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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION
OF MINORITIES

Fourth session

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

Memorandum by the Secretary-General

INTRODUCTION

1. At its second session the Sub-Commission on Prevention of Discrimination and Protection of Minorities requested the Secretary-General, inter alia, "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 field of the prevention of discrimination and the protection of minorities, as and when it becomes available."

2. This memorandum contains relevant data on the activities of the General Assembly, the Economic and Social Council and the Trusteeship Council in the field of the prevention of discrimination and the protection of minorities in the course of 1950. (The General Assembly held its fifth session from 19 September - 15 December 1950; the Economic and Social Council held its tenth session from 7 February to 6 March, and its eleventh session from 3 July to 16 August 1950; the Trusteeship Council held its sixth session from 19 January to 4 April, and its seventh session from 1 June to 21 July 1950.)

PART I: GENERAL ASSEMBLY

A. Libya

3. By resolution 289 A (IV) the General Assembly established a United Nations Commission for Libya which was to be assisted and advised by a Council

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consisting of ten members among whom there should be "one representative of the people of each of the three regions of Libya and one representative of the minorities in Libya."

4. According to the first Annual Report of the United Nations Commissioner in Libya, the problem of the ethnic minorities in Libya (Italian, Jewish, Maltese and Greek) was "difficult and complex." It was suggested that "it would be easier to find a solution if the problem were removed from its political context." It was further suggested that there should be negotiations, under the auspices of the Commissioner, between "a delegation of the minorities and a committee appointed by the National Assembly for the purpose of achieving agreement on the clauses to be inserted in the Constitution for the safeguarding of the rights and interests of the minorities in Libya." (See A/1340, paragraphs 253-256 and Annexes XXVI and XXVII.)

5. After considering this Report, the General Assembly adopted resolution 387 (V), which, inter alia, expressed confidence that the United Nations Commissioner in Libya, aided and guided by the advice of the members of the Council for Libya, would take the necessary steps to discharge his functions toward the achievement of the independence and unity of Libya. Furthermore, by resolution 388 (V) the General Assembly decided that "the property, rights and interests of Italian nationals, including Italian juridical persons, in Libya, shall, provided they have been lawfully acquired, be respected. They shall not be treated less favourably than the property, rights and interests of other foreign nationals, including foreign juridical persons."

B. Eritrea

6. In accordance with resolution 289 C (IV) of the General Assembly, a Commission for Eritrea was established to examine the disposition of the question of Eritrea. The Commission was to ascertain all the relevant facts, including written or oral information from the present Administering Power, from representatives of the population of the territory, including minorities, from Governments and from such organizations and individuals as it might deem necessary. In particular, the Commission should take into account the wishes and welfare of the inhabitants of Eritrea, including the views of the various social, religious and political groups of the provinces of the territory and

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the capacity of the people for self-government.

7. Upon arrival in Eritrea, the Commission issued a notice, making known these instructions. It heard the views of many representatives of political parties and ethnic and religious groups and reported to the General Assembly that probably an over-all majority of the Eritrean population favoured reunion with Ethiopia (A/1289, paragraphs 155-162).

8. After considering the Report, the General Assembly, by resolution 390 (V), recommended, inter alia, that "Eritrea shall constitute an autonomous unit federated with Ethiopia under the sovereignty of the Ethiopian Crown," and that "the Federal Government, as well as Eritrea, shall ensure to residents in Eritrea, without distinction of nationality, race, sex, language or religion, the enjoyment of human rights and fundamental liberties."

C. Treatment of people of Indian origin in the Union of South Africa

9. At its fifth session the General Assembly adopted resolution 395 (V), on the treatment of people of Indian origin in South Africa. In this resolution the General Assembly, "considering that a policy of 'racial segregation' (Apartheid) is necessarily based on doctrines of racial discrimination," recommended, inter alia, that the Governments of India, Pakistan and the Union of South Africa proceed, in accordance with resolution 265 (III), with the holding of a round table conference, "bearing in mind the provisions of the Charter of the United Nations and of the Universal Declaration of Human Rights;" and called upon the Union of South Africa to refrain from the implementation or enforcement of the provisions of "The Group Areas Act" (A/AC.38/L.34) pending the conclusion of such negotiations.

D. Palestine. Repatriation or resettlement of Palestine refugees.

10. The General Assembly, after considering the Progress Report of the United Nations Commission for Palestine (A/1367), adopted resolution 394 (V) which called "the Governments concerned to undertake measures to ensure that refugees, whether repatriated or resettled, will be treated without any discrimination either in law or in fact."

