

# UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL



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## DRAFT REPORT OF THE THIRD SESSION OF THE SUB-COMMISSION ON THE PREVENTION OF DISCRIMINATION AND THE PROTECTION OF MINORITIES

Lake Success, N.Y., 9 January to \_\_\_ January 1950

Rapporteur: Mr. Arturo Meneses Pallares

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/CHAPTER I  
E/CN.4/Sub.2/117

## CHAPTER I

## ORGANIZATION OF THE THIRD SESSION OF THE SUB-COMMISSION

1. The third session of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities opened on Monday, 9 January 1950 at the Interim Headquarters of the United Nations, Lake Success, N.Y. The Sub-Commission held \_\_\_ meetings and terminated its work on \_\_\_ January 1950.

2. The following members of the Sub-Commission attended:

<u>Chairman</u>	<u>Mr. M. R. Macani</u>	( <u>India</u> )
<u>Vice-Chairman</u>	<u>Mr. J. Winiewicz</u>	( <u>Poland</u> )
<u>Reporter</u>	<u>Mr. A. Meneses Pallares</u>	( <u>Ecuador</u> )
<u>Members:</u>	Mr. C. F. Chang	(China)
	Mr. J. Daniels	(United States of America)
	Mr. E. Ekstrand	(Sweden)
	Mr. V. I. Formashev	(Union of Soviet Socialist Republics)
	Miss E. Monroe	(United Kingdom)
	Mr. J. Nisot	(Belgium)
	Mr. H. Roy	(Haiti)
	Mr. R. Shafaq	(Iran)
	Mr. S. Spanien	(France)

3. The following representatives of specialized agencies were present at the session:

Mr. Goto de la Jara	International Labour Organisation
Mr. R. C. Angell)	
Mr. S. Arnaldo )	United Nations Educational, Scientific and Cultural Organization

4. The following consultants from non-governmental organizations were also present:

Category (a)

Miss T. Sender American Federation of Labor

Category (b)

Mr. I. Lewin Agudas Israel World Organization

Mrs. G. Aieta Catholic International Union for Social Service

Mr. R. L. Steiner Commission of the Churches on International Affairs

/Mr. M. Moskowitz

Mr. M. Moskowitz	Consultative Council of Jewish Organizations
Mr. B. Bernstein	Co-ordinating Board of Jewish Organizations
Mrs. W. B. Parsons	International Council of Women
Miss J. Gertlan )	International Union of Catholic
Miss C. Shaefer )	Women's Leagues
Mr. K. Grossman )	World Jewish Congress
Mr. M. Perlzweig)	

5. At its forty-first meeting, the Sub-Commission elected, by secret ballot, Mr. Masani (India) as Chairman, Mr. Winiewicz (Poland) as Vice-Chairman, and Mr. Meneses Pallares (Ecuador) as Rapporteur.

6. Before the session opened, Mr. W. McNamara (Australia), one of the original members of the Sub-Commission, informed the Secretary-General that, having accepted a post in the Secretariat of the United Nations, he resigned with regret from the Sub-Commission. Accordingly, the Secretary-General placed an item, "Election of a Member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities" on the provisional agenda of the sixth session of the Commission on Human Rights.

7. Mr. J. Daniels (United States) participated in the fortieth to the forty-sixth meetings of the Sub-Commission. However, on 13 January 1950, he found it necessary to return to his home and therefore in accordance with rule 60 of the rules of procedure of functional commissions of the Economic and Social Council he designated Mr. C. E. Black as his alternate with the consent of the United States Government and in consultation with the Secretary-General.

8. Before the session opened, Mr. A. P. Borisov informed the Secretary-General that he was unable to attend the third session of the Sub-Commission and that in accordance with rule 60 of the rules of procedure of functional commissions, he appointed Mr. V. I. Formashev as his alternate with the approval of the Government of the Union of Soviet Socialist Republics.

9. At the forty-seventh meeting of the Sub-Commission, Mr. Formashev (USSR) proposed that it adopt the following resolution: "The Sub-Commission resolves to expel the representative of the 'Kuomintang group' from its meetings".

Mr. Winiewicz (Poland) supported this draft resolution, adding that even though the members of the Sub-Commission were elected in their capacity as experts, this was nevertheless subject to the consent of their Governments. Mr. Spanien, (France) pointing out that the Sub-Commission itself had no power to exclude

/any of its members,

any of its members, formally moved that the Sub-Commission decide that any proposal to expel one of its members was out of order. This motion was adopted.

