for its work in 1952.

16. The report of the Committee (A/1836) refers inter alia to the two following questions:

(a) Progress reports on questions relating to education, submitted by UNESCO. One of these reports dealt with the use of vernacular languages in education A/AC.35/L.62.^{7/} The Committee decided that in view of the forthcoming meeting of experts on the problem of vernacular languages in education,^{8/} the matter should be given further attention at the third session of the Committee on Information from Non-Self-Governing Territories in 1952. In consequence, the Committee placed as item C (b) of its provisional agenda for 1952, the following: "Progress reports submitted by UNESCO on the use of indigenous or national languages as vehicle of instruction in schools, and measures of suppressing illiteracy". UNESCO has transmitted to the Committee on Information an Interim Report on Vernacular Languages, including a Report on the Meeting of Experts on the Use of Vernacular Languages.^{9/}

(b) Information on human rights in Non-Self-Governing Territories under General Assembly resolution 446 (V).^{10/} The Committee adopted a resolution (A/1836, page 5), by which it noted that, with a few exceptions, the Members responsible for the administration of Non-Self-Governing Territories had not

^{6/} It will be noted that the name of the Committee has been changed to Committee on information from non-self-governing territories (resolution 569 (VI) of the General Assembly).

^{7/} This report was submitted in pursuance of General Assembly resolution 329 (IV).

^{8/} See General Assembly resolution 329 (IV).

^{9/} Document A/AC.35/L.103, annex II.

^{10/} See E/CN.4/Sub.2/128, Part I, G.

included in their annual reports a summary of the extent to which the Universal Declaration is implemented in the territories they administer. By the same resolution, the Committee requested all the Administering Members concerned to transmit the necessary information on the observance of human rights in their Non-Self-Governing Territories, and decided to consider at its next session the formulation of the recommendations which had been requested by General Assembly resolution 446 (V). In the working paper indicating the subjects to be treated by the Committee in 1952 provision is made for consideration of the problem of race relations, including a summary of any existing regulations establishing distinctions between members of various races in respect of social conditions.^{11/} A working paper for the consideration of this subject has been prepared (A/AC.35/L.87). The Committee placed as item 6 (b) of its provisional agenda for 1952, the following: "Information on human rights in Non-Self-Governing Territories".

H. Factors which should be taken into account in deciding whether a territory is or is not a territory whose people have not yet attained a full measure of self-government

17. The General Assembly, after having examined the report on factors which should be taken into account in deciding whether a territory is or is not a territory whose people have not yet attained a full measure of self-government (Part Four of the Report of the Special Committee on Information transmitted under Article 73 e of the Charter (A/1836)), adopted resolution 567 (VI). The annex to the resolution contains a list of such factors. In the particular cases where non-self-governing territories have freely united or associated themselves on a footing of equal status with other component parts of the metropolitan or other country or countries, the General Assembly deemed the following factors essential to determine whether or not the former non-self-governing territories have attained a full measure of self-government:

^{11/} Arrangements proposed by the Committee for its work in 1952 were approved by General Assembly resolution 565 (VI).

- (i) Legislative representation: Representation without discrimination in the central legislative organs on the same basis as other inhabitants and regions;
- (ii) Citizenship: Citizenship without discrimination on the same basis as other inhabitants.

I. Staff Regulations of the United Nations

18. The staff regulations of the United Nations were adopted by resolution 590 (VI) of the General Assembly and annexed to the same resolution.
19. Article 4.3 regarding appointment and promotion of staff members establishes that "in accordance with the principles of the Charter, selection of staff members shall be made without distinction as to race, sex, or religion".

