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

Third Session

SUMMARY RECORD OF THE SIXTY-THIRD MEETING

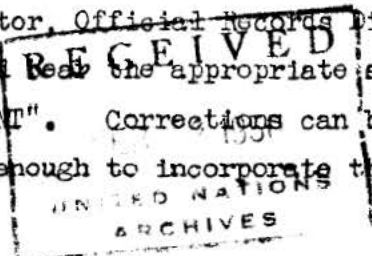
Held at Lake Success, New York,
on Friday, 27 January 1990, at 3 p. m.

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<u>Chairman:</u>	Mr. MESANI	(India)
<u>Rapporteur:</u>	Mr. MENESES PALLARES	(Ecuador)
<u>Members:</u>	Mr. BLACK	(United States of America)
	Mr. CHANG	(China)
	Mr. ELSTRAND	(Sweden)
	Miss MONROE	(United Kingdom of Great Britain and Northern Ireland)
	Mr. NISOT	(Belgium)
	Mr. ROY	(Haiti)
	Mr. SHAFAQ	(Iran)
	Mr. SPANLEN	(France)

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Representative of a specialized agency:

Mr. ARNALDO	United Nations Educational, Scientific and Cultural Organization (UNESCO)
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Consultants from non-governmental organizations:

Mr. BENNSTEIN	Co-ordinating Board of Jewish Organizations
Mrs. VAN DEN BERG	International Alliance of Women
Mrs. PARSONS	International Council of Women

Secretariat:

Mr. HUMPHREY	Representative of the Secretary-General
Mr. LAWSON	Secretary of the Sub-Commission

ADOPTION OF THE DRAFT REPORT (E/CN.4/Sub.2/117) (continued)

Paragraph 69

1. The CHAIRMAN recalled that the consideration of paragraph 69 had given rise to some discussion during the preceding meeting, and announced that Miss Monroe and Mr. Black had prepared an amendment to that paragraph. The Chairman then read the following new text:

"We abstained because we felt that in the absence of fuller study and discussion of some of the topics dealt with in the resolution, we could not be parties to it."

2. Mr. NISOT (Belgium) recalled that he was, in fact, one of the authors of the text; he urgently requested that specific mention of the fact should be made in the summary record.

3. The CHAIRMAN announced that Mr. Ekstrand had prepared a written statement which he wished to have appear in extenso in the report. The Chairman then read Mr. Ekstrand's statement which was as given below:

"Having noted the dissenting views of the majority of my colleagues on the Sub-Commission, I feel that, in the light of the prolonged discussion that has taken place in the Commission on Human Rights in regard to the subject of implementation and the ample documentation available to the

/Sub-Commission,

Sub-Commission, as well as the discussion that took place in the Sub-Commission in respect to that subject, the conclusions arrived at are well founded. There are certain principles and fundamental facts, the truth of which is so well established that no special study was felt to be necessary on that particular point in order to allow of the expression of an opinion. I feel that the Sub-Commission has the right to learn from the lessons which experience seems to have taught. The recommendations for the establishment of an international court or tribunal or, pending that, of a single body for supervision and conciliation, as well as the recommendations in favour of the right of individuals and groups to initiate proceedings are based on the consideration of such principles and facts which are so well-known and recognized that the Sub-Commission should feel fully justified in recommending the resolution which it has adopted.

"I have already set forth my opinion on the subject in document E/CN.4/Sub.2/113. It seems to me that it is evident that the text adopted by the Sub-Commission far from excluding further appropriate elaboration rather calls for it, by any competent organ, of the principles which have just been adopted."

4. Mr. MENESES PALIARES (Ecuador), Mr. SPANIEN (France), Mr. ROY (Haiti) and the CHAIRMAN supported Mr. Ekstrand's statement.

5. Mr. CHANG (China) also supported the statement of Mr. Ekstrand but regretted that some reservations had been made. In any case, he was in favour of including that statement in the report.

Paragraph 69 was adopted.

Paragraphs 70, 71, 72 and 73

Paragraphs 70, 71, 72 and 73 were adopted.

/Paragraphs 74 and 75

Paragraphs 74 and 75

6. Miss MONROE (United Kingdom) observed that there was no need to explain the manner in which the Sub-Commission had adopted the draft resolution she was submitting. She therefore suggested the deletion of paragraph 75.

7. Mr. BLACK (United States of America) suggested that the two paragraphs should be combined, by adding the first sentence of paragraph 75 to paragraph 74.