Mr. Masani (India), Chairman of the Sub-Commission, considered that political changes which occurred in one country or another, or in the political organs of the United Nations, could have no bearing upon the composition of the Sub-Commission, the members of which were experts whose term of office had been extended by the Commission on Human Rights for three years. For that reason, although the Government of his country had recognized the Communist Government in China, he felt that that fact had no bearing on the question of membership in the Sub-Commission. He had appreciated that Mr. Formashev's resolution might not be in order, but had not wanted to take a strictly legalistic view of the matter, as he did not want Mr. Formashev to feel that the Chairman had throttled the discussion or prevented the Sub-Commission from expressing itself on his resolution. He had therefore been reluctant to rule it out of order, but did so in view of the Sub-Commission's decision.

10. Mr. Formashev stated that in view of the Sub-Commission's decision he would be unable to participate in its work as long as a representative of the "Kuomintang group" took part in its meetings. He added that the Government of the Union of Soviet Socialist Republics would consider as invalid any decision taken by the Sub-Commission in which the representative of this group participated. Mr. Winiewicz stated that he also would be unable to take part in the work of the Sub-Commission as long as any representative of the "Kuomintang group" was present, and reserved the position of his Government regarding any decisions which the Sub-Commission might take. Mr. Formashev and Mr. Winiewicz thereupon left the meeting and did not participate further in the session of the Sub-Commission.

11. Mr. John P. Humphrey, Director of the Division of Human Rights, and Mr. Lin Mousheng represented the Secretary-General. Mr. Edward Lawson acted as Secretary of the Sub-Commission.

12. The expression of the views of the members of the Sub-Commission is contained in the summary records of its plenary meetings (documents E/CN.4/Sub.2/SR.40 to E/CN.4/Sub.2/SR.\_\_\_\_).

## CHAPTER II

### AGENDA

13. At its forty-first meeting, the Sub-Commission considered the provisional agenda prepared by the Secretary-General in consultation with the Chairman (E/CN.4/Sub.2/79). It rejected, by nine votes to two, with one abstention, a proposal by Mr. Formashev (USSR) that item 9 of the provisional agenda "Examination of proposals for measures of implementation of the International Bill of Human Rights" be deleted. It agreed unanimously to add one item to its Agenda: "Additional items". It also revised item 5 of the provisional agenda by adding the following phrases:

"and the reports of ILO (E/CN.4/Sub.2/93), IRO (E/CN.4/Sub.2/88), UNESCO (E/CN.4/Sub.2/90) and WHO (E/CN.4/Sub.2/87)".

It then rearranged the order of items, and adopted its agenda for the session as follows:

1. Opening of the session
2. Election of officers
3. Adoption of the agenda
4. Invitation to the Commission on the Status of Women
5. Communications relating to the prevention of discrimination and the protection of minorities
6. Prevention of discrimination: recommendations thereon, including any which may arise out of consideration of Chapter VI (Legal Measures) and Chapter VII (Educational Measures) of document E/CN.4/Sub.2/40, and the reports of ILO (E/CN.4/Sub.2/93), IRO (E/CN.4/Sub.2/88), UNESCO (E/CN.4/Sub.2/90) and WHO (E/CN.4/Sub.2/87).
7. Definition and classification of minorities
8. Further consideration of Part C of resolution 217 (III) of the General Assembly, on the fate of minorities.
9. Consideration of provisions to be included in the Draft International Covenant on Human Rights, relating to the prevention of discrimination and the protection of minorities.
10. Examination of proposals for measures of implementation of the International Bill of Human Rights.

11. Yearbook on Minorities
12. Additional items
13. Programme of future work
14. Adoption of the report of the Sub-Commission to the Commission on Human Rights.



## CHAPTER III

## INVITATION TO THE COMMISSION ON THE STATUS OF WOMEN

14. At its fortieth meeting, the Sub-Commission decided to invite the Commission on the Status of Women to send a representative to participate in its deliberations when items relating to discrimination based on sex were to be discussed, in accordance with Part A (5) of resolution 48 (IV) of the Economic and Social Council. Subsequently, the Commission on the Status of Women was represented by Miss Dorothy Kenyon (United States) who attended and participated in various meetings of the Sub-Commission.