J. Draft Code of Offences against the Peace and Security of Mankind

20. The General Assembly deferred until its seventh session the consideration of the draft code of offences against the peace and security of mankind (A/1858, Chapter IV), prepared by the International Law Commission at its third session (see official records of the General Assembly sixth session, plenary meetings, 342nd meeting, paragraph 42).
21. The draft code contains in Article 2, paragraph 9, a definition of an offence against the peace and security of mankind which follows the definition contained in Article II of the Convention on the prevention and punishment of the crime of genocide.
22. Article 2, paragraph 10, contains the definition of a crime against the peace and security of mankind in the following words: "Inhuman acts by the authorities of a State or by private individuals against any civilian population such as murder, extermination, enslavement, deportation, or persecutions on political, racial, religious or cultural grounds, when such acts are committed in execution of or in connexion with other offences defined in this article".^{12/}

^{12/} This paragraph corresponds substantially to article 6, paragraph (c), of the Charter of the Nürnberg Tribunal, which defines "crimes against humanity". It has, however, been deemed necessary to prohibit also inhuman acts on cultural grounds, since such acts are no less detrimental to the peace and security of mankind than those provided for in the said Charter. There is another variation from the Nürnberg provision. While, according to the Charter of the Nürnberg Tribunal, any of the inhuman acts constitutes a crime under international law only if it is committed in execution of or in connexion with any crime against peace or war crime as defined in that Charter, this paragraph characterizes as crimes under international law inhuman acts when these acts are committed in execution of or in connexion with other offences defined in the present article. (A/1858, p. 13).

PART II. ECONOMIC AND SOCIAL COUNCIL

A. Continuance of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

23. Pursuant to General Assembly resolution 532 B (VI) the Council adopted resolution 443 B, whereby, inter alia, it decided to convene a session of the Sub-Commission in 1952 and further requested the Sub-Commission to continue its work.

B. Resolution relating to the status of women

24. By resolutions 385 (XIII) and 445 (XIV), the Economic and Social Council, after having taken note of the report of the Commission on the status of women at its fifth and sixth sessions (E/1197, Rev.1, and E/2208 respectively), took action on various recommendations made by the Commission relating to the status of women:

- (i) Status of women in trust territories. The Council, considering that it would be desirable, in order to promote the development of the status of women in the trust territories, that women should share in the responsibility of the visiting missions, invited Member States to nominate, and the Trusteeship Council to consider appointing, women to serve as members of such missions (385 E (XIII)).
- (ii) Status of women in public law. In considering the replies of governments to the questionnaire on the legal status and treatment of women (E/CN/W.1), the Council, after having noted "that some countries discriminate against married women with respect to employment in the public services," expressed the hope that Member States concerned would take steps as far as possible to remove all discrimination in this connexion (385 G (XIII)).
- (iii) Equal pay for equal work. The Council, after having recalled that the principle of equal rights for men and women is embodied in the Charter, that the principle of equal pay for equal work is laid down in the Universal Declaration of Human Rights, and that an International Labour Convention implements the principle of equal pay for equal work, urged Member States, which are not members of the International Labour

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Organisation, to take or promote the necessary measures to give effect to the principle of equal pay for equal work (385 H (XIII)). In resolution 445 E (XIV), the Council again referred to the principle of equality in the Charter and in the ILO Convention based on the principle of equal pay for equal work, and recommended that "States Members of the ILO introduce as soon as possible, by means of appropriate legislation or other measures, equal remuneration for equal work for men and women workers, in accordance with the International Labour Organisation Convention and recommendation".

- (iv) Political rights of women. In resolution 445 B (XIV), the Council, considering that the time was appropriate for an international convention under the auspices of the United Nations designed to eliminate all discrimination against women in the field of political rights, in accordance with General Assembly resolution 56 (I), recommended to the General Assembly that an international convention on the political rights of women embodying the preamble and substantive clauses which are part of resolution 445 B (XIV),^{13/} be opened for signature and ratification, and further requested the Secretary-General to draft the necessary formal clauses of that Convention. The above-mentioned substantive clauses are as follows:

Article 1. Women shall be entitled to vote in all elections on equal terms with men.

Article 2. Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men.

Article 3. Women shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men.