It was so decided.

Paragraph 74, as amended, was adopted.

Paragraph 76

8. Miss MONROE (United Kingdom) said that sub-paragraphs (a) and (b) were unnecessary, as the resolution included at the end of the paragraph dealt with the questions mentioned in the sub-paragraphs.

9. The CHAIRMAN accordingly suggested that the sub-paragraphs should be deleted.

It was so decided.

Paragraph 76, as amended, was adopted.

Paragraph 77

Paragraph 77 was adopted.

Paragraph 78

10. Mr. EKSTRAND (Sweden) pointed out that in order to fix the date of the Sub-Commission's sessions it was necessary to take into account the working programmes of other United Nations organs. It had, moreover, been suggested that the following session of the Sub-Commission should be held in Geneva. Members of the Sub-Commission should be asked for their views on that point, and a specific request should be drawn up so that the organs concerned could consider the matter. In any case, it was difficult to suggest a definite date.

/11. The CHAIRMAN

11. The CHAIRMAN pointed out that some members did not think it appropriate to discuss that question, which, moreover, would entail reference to the rules of procedure, at a time when the Sub-Commission was discussing the adoption of its report.

12. Mr. CHANG (China) thought on the contrary that the Sub-Commission could quite well study the question forthwith. He pointed out that last year the Sub-Commission had decided that its following session would be held in Geneva. The session had, in fact, been held at Lake Success and he would like to know the reason.

13. Mr. HUMPEREY (Secretariat) explained that the decision in the matter rested with the Economic and Social Council. It could, however occur that a decision of the Council was cancelled by a ruling of the Fifth Committee of the General Assembly. In the case in point, it was the Council's Committee on Programme of Meetings which had upset the decision of the Sub-Commission.

14. In reply to a question by the CHAIRMAN, he said that the cost of holding the following session of the Sub-Commission in Geneva would be substantially the same as the figure estimated at the previous session.

15. Mr. SHAFAG (Iran) recalled that he had already suggested that the Sub-Commission should meet at the end of the summer or the beginning of autumn.

16. Mr. SPANIEN (France) would willingly agree that the Sub-Commission should hold its next session in Geneva. It should be borne in mind that the Sub-Commission must meet before the Commission on Human Rights, otherwise paragraph 78 would be useless.

17. Mr. CHANG (China) said that it was only fair to members of the Sub-Commission who came from Europe, that the following session should be held in Geneva. However, he wondered whether there was any point in the Sub-Commission taking a decision, for its decision could be over-ruled.

18. Mr. ROY (Haiti) saw no objection to the Sub-Commission meeting in Geneva. As to the exact date, he thought that the simplest thing would be to take a decision on paragraph 78.

19. The CHAIRMAN pointed out that the Sub-Commission would not meet for at least a year and there did not seem much sense in taking a definite decision at that stage.

20. With regard to the question of the place of meeting, he called upon the Sub-Commission to vote on Mr. Ekstrand's proposal that the following session of the Sub-Commission should be held in Geneva.

Mr. Ekstrand's proposal was adopted by 9 votes to 1.

21. Mr. SHAFAG (Iran) withdrew his proposal.

22. The CHAIRMAN proposed that a sentence should therefore be added to paragraph 78 to the effect that the Sub-Commission had decided, by 9 votes to 1, that arrangements should be made for the Sub-Commission to hold its next session in Geneva.

It was so decided.

23. The CHAIRMAN called upon the members of the Sub-Commission to examine the annex to the draft report which contained the text of the draft resolutions submitted by the Sub-Commission to the Commission on Human Rights.

24. In reply to Mr. ROY (Haiti) he explained that that document contained only the text of the draft resolutions submitted to the Commission on Human Rights for appropriate action; it did not contain the text of all the resolutions adopted by the Sub-Commission itself.

25. Mr. NISOT (Belgium) thought that to annex the draft resolutions adopted at the second session to the report of the third session might be likely to give the impression that the report of the second session had become superfluous.

26. Mr. SPANLEN (France) also felt that draft resolutions already annexed to the report of the second session should not be appended to the report of the third session.

27. The CHAIRMAN reminded the Sub-Commission that it had already been decided that the draft resolutions adopted at the second and third sessions should be published in a consolidated document as draft resolutions of the Commission on Human Rights. If, however, the Sub-Commission thought that that procedure might be likely to give rise to a certain amount of confusion, two lists of draft resolutions could be submitted to the Commission on Human Rights instead of one.