## CHAPTER IV

COMMUNICATIONS RELATING TO THE PREVENTION OF DISCRIMINATION  
AND THE PROTECTION OF MINORITIES

15. At its forty-second meeting, held in private session, the Sub-Commission received a Confidential List of Communications dealing with Discrimination and Minorities, received by the United Nations from 25 May to 30 November 1949 (restricted document E/CN.4/Sub.2/CR.2), prepared by the Secretary-General in accordance with resolution 75 (V) of the Economic and Social Council, as amended by resolution 116 (VI) A.

16. The Sub-Commission established a committee of five members, composed of its Chairman, Mr. Masani (India), Mr. Ekstrand (Sweden), Mr. Roy (Haiti), Mr. Shafaq (Iran) and Mr. Spanien (France), to examine the Confidential List of Communications and to present a report containing its recommendations and observations thereon.

17. The Committee on Communications held one meeting in closed session on 19 January 1950. Mr. Masani (India) acted as Chairman and Mr. Shafaq (Iran) was elected Rapporteur. The Committee unanimously adopted the following resolution:

The Committee on Communications

Having perused the Confidential List of Communications Dealing with Discrimination and Minorities received by the United Nations from 25 May 1949 to 30 November 1949 (restricted document E/CN.4/Sub.2/CR.2),

Is of the opinion that none of the communications summarized therein affords a basis for it to recommend any specific action to the Sub-Commission; and

/Recommends

Recommends that the resolution on the handling of petitions adopted by the Sub-Commission at its second session (resolution G, paragraph 29, E/CN.4/351) be reaffirmed by the Sub-Commission.

18. The Sub-Commission considered the report of the Committee on Communications (E/CN.4/Sub.2/R.1) at its 56th meeting, which was also held in private session. It decided, by 7 votes to 1, with 2 abstentions, to adopt the report of its Committee,

19. The Sub-Commission agreed to permit Mr. Nisot (Belgium) to explain his vote in the report, as follows:

"The report of the Committee on Communications includes a recommendation reaffirming the resolution on the handling of petitions adopted by the Sub-Commission at its 2nd session, against which I voted (E/CN.4/351, pp. 16 ff.) This is why I was unable to vote for the adoption of the said report."



## CHAPTER V

### PREVENTION OF DISCRIMINATION

20. Item 6 of the agenda of the Sub-Commission reads: "Prevention of discrimination: recommendations thereon, including any which may arise out of consideration of Chapter VI (Legal Measures) and Chapter VII (Educational Measures) of document E/CN.4/Sub.2/40, and the reports of the ILO (E/CN.4/Sub.2/93), the IRO (E/CN.4/Sub.2/88), UNESCO (E/CN.4/Sub.2/90) and WHO (E/CN.4/Sub.2/87).

21. The Sub-Commission had before it a proposal relating to legal measures to prevent discrimination submitted by Mr. Daniels (United States) (E/CN.4/Sub.2/95), and two proposals relating to educational measures submitted respectively by Miss Monroe (United Kingdom) (E/CN.4/Sub.2/96) and Mr. Shafaq (Iran) (E/CN.4/Sub.2/97). Before proceeding to a detailed examination of these proposals, the Sub-Commission discussed the whole problem of the prevention of discrimination at its forty-third and forty-fourth meetings (E/CN.4/Sub.2/SR.43 and 44).

22. The Sub-Commission took up Mr. Daniels' proposal first. This recommended that the Secretary-General be requested to invite Member and non-member Governments to furnish him with examples of legislation, judicial decisions, and other methods which they found to be especially useful in preventing discrimination in one or more of the fields covered by the Universal Declaration of Human Rights and to distribute a brief summary of that material to the members of the Sub-Commission prior to its fourth session.

23. An amendment proposed by Mr. Meneses Pallares (Ecuador) which aimed at adding "educational and other measures" to the information requested, and at securing "full information" rather than only examples, was rejected by 7 votes to 4, with 1 abstention. Another amendment by the same member, stressing the need for thorough as well as precise information on efforts being made to prevent discrimination, was adopted unanimously. The suggestion of Mr. Nisot that the words "to make arrangements with", found in Article 64 of the Charter of the United Nations, be substituted for the original phrasing, "to invite", was accepted by Mr. Daniels.

24. The resolution, which was adopted as amended by 9 votes to none, with 3 abstentions, reads:

A.