- (v) Equality of opportunity. In resolution 445 D (XIV), the Council "agreeing that equality of opportunity is possible only if there

^{13/} See Economic and Social Council resolution 385 B (XIII).

is, inter alia, equal access to education for boys and girls from primary school onwards", invited the International Labour Office to collect information as to the extent to which girls and women are excluded from apprenticeship to certain trades by trade unions, by employers or by legal restriction, and to lay this information before the Commission on the Status of Women at the earliest opportunity. The Council further recommended that governments, inter alia, take all possible measures to ensure the right of women to work on an equal footing with men, and to ensure the provision of adequate facilities and opportunities for vocational training and guidance for all workers without regard to sex.

C. Commission on the Status of Women

25. In addition to resolutions mentioned in B above, the Commission on the Status of Women adopted the following resolutions at its fifth and sixth sessions (E/1997/Rev.1 and E/2208 respectively):

- (i) Status of women in private law. The Commission on the Status of Women, having examined the preliminary reports on family law and on property rights (E/CN.6/165 and E/CN.6/166), prepared by the Secretary-General, requested the Secretary-General, inter alia, "to prepare and circulate to non-governmental organizations a list of questions concerning family law and property rights, requesting their advice as to the changes which in their opinion are desirable in the various legal systems in order to eliminate discrimination against women, and to circulate to members of the Commission the replies received at least two months before the sixth session". (E/1997, Rev.1, Chapter VI).
- (ii) Educational opportunities for women. After having noted that in the Progress Report presented by UNESCO (E/CN.6/191), notwithstanding its various programmes developing methods to promote the better application of the Universal Declaration of Human Rights, in particular as regards non-discrimination against women, no information is included concerning legal obstacles which might exist to the free

access of girls and women to education, the Commission requested the Secretary-General:

- (a) to continue to seek the collaboration of UNESCO on these questions, and in particular to report to the next session of the Commission on the progress of UNESCO programmes, in so far as they are related to the work of the Commission;
- (b) to prepare for the seventh session of the Commission a report on the provisions concerning the educational opportunities of girls and women in the legal systems of various countries, bringing up to date the report based on the replies of governments to the questionnaire (E/CN.6/78 and Add.1 and Corr.1), and supplementing this with information from other dependable sources (E/2208, Chapter VII).

PART III. THE TRUSTEESHIP COUNCIL

A. Annual Reports on Trust Territories

26. At its eighth session, the Trusteeship Council considered the annual reports on Western Samoa, Trust Territory of the Pacific Islands, Nauru and New Guinea. At its ninth session, the Council considered the annual reports on Somaliland under Italian administration, Tanganyika, Ruanda-Urundi, Cameroons under French administration, Cameroons under British administration, Togoland under French administration, and Togoland under British administration. After considering these reports, the Council noted certain measures taken by the Administering Authorities, and made a number of recommendations, relating to the abolition of discriminatory laws and practices, the improvement of the status of women and the protection of minorities. (Official records of the sixth session of the General Assembly, supplement No. 4: T/1856.) The Council's recommendations were as follows:

Discriminatory laws and practices

Ruanda-Urundi

27. The Council noted with satisfaction that the Administering Authority had reviewed the legislation on fire-arms and had eliminated from it any aspect of

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racial discrimination. The Council noted also that the Administering Authority was considering a revision of the legislation on the penitentiary system and on alcoholic beverages, with a view to eliminating any aspect of racial discrimination, and it reiterated its previous recommendation that the Administering Authority continue to review all other legislation involving discrimination, namely legislation on residence and immigration.

Togoland under French administration

28. The Council noted with interest the reports of the Administering Authority on its efforts in the field of education in the local languages, which had been undertaken at the Council's request, and urged the Administering Authority to continue to give as many details as possible concerning the problem in future reports.

Western Samoa

29. The Council reaffirmed its view as to the importance of resolving the difficult problem of the differentiation in status as between Samoans and Europeans, and it requested the Administering Authority to give all possible assistance and encouragement to the inhabitants to the end that an early solution might be agreed upon.