E. Relief and rehabilitation of Korea

11. By resolution 410 (V) the General Assembly established a United Nations Korean Reconstruction Agency. Paragraph 16 (7) of the resolution stated that "necessary measures shall be taken to ensure that distribution shall be so /conducted that

conducted that all classes of the population shall receive their equitable shares of essential commodities without discrimination as to race, creed or political belief."

F. Information relating to prevention of discrimination and protection of minorities in Non-Self-Governing Territories

12. The Special Committee on Information Transmitted under Article 73e submitted a Special Report on education, which contained the following recommendations (A/1303/Add.1, para. 50):

"(a) In the field of education no principle is more important than that of equality of opportunity for all racial, religious and cultural groups of the population.

"(b) Respect should be paid to the wishes of any group desiring to establish particular educational facilities for its members, but this should be subject to the overriding consideration that the general welfare of the whole community is not thereby prejudiced and that the practical operation of any system of differentiation does not lead to discrimination against any group.

"(c) While the programmes and organization of different types of schools may properly be designed to meet the needs of different groups of pupils, it should be accepted as a general principle that no school should exclude pupils on grounds of race, religion, or social status.

"(d) Differentiation in school facilities and programmes should not militate against the development of mutual sympathy and a feeling of common citizenship among the inhabitants of a territory.

"(e) Where separate systems exist, each group in the community should be given a fair share of the public funds used for educational purposes."

By resolution 445 (V) the General Assembly approved this Report.

G. Information on human rights in Non-Self-Governing Territories.

13. The General Assembly, "noting the provision contained in article 2 of the Universal Declaration of Human Rights that no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, Trust, Non-Self-Governing or under any other limitation of sovereignty," invited by resolution 446 (V) the Members responsible for the administration of Non-Self-Governing Territories to transmit a summary of the extent to which the Universal Declaration of Human Rights is implemented in Non-Self-Governing Territories, and requested the Special Committee to make recommendations relating to the application in Non-Self-Governing Territories of the principles

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contained in the Universal Declaration of Human Rights.

H. Formulation of the Nürnberg principles

14. In pursuance of General Assembly resolution 177 (II), the International Law Commission formulated the principles of international law recognized in the Charter of the Nürnberg Tribunal and in the judgments of the Tribunal.

Paragraph C of Principle VI considers the following as crimes against humanity:

"Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connexion with any crime against peace or any war crime." According to Principle VII, complicity in the commission of a crime against humanity is also a crime under international law. The General Assembly, by resolution 488 (V), invited the Governments of Member States to make observations on the principles.

I. International criminal jurisdiction

15. In pursuance of resolution 260 B (III) of the General Assembly, the International Law Commission decided that the establishment of an international judicial organ for the trial of persons charged with genocide or other crimes over which jurisdiction will be conferred upon that organ by international convention is desirable; and that the establishment of the above-mentioned international judicial organ is possible (A/1316, para.140). Subsequently the General Assembly, by resolution 489 (V), established a committee composed of seventeen Member States to meet in Geneva on 1 August 1951 for the purpose of preparing one or more preliminary draft conventions and proposals relating to the establishment and the statute of an international criminal court.

PART II: ECONOMIC AND SOCIAL COUNCIL

A. Nationality of married women

16. Upon the recommendation of the Commission on the Status of Women (E/1712, para. 37), the Economic and Social Council adopted resolution 304 D (XI), which requested the International Law Commission to undertake the drafting of a convention in which the following principles might be embodied:

"(i) There shall be no distinction based on sex as regards nationality,
in legislation or in practice;

"(ii) Neither marriage nor its dissolution shall affect the nationality of
/either spouse.

either spouse. Nothing in such a convention shall preclude the parties to it from making provision for the voluntary naturalization of aliens married to their nationals."

B. Application of penal law

17. The Economic and Social Council adopted resolution 304 E (XI) inviting the Social Commission "to bear in mind, in its study of problems concerning the prevention of crime and the treatment of offenders, the concern of the Commission on the Status of Women that there should be no discrimination against women in penal law and its application."

C. Educational opportunities for women

18. Upon the recommendation of the Commission on the Status of Women (E/1712, paragraph 70), the Economic and Social Council adopted resolution 304 G (XI), which requested the Secretary-General of the United Nations and the Director-General of UNESCO, inter alia, "to promote, throughout the world, opinion in favour of equal opportunities of access to education for both sexes."

D. Assistance to indigenous aliens

19. The Economic and Social Council adopted, after considering the report of the Social Commission (E/1678), resolution 309 B (XI) which recommended to Member Governments that "they consider according to indigent aliens the same measures of social assistance as those accorded to their nationals, and refrain from removing them from their territories for the sole reason of indigency."