Resolution on the prevention of discrimination

The Sub-Commission on the Prevention of Discrimination and the  
Protection of Minorities,

Considering the need for thorough and precise information on efforts being made to prevent discrimination,

Recommends that the Commission on Human Rights request the Secretary-General:

- (1) to make arrangements with each Member Government, and other Governments, to furnish him as soon as practicable but, in any case not later than 31 December 1950, examples (with appropriate citations where possible) of legislation, judicial decisions, and other methods which have been found to be especially useful in that country in preventing discrimination, in one or more of the fields covered by the Universal Declaration of Human Rights; and
- (2) to distribute a brief summary of that material to the members of the Sub-Commission prior to its fourth session.

25. The Sub-Commission agreed to permit Mr. Nisot (Belgium) to explain his vote in the report, as follows:

" The data envisaged in the above resolution concern questions which are essentially within the domestic jurisdiction of States, and in which, consequently, the United Nations, by virtue of Article 2, par. 7, of the Charter, cannot intervene. Nevertheless, the resolution expressly provides that, to obtain these data, the Secretary-General shall make arrangements with the States called upon to furnish them. It thus recognizes that the consent of each State is necessary, consent without which the United Nations could not so request the State to furnish explanations on the manner in which it exercises its domestic jurisdiction. This is why I was able to vote in support of the resolution."

26. On the suggestion of the Chairman, Miss Monroe and Mr. Shafaq agreed to ~~amalgamate~~ their proposals on educational measures to prevent discrimination. The resulting joint draft resolution (E/CN.4/Sub.2/100) was discussed at the forty-fifth meeting of the Sub-Commission (E/CN.4/Sub.2/SR.45). An amendment was moved by Mr. Nisot, to substitute the words "Points out to Member States the importance of taking....." in the place of "Calls upon all Member States..." in the paragraph reading "Calls upon all Member States to take all steps available to them to eliminate all forms of discrimination from their schools." This amendment was rejected by 9 votes to 2.

/27. The joint

27. The joint draft resolution as a whole, adopted by 10 votes to 2, reads:

B.

Resolution on education measures to prevent  
discrimination

The Sub-Commission on Prevention of Discrimination and Protection of  
Minorities

Requests the Commission on Human Rights to recommend to the Economic and  
Social Council the adoption of the following draft resolution:

"DRAFT RESOLUTION ON EDUCATIONAL MEASURES TO PREVENT DISCRIMINATION

"THE ECONOMIC AND SOCIAL COUNCIL

"Believing that much may be accomplished in the prevention of  
discrimination through education, and that more lasting and more positive  
results in preventing discrimination are attainable in the school than in  
other social spheres;

"Affirms its conviction that the principal goals of education in  
this field should be:

(1) to abolish all forms of social discrimination;

(2) to abolish such prejudices as may lead to the commission of  
unlawful acts of discrimination;

and to this end:

"Calls upon all Member States to take all steps available to them  
to eliminate all forms of discrimination from their schools;

"Emphasizes the part which private educational establishments and  
non-governmental organizations have to play in combating prejudice and  
discrimination.

"Invites UNESCO to give due emphasis to those practical activities  
in the field of education which are likely to lead to the abolition of  
prejudice and discrimination, and in this connexion to bear in mind the  
opportunities for progress to this end afforded by adult educational  
schemes;

"Notes with pleasure the following resolutions in the programme  
of UNESCO, which it considers capable of producing practical results:

(a) Resolution 2.3. The improvement of textbooks and teaching  
materials, which work should be directed to preventing the creation of  
prejudice which leads to discrimination;

/((b)

(b) Resolution 2.2. The conduct of educational seminars, since the attitude of the teacher is among the most significant factors in preventing the formulation of prejudice;

(c) Resolution 2.4. The publication and distribution of selected materials from each seminar, which can be of use, both to teachers and in connexion with schemes of adult education, to the general public, and "Urgently awaits UNESCO's forthcoming statement on race from the viewpoint of present scientific knowledge, and as soon as it is available,

1. Requests UNESCO to give priority and the necessary funds to the preparation, publication and dissemination of simple and readable books or pamphlets, based on scientific facts, explaining the fallacies of exaggerated race theories and religious and other prejudices; and
2. Invites Member States to distribute such books or pamphlets widely among all their peoples, and to disseminate these ideas in their public education programmes."