28. Miss MONROE (United Kingdom) suggested that the draft resolutions adopted at the second session should be reviewed to see whether they did not contain certain matters which had become pointless as a result of the decisions adopted by the Sub-Commission at its current session.

29. Mr. ROY (Haiti) was prepared to agree that a consolidated list of the draft resolutions adopted at the second and third sessions should be annexed to the report, on condition that they were presented in a logical and not a chronological order.

30. Mr. NISOT (Belgium) proposed that only the draft resolutions adopted at the third session should be annexed to the report and that a consolidated list of the draft resolutions of the second and third sessions should be published in a separate document.

31. Mr. EKSTRAND (Sweden) thought that unless the Sub-Commission provided some explanation in the report, the Commission on Human Rights might not understand the reasons for which the Sub-Commission had annexed a consolidated list of the draft resolutions of the second and third sessions to the report of the third session.

32. The CHAIRMAN replied that such an explanation could be included in paragraph 80 of the report.

It was decided to annex to the report a consolidated list of the draft resolutions adopted by the second and third sessions, on the understanding that the necessary explanation was given in paragraph 80 of the report.

33. The CHAIRMAN called upon the Sub-Commission to state its views on the draft resolutions annexed to the report.

Draft resolution I: Legal measures for the prevention of discrimination.

Draft resolution I was approved subject to the insertion in sub-paragraph (b) of the Sub-Commission's full title.

Draft resolution II: Educational measures to prevent discrimination.

Draft resolution II was adopted.

Draft resolution III: Definition of minorities for purposes of protection by the United Nations.

Draft resolution III was adopted.

Draft resolution IV: Information on the status of minorities.

34. Mr. BLACK (United States of America) suggested that the last paragraph of that draft resolution should be deleted since it was not yet known whether or not the draft international covenant on human rights would contain a provision similar to the one envisaged in that draft.

It was decided unanimously to delete the last paragraph of draft resolution IV.

35. Miss MONROE (United Kingdom) proposed the addition of the words "in the light of the definition adopted by the Sub-Commission" after the word "jurisdiction" so as to enable governments to furnish full information.

36. Mr. NISOT (Belgium) was opposed to amending a text already adopted by the Sub-Commission, particularly as the words to be inserted referred to a draft resolution regarding which certain members had made reservations.

37. The CHAIRMAN and Mr. SPANIEN (France) saw no objections to inserting a few words intended to define the type of information required from Governments.

38. Mr. BLACK (United States of America) shared that view, and thought that it would be useful to emphasize in the last paragraph of the report that the word "minorities", used in all the draft resolutions contained in that document, should be interpreted in accordance with the definition adopted by the Sub-Commission.

Draft resolution IV was adopted subject to the insertion of the words "in the light of the definition adopted by the Sub-Commission" and the deletion of the last paragraph.

Draft resolution V: Measures for the protection of minorities to be included in the international covenant on human rights

39. Miss MONROE (United Kingdom) asked for an explanation of the text of draft resolution V which, by its very nature, seemed to her to differ from the other drafts.

40. The CHAIRMAN proposed the deletion of the draft resolution from the consolidated list. If the Commission on Human Rights wished to take the measures proposed in the draft, it would not do so through such a resolution.

Draft resolution V was not adopted.

/Draft resolution VI:

Draft resolution VI: Interim measures to be taken for the protection of minorities

Draft resolution VI was adopted.

Draft resolution VII: The handling of petitions

41. Mr. BLACK (United States of America) pointed out that a line was missing in the first paragraph of the preamble of the draft resolution.

Draft resolution VII was adopted subject to the necessary correction.

Draft resolution VIII: Co-operation of non-governmental organizations.

Draft resolution VIII was adopted.

Draft resolution IX: National co-ordinating committees

42. Mr. EKGSTRAND (Sweden) thought that, in order to facilitate matters, it should be stated at the end of each draft resolution at which session it had been adopted.

43. Mr. NISOT (Belgium) supported by Mr. SPANIEN (France), observed that if draft resolutions adopted at the preceding session were modified during the current session, it could no longer be said that those draft resolutions had been adopted at the second session.

44. The CHAIRMAN endorsed that view.

45. Miss MONROE (United Kingdom) suggested that in such cases the note should read: "adopted at the second session of the Sub-Committee and brought up to date at its third."

Draft resolution IX was adopted.