20. Resolutions 303 F and G (XI) of the Economic and Social Council, which were based upon recommendations of the second and third sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, are dealt with in document E/CN.4/Sub.2/124.

PART III: THE TRUSTEESHIP COUNCIL

A. Political, economic, social and educational advancement

21. After considering resolution 320 (IV) of the General Assembly concerning political advancement in Trust Territories, resolution 321 (IV) concerning petitions and visiting missions, resolution 322 (IV) concerning economic advancement, resolution 323 (IV) concerning social advancement, and resolution 324 (IV) concerning educational advancement, the Trusteeship Council adopted

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resolution 127 (VI) which, inter alia, recommended to Administering Authorities the abolition of corporal punishment and whipping in all Trust Territories where they still exist and the initiation of a programme to this effect as soon as possible; and urged all Administering Authorities to take the necessary measures to ensure that no discriminatory laws or practices contrary to the principles of the Charter and the Trusteeship Agreements shall exist in any Trust Territory.

B. Annual Reports on Trust Territories

22. At its sixth session the Trusteeship Council considered the Annual Reports on Tanganyika, Ruanda-Urundi, Cameroons under British administration, Cameroons under French administration, Togoland under British administration and Togoland under French administration. At its seventh session the Council considered the Annual Reports on Western Samoa, New Guinea, Nauru and Trust Territory of the Pacific Islands. After considering these reports the Council made a number of "conclusions and recommendations" relating to the abolition of discriminatory laws and practices (see Official Records of the Fifth Session of the General Assembly, Supplement No. 4, A/1306).

C. Petitions

23. The Trusteeship Council at its sixth and seventh sessions in 1950 examined a number of petitions concerning Trust Territories, some of which contained allegations that racial discrimination still existed. After examining these petitions in consultation with the Administering Authorities, the Council adopted several resolutions:

In resolution 159 (VI) the Council expressed the hope that in dealing with different tribal groups the British Authority in Cameroons would continue its policy of equal treatment.

In resolution 201 (VI) the Council urged the French Authority in Cameroons to continue its efforts to eliminate all forms of racial discrimination in the Territory.

In resolution 220 (VI) the Council noted the assurance of the French Authority in Cameroons that all vestiges of racial discrimination had been eliminated and hoped that future reports would give an account of the effective implementation of this policy.

By resolution 258 (VII) the Council expressed the hope that the Administering Authority in British Togoland would continue its policy of

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religious tolerance in education, in particular in areas where schools of different denominations existed side by side.

By resolution 277 (VII) the Council noted the assurance of the Administering Authority that all vestiges of racial discrimination had been eliminated and hoped that future reports would give an account of the effective implementation of this policy.

D. Trusteeship Agreement for Somaliland

24. In accordance with resolution 289 (IV) of the General Assembly, the Trusteeship Council on 27 January 1950 adopted a draft Trusteeship Agreement and a Declaration of Constitutional Principles for the former Italian Colony of Somaliland (Official Records of the Fifth Session of the General Assembly, Supplement No. 10, A/1294). The General Assembly, by resolution 442 (V), approved this Agreement. In Article 20 of the Agreement, the Administering Authority undertakes to "guarantee to the inhabitants of the Territory complete freedom of speech, of the press, of assembly and of petition, without distinction as to race, sex, language, political opinion or religion, subject only to the requirements of public order." Article 8 of the Declaration of Constitutional Principles stipulates that "the Administering Authority, in accordance with the principles laid down in its own Constitution and legislation, shall guarantee to all inhabitants of the Territory human rights and fundamental freedoms and full equality before the law without distinction as to race, sex, language, political opinion or religion."

E. Palestine: Question of an international regime for the Jerusalem area and the protection of the Holy Places

25. At its fourth session the General Assembly by resolution 303 (IV) requested the Trusteeship Council to complete the preparation of, to adopt and to implement the Statute for Jerusalem. At its sixth session, on 4 April 1950, the Council adopted the Statute (T/592). Many of the articles of this draft instrument deal with the question of prevention of discrimination and protection of minorities. Among the important provisions are the following: Article 9 stipulates that "all persons are entitled to all the rights and freedoms set forth in this Statute, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"; that "all persons are equal before the law and are entitled without any

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discrimination to equal protection of the law"; that "the legislation of the City shall neither place nor recognize any restriction upon the free use by any person of any language in private intercourse, in religious matters, in commerce, in the press or in publications of any kind, or at public meetings"; and that "the family law and personal status of all persons and communities and their religious interests, including endowments, shall be respected." Article 22 provides for a proportional representation system so that all communities may be represented in the Legislative Council. Article 32 provides that the City shall maintain a system of education on an equitable basis for all communities in their respective languages and in accordance with their respective cultural traditions.