28. The Sub-Commission agreed to permit Mr. Nisot to explain his vote in the report, as follows:

" The organization of education on their territories is essentially within the domestic jurisdiction of States. Therefore, Article 2, par. 7 of the Charter prohibits the organs of the United Nations from intervening therein. This is disregarded by the above resolution, which "calls upon" States to take steps to eliminate discrimination from their schools. The resolution is thus presented in the form of directions given to States. Its juridical validity has thereby been impaired; the resolution has been weakened. More adroit drafting could have prevented this. If, nevertheless, I voted for the resolution, it was in that it voices a concern to which it is imperative that the attention of States should be drawn."

## CHAPTER VI

### DEFINITION AND CLASSIFICATION OF MINORITIES

29. When the Sub-Commission, at its 47th meeting, began its discussion of item 7 of its agenda, Definition and classification of minorities, it had before it two memoranda submitted by the Secretary-General, the first on Definition and Classification of Minorities (E/CN.4/Sub.2/85), the second on Suggested Studies of the Problem of Minorities (E/CN.4/Sub.2/89). In view of the circulation of these two working papers, Miss Monroe (United Kingdom) and Mr. Spanien (France) withdrew from consideration the draft resolution on procedure for furthering the protection of minorities (E/CN.4/Sub.2/69) which they had submitted during the Sub-Commission's second session, and which it had then decided to consider at its third session in connexion with this item of the agenda.

30. The Sub-Commission based its discussion on a proposal submitted by Miss Monroe (United Kingdom) which aimed at defining the term minority (E/CN.4/Sub.2/103). This proposal was debated at its forty-seventh, forty-eighth, forty-ninth, fiftieth and fifty-first meetings (E/CN.4/Sub.2/SR.47, 48, 49, 50 and 51). The text was examined and amended paragraph by paragraph.

31. Miss Monroe's original proposal was as follows:

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recognizing that there exist in many States distinctive population groups possessing racial, religious, linguistic, or cultural characteristics different from those of the rest of the population, usually known as minorities;

Recognizing however, that not all such groups pose the problem of special protection, which is not required:

(a) when the group in question, though numerically inferior to the rest of the population, is the dominant group therein, and

(b) when the group in question seeks complete identity of treatment with the rest of the population, in which case its problems fall within the field of those articles of the Charter of the United Nations, the Universal Declaration of Human Rights, and the Draft International Covenant on Human Rights that are directed towards the prevention of discrimination;

/Recognizing



Recognizing that for purposes of such protection as the United Nations may wish to afford, the term minority covers only such non-dominant groups, in a population as possess and wish to preserve stable inherited racial, religious, linguistic or cultural characteristics markedly different from those of the rest of the population;

Recognizing, further, the special aspect which the problem presents in each State where it arises, and the complexities arising therefrom, which include:

- (a) the undesirability of imposing unwanted distinctions upon members of a group who, while possessing the distinctive characteristics described above, do not wish to be treated differently from the rest of the population;
- (b) the undesirability of interfering with the spontaneous developments which take place when the impact of a new environment or of modern means of communication, produces a state of rapid racial, social, cultural or linguistic evolution,
- (c) the risk of taking measures that might lend themselves to misuse amongst a minority whose members' spontaneous desire for a tranquil life as contented citizens might be disturbed by parties interested in fomenting amongst them disloyalty to the State of which they are nationals;
- (d) the undesirability of affording protection to practices which are contrary to the laws of humanity as defined in the Universal Declaration of Human Rights;
- (e) the difficulties raised by claims to the status of a minority by groups so small that special treatment would place a disproportionate burden upon public funds;

Considering however, that some risks should be run in order to afford protection against oppression where this is sought;

Resolves that for purposes of such protection as the United Nations may wish to afford:

- (a) the term minority shall include only those non-dominant groups in a population which possess and wish to preserve stable inherited racial, religious, linguistic or cultural characteristics markedly different from those of the rest of the population;

/(b) such

(b) such minorities must be loyal to the State of which their members are nationals.

32. The resolution, as redrafted paragraph by paragraph by the Sub-Commission, took into account the following considerations put forward by various members:

(a) The groups to be protected are "ethnic, religious or linguistic groups". The term "racial" was eliminated because the Sub-Commission considered that so-called racial groupings are not based upon scientific facts and tend to become indistinct as a result of evolutionary processes, intermarriage, and changes in ideas or beliefs about race. The term "ethnic" was considered to refer to the whole of a group's physical, cultural and historical heritage; hence specific mention of "cultural characteristics" was considered unnecessary;

(b) traditions as well as characteristics must be protected;

(c) natural assimilation should not be hampered;

(d) special measures of protection may be either national or international in scope;

(e) it is undesirable to refer in the definition of minorities to any possible risks or dangers involved in the protection of minorities but the complexities of the problem of protection should be set out;

(f) the minority groups to be protected should include a number of persons sufficient by themselves to develop stable ethnic, religious or linguistic traditions or characteristics; and

(g) the minority groups to be protected must be composed of nationals of the State in which they live, and must be loyal to that State.