Draft resolution X: Right of the Sub-Commission to forward proposals to the Economic and Social Council

46. Mr. BLACK (United States of America) thought that the draft should be excluded from the consolidated list.

/47. The CHAIRMAN

47. The CHAIRMAN, while sharing that view, felt that such a decision could be taken only with the unanimous agreement of the Sub-Commission.

48. Mr. HUMPHREY (Secretariat) observed in that connexion that certain members of the Sub-Commission, including the author of draft resolution X, were absent.

Draft resolution X was adopted.

49. The CHAIRMAN reminded the Sub-Commission that the resolution relating to the question of implementation was not included in the consolidated list. That resolution, which was being submitted to the Commission on Human Rights for purposes of information only, would be included in the Sub-Commission's report.

50. As matters stood there was nothing more to approve but paragraphs 79 and 80 of the report. In view of the fact that the Sub-Commission had just examined in detail the consolidated list of draft resolutions appended to its report, it would seem more logical to transpose the two paragraphs in question.

It was so decided.

Paragraph 80

51. Miss MONROE (United Kingdom) criticized the wording of paragraph 80. She felt that it was inaccurate as the consolidated list contained only those proposals which the Commission on Human Rights, on the recommendation of the Sub-Commission, would transmit to other organs.

52. Mr. EKSTRAND (Sweden) proposed that it should be specified that the Sub-Commission was submitting a series of draft resolutions to the Commission on Human Rights for the latter's consideration and approval. It would be for the Commission to decide as to what further action should be taken on the draft resolutions.

53. Mr. LAWSON (Secretariat) read the text he proposed for the new paragraph 79. He had taken into consideration the views previously expressed. The text read:

"For the convenience of the Commission on Human Rights, the Sub-Commission decided to append to its report a single document embodying draft resolutions submitted to the Commission for consideration and adoption, covering its work in the second and third sessions."

54. Mr. NISOT (Belgium) pointed out once again that it would be incorrect to refer to draft resolutions adopted at the previous session of the Sub-Commission in view of the fact that, in some cases, they had been amended at the current session.

55. Mr. HUMPHREY (Secretariat) explained that there were two types of resolutions to be considered; on the one hand, those adopted by the Sub-Commission itself containing its recommendations to the Commission on Human Rights and, on the other hand, suggestions submitted in the form of draft resolutions and brought to the attention of the Commission on Human Rights with view to their adoption by that Commission. Suggestions of that type had nothing in common with resolutions adopted by the Sub-Commission itself.

56. Mr. SPANIEN (France) admitted that Mr. Humphrey's remark was justified; indeed, the resolutions adopted by the Sub-Commission in its own name remained outside the scope of the consolidated list. Nevertheless, the Sub-Commission seemed -- erroneously -- to imply that it had reconsidered the work of its second session, which was a very serious matter. The Sub-Commission seemed to question all the decisions or resolutions adopted at the previous session when its membership was different.

57. Mr. HUMPHREY (Secretariat) replied that failure by the Sub-Commission to prepare draft resolutions presenting problems in their true light to the Commission on Human Rights would oblige the latter to draft such resolutions itself. In doing so it would have to refer to the discussions of both

sessions of the Sub-Commission; such a procedure would greatly increase the risks of confusion because of the differences existing between the resolutions adopted by the Sub-Commission at those two sessions.

58. Miss MONROE (United Kingdom) said that the intention had been to mention the date of adoption after each draft resolution of the consolidated list. Regarding draft resolution IV, the Sub-Commission might mention that it had been adopted at the second session and redrafted at the third.

The text proposed by Mr. Lawson for the new paragraph 79 was adopted.

Paragraph 79

Paragraph 79 was adopted.

59. The CHAIRMAN called for a vote on the report of the Sub-Commission as a whole.

The report was adopted unanimously.

60. Mr. NISOT (Belgium) wished to make it clear that the vote he had just cast did not refer to the draft resolutions annexed to the report.

61. The CHAIRMAN thanked the members of the Sub-Commission for their confidence in him and their constant help during the debates of the session which was ending. The Sub-Commission had thereby been enabled to complete its work in time.

62. Mr. EKSTRAND (Sweden) on behalf of the Sub-Commission extended heartfelt thanks to the Chairman, the Rapporteur and the Secretariat for the tact and efficiency with which they had directed the discussions of the third session of the Sub-Commission.

63. The CHAIRMAN declared closed the third session of the Sub-Commission.

The meeting rose at 4.30 p.m.