Nauru

30. The Council recalled its previous recommendation regarding the Chinese and Native Labour Ordinance, and the Movement of Natives Ordinance, and requested the Administering Authority to press on with its review of the situation with a view to modifying the provisions of both Ordinances and to inform the Council of the results of its efforts.

New Guinea

31. The Council urged the Administering Authority to complete the review of the Criminal Code and the Police Offences Ordinance, keeping in mind the recommendations of the General Assembly at its fourth session regarding discriminatory laws and practices, as well as the recommendations of the Trusteeship Council at its fifth session regarding the revision of the Police Offences Ordinance and other laws.

32. The Council noted with approval the steps taken by the Administering Authority to encourage the development of indigenous art and culture, and hoped that the Administering Authority would continue its efforts in that direction.

Status of Women

Tanganyika

33. The Council appreciated the reasons given by the Administering Authority for the comparatively backward status of women in the Territory. At the same time, it urged the Administering Authority to continue to take all possible steps, particularly in the educational field, to improve their status.

Cameroons under French administration

34. The Council recommended that the Administering Authority take all feasible measures to ameliorate the position of women in the Territory.

Togoland under British administration

35. The Council urged the Administering Authority to continue to give special attention to measures designed to improve the status of women.

B. Petitions

36. The Trusteeship Council, at its eighth and ninth sessions, examined a number of petitions, some of which contained allegations that racial discrimination still existed in certain Trust Territories. After examining these petitions in consultation with the Administering Authorities concerned, the Council adopted several resolutions:

37. In resolution 312 (VIII), the Council, after having noted that most of the restrictions complained of by Chinese in Western Samoa would appear to be no longer applicable to them, requested the Administering Authority to include in future Annual Reports additional information on the position of the Chinese inhabitants.

38. In resolution 323 (VIII), the Council urged the Administering Authority of Nauru to review the provisions of the Movement of Natives Ordinance, in order to eliminate the restrictions imposed on Chinese workers.

39. In resolution 390 (IX), the Council, after having drawn the attention of the petitioners to the statement of the special representative to the effect that the

/Administering

Administering Authority of the Cameroons under French administration was attempting to eliminate the last traces of what might be interpreted as racial discrimination, decided to inform the petitioners that questions of racial discrimination, inter alia, would continue to be examined by the Council in connexion with its annual examination of conditions in the territory.

40. In resolution 411 (IX), the Council drew the attention of the petitioners to the recommendation adopted by the Council,^{14/} and further decided to inform the petitioners that the questions relating to the role of vernacular languages in education in the territory of Togoland under French administration would continue to be examined by the Council in connexion with its annual examination of conditions in that territory.

41. In resolution 326 (VIII) the Council noted the statement of the Administering Authority for New Guinea that the policy of the Australian Government provided very clearly for the welfare and advancement of the Native people and for their increasing participation in the natural wealth of the Territory as soon as they showed sufficient responsibility to enable them to play their part; that there was no ground for the petitioner's contention that non-Natives were trying to prevent the advancement of the Native peoples; and that there was no bar whatever to prevent indigenous children attending schools in Australia provided the parent had sufficient funds and the child could meet the educational standards of an English-speaking school.

42. In resolution 383 (IX) the Council noted that close co-operation between the Administering Authority for the Cameroons under British administration and those elements of the population from the Cameroons under French administration was important to the development of the Territory, and requested the Administering Authority to furnish in its next annual report additional information on the status of residents of the Cameroons under British administration who were immigrants from the Cameroons under French administration.

43. In resolution 396 (IX) concerning the Cameroons under French administration the Council noted the statement of the Administering Authority that the petitioner's application for a licence for selling alcoholic and hygienic beverages had not been refused by the Administration on grounds of racial

^{14/} See paragraph 28 of this memorandum.

/discrimination,

discrimination, and reiterated the hope expressed in resolution 213 (VI) that the Administering Authority would continue to take all possible steps to demonstrate to the local population that there existed equality of commercial opportunity.