33. The resulting definition was considered to refer not to minorities in general but only to minorities for purposes of protection by the United Nations.

34. The revised resolution was adopted unanimously in the following form:

C.

Resolution on definition of minorities for  
purposes of protection by the United Nations

"The Sub-Commission on Prevention of Discrimination and Protection of  
Minorities

Recognizing that there are among the nationals of many States,  
distinctive population groups possessing ethnic, religious or linguistic

/traditions



traditions or characteristics different from those of the rest of the population, usually known as minorities, and that among these are groups that need to be protected by special measures, national or international, so that they can preserve and develop the traditions or characteristics in question,

Recognizing, however, that not all such groups pose this problem of protection, which is not required:

(a) when the group in question, though numerically inferior to the rest of the population, is the dominant group therein, and

(b) when the group in question seeks complete identity of treatment with the rest of the population, in which case its problems are covered by those articles of the Charter of the United Nations, the Universal Declaration of Human Rights and the Draft International Covenant on Human Rights that are directed towards the prevention of discrimination,

Recognizing at the same time that any definition of minorities that is made with a view to their protection by the United Nations must take into account complex situations such as:

(a) the undesirability of imposing unwanted distinctions upon individuals belonging to a group who, while possessing the distinctive characteristics described above, do not wish to be treated differently from the rest of the population,

(b) the undesirability of interfering with the spontaneous developments which take place when impacts such as that of a new environment or that of modern means of communication, produce a state of rapid racial, social, cultural or linguistic evolution,

(c) the risk of taking measures that might lend themselves to misuse amongst a minority whose members' spontaneous desire for a tranquil life as contented citizens of a State might be disturbed by parties interested in fomenting amongst them a disloyalty to that State,

(d) the undesirability of affording protection to practices which are inconsistent with human rights as proclaimed in the Universal Declaration of Human Rights,

(e) the difficulties raised by claims to the status of a minority by groups so small that special treatment would, for instance, place a disproportionate burden upon the resources of the State,

/Resolves

Resolves that from the standpoint of such measures of protection of minorities as the United Nations may wish to take, and in the light of the exceptions and complexities set out above;

(a) the term minority includes only those non-dominant groups in a population which possess and wish to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population;

(b) such minorities should properly include a number of persons sufficient by themselves to develop such characteristics;

(c) the members of such minorities must be loyal to the State of which they are nationals.

35. The Sub-Commission agreed to permit Mr. Nisot (Belgium) to explain his vote in the report, as follows:

"I voted for the above resolution, although I would have preferred that it should have been more explicit on the question of the risks inherent in the international protection of minorities. The mechanism of this protection established between the two wars by the treaties and by the resolutions of the League of Nations had been brought to a high degree of perfection. Nevertheless, if it functioned for several years, it was without durable profit to the cause of the protection of minorities. On the other hand, it proved to be an efficacious instrument for promoting international discord. It enabled States to stir up trouble in their neighbour's house by artificially creating or developing there, centers of resistance to the established authority, and by sapping national unity. It powerfully served the designs of aggressor States. This experience must be borne in mind when seeking appropriate means for the protection of minorities."

36. At its fifty-first and fifty-third meetings, the Sub-Commission considered the question of classification of minorities, and examined a draft resolution on this subject put forward by Mr. Masani (India) (E/CN.4/Sub.2/109). This resolution proposed that the Sub-Commission accept tentatively the heads of classification of minorities contained in Chapter 3 of the Secretary-General's memorandum on Definition and Classification of Minorities (E/CN.4/Sub.2/85), and that it appoint a committee of three members to prepare and circulate by 31 December 1950, with the assistance of the Secretariat, learned societies, and competent individuals, a list of minorities covered by its definition.

37. In the course of the discussion of this proposal, Miss Monroe observed that any protection of minorities could only be achieved with the good will of the Governments concerned, and that any classification or listing of minorities

/without

without prior consultation with those Governments would be ineffective in practice. She therefore proposed an amendment to Mr. Masani's draft resolution, whereby the work of the committee in question would be to improve upon the classification of minorities contained in the Secretary-General's memorandum, in order to assist Governments in replying to any enquiry about minorities the United Nations might address to them.

38. Mr. Masani's draft resolution was rejected by 5 votes to 2, with 3 abstentions. Miss Monroe's substitute text was adopted by 6 votes to none, with 4 abstentions, resulting in the following resolution:

D.

Resolution on classification of minorities

The Sub-Commission on Prevention of Discrimination and Protection of Minorities

Takes note of the heads of classification of minorities contained in Chapter 3 of the Secretary-General's Memorandum on Definition and Classification of Minorities (E/CN.4/Sub.2/85); and

Appoints a committee consisting of three members to improve upon this classification in order to assist Governments in replying to any enquiry on minorities the United Nations may make of them.

39. In adopting this resolution, the Sub-Commission agreed that the work of the Committee should be carried on by correspondence and would not therefore involve any expenditure of United Nations funds.

40. At its fifty-fifth meeting, the Sub-Commission appointed Mr. Ekstrand, Miss Monroe and Mr. Shafiq members of the Committee, and decided that Miss Monroe would act as its Rapporteur.

## CHAPTER VII

### FURTHER CONSIDERATION OF PART C OF RESOLUTION 217 (III) OF THE GENERAL ASSEMBLY ON THE FATE OF MINORITIES.

41. The Sub-Commission had already considered, at its second session, a number of proposals relating to the fate of minorities, in accordance with the request made in Part C of resolution 217 (III) of the General Assembly and Part C of the resolution on the prevention of discrimination and protection of minorities adopted by the Commission on Human Rights at its eighty-seventh meeting. This resulted in the submission of draft resolutions for adoption by the Commission on Human Rights on (a) information on the status of minorities (draft resolution IV, Annex, E/CN.4/351); and (b) facilities to be provided for minorities (draft resolution V, Annex, E/CN.4/351).

42. In examining this question at its third session, the Sub-Commission had before it two memoranda prepared by Mr. Ekstrand (Sweden), on (a) the population of the Aaland Island (E/CN.4/Sub.2/101), and (b) the German minority in Denmark (E/CN.4/Sub.2/102); a memorandum on suggested studies of the problem on minorities submitted by the Secretary-General (E/CN.4/Sub.2/39); and a joint draft resolution on the protection of minorities by Mr. Black and Mr. Ekstrand (E/CN.4/Sub.2/106).

43. The members of the Sub-Commission extended their thanks to Mr. Ekstrand for the preparation of the two memoranda mentioned above, which had been distributed to it for information purposes.

44. In the detailed examination of the joint draft resolution of Mr. Black and Mr. Ekstrand, a number of suggestions were made by various members of the Sub-Commission on the nature of the "further study of the problem of minorities" which should be undertaken in response to the request of the General Assembly and the Commission on Human Rights. Among the suggestions put forward were the following:

- (a) that a list of minority groups should be prepared;
- (b) that consideration should be given to the question whether any group should be labeled a minority except on its own initiative;
- (c) that a decision should be taken as to what minority rights, if any, are to be protected by the United Nations, and in what manner;
- (d) that the question of how the interests of minority groups would be represented should be considered;

/(e) that the

- (e) that the possibility of establishing machinery for registering and judging claims of minorities for protection should be examined;
- (f) that it should be borne in mind that it might be impossible for a minority living in a country where tyranny exists to apply for any measures or international protection; and
- (g) that the desirability of asking the Secretary-General to prepare between the third and fourth session of the Sub-Commission, a draft convention embodying the minimum minority rights recognized between the two wars, and extending them to cover minorities in all countries, should be considered.

45. A draft resolution was submitted by Mr. Masani (India) on a draft convention for the protection of the ethnic, religious and linguistic traditions and characteristics of minorities (E/CN.4/Sub.2/108). Mr. Masani amended his draft in the light of comments on it made by other members of the Sub-Commission, so that it read:

"The Sub-Commission on Prevention of Discrimination and Protection of Minorities

Decides that, with a view to enabling the Sub-Commission to consider the possibilities of further action towards the protection of minorities, and without in any way committing itself to the adoption of any particular method of protection, the Secretary-General be requested to prepare and circulate to the members of the Sub-Commission, before September 30, 1950, a draft convention or a draft protocol to be attached to the Covenant on Human Rights for the protection of the ethnic, religious and linguistic traditions and characteristics of minorities as defined in the Sub-Commission's resolution of 18 January 1950 and in the light of the discussions on the subject in the course of the deliberations of the Sub-Commission and the shape finally taken by the Draft Covenant on Human Rights".

46. Several members of the Sub-Commission were of the opinion that this proposal was premature, since the provisions of the International Covenant on Human Rights, when completed, might make the preparation of a separate convention on the rights of minorities unnecessary. Mr. Black (United States) moved that Mr. Masani's proposal therefore be placed on the provisional agenda of the fourth session of

/the Sub-Commission



the Sub-Commission. This motion was adopted by 5 votes to 4, with 1 abstention.

47. It was understood that the Secretary-General would make a preliminary study of the question in the light of any international covenant on Human Rights that might be adopted.

48. A joint draft resolution on the protection of minorities, submitted by Mr. Black and Mr. Ekstrand (E/CN.4/Sub.2/106) was introduced at the fifty-second meeting of the Sub-Commission. Various members of the Sub-Commission suggested that the operative section be expanded to stress the fact that the Sub-Commission's earlier decision (draft resolution V, Annex, report of the second session of the Sub-Commission E/CN.4/351) that the linguistic rights of minorities, required immediate protection, was only an initial finding, and that, as a result of further studies, the Sub-Commission might later extend its action to protect rights other than language.

49. Mr. Black and Mr. Ekstrand revised their draft resolution (E/CN.4/Sub.2/106/Rev.1) taking into account the various comments and suggestions made. This revised draft resolution was discussed in detail with a view to preparing a text which would provide a satisfactory interim reply to the request made of the Sub-Commission in General Assembly resolution 217 (III) C. In general, the Sub-Commission felt that its reply should include the following elements:

- (a) The Sub-Commission had succeeded in preparing a definition of minorities for purposes of protection by United Nations;
- (b) It had no way of knowing that provisions for the protection of minorities would be included in the Draft International Covenant on Human Rights by the Commission on Human Rights;
- (c) It felt that, pending the final adoption of the International Covenant on Human Rights, the door should be left open for the formulation of provisions for protection of minorities;
- (d) It noted, however, that linguistic rights of minorities were not adequately protected in either the Universal Declaration of Human Rights or the Draft International Covenant; and
- (e) It thought that the General Assembly should be asked to adopt interim measures on this phase of the protection of minorities immediately.

50. In view of the detailed discussion which took place at the Sub-Commission's fifty-fifth and fifty-sixth meetings, a second revision of the Black-Ekstrand draft

/resolution was

resolution was prepared by a drafting committee composed of Mr. Black, Mr. Ekstrand, Mr. Masani, and Miss Monroe. This draft contained an element which had not appeared in any of the previous texts: a draft article on the protection of minorities for inclusion in the International Covenant on Human Rights.

51. The Drafting Committee's text (E/CN.4/Sub.2/112) was examined at the fifty-seventh meeting of the Sub-Commission. It comprised two resolutions, the first contained the proposed article for inclusion in the Covenant; the second, submitted as an alternative in case the Covenant article was not accepted by the Commission on Human Rights, consisted of a draft resolution recommended for adoption by the Economic and Social Council for transmission to the General Assembly. The Sub-Commission decided, by 9 votes to 1, to submit both resolutions to the Commission on Human Rights for adoption independently of each other.

52. The proposed article, for inclusion in the Covenant, was amended by the Sub-Commission in the following manner (amendments underlined):

"Persons belonging to ethnic, religious, or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language".

The first draft resolution containing this proposed article, was adopted as a whole by 9 votes to none, with 1 abstention. The second draft resolution was adopted, with some drafting changes, by 7 votes to 3 with no abstentions.

The two resulting resolutions read:

E.

Resolution on measures for the protection of minorities to be included in the international covenant on human rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having considered the problem of the fate of minorities referred to it by the General Assembly in its resolution 217 (III) C,

Having adopted, in resolution C of its third session, a definition of minorities for purposes of protection by the United Nations,

Is of the opinion that the most effective means of securing such protection would be the inclusion in the International Covenant on Human Rights of the following article:

/ "Persons belonging



"Persons belonging to ethnic, religious, or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language".

F.

Resolution on interim measures to be taken for the protection of minorities

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recommends to the Commission on Human Rights that the following draft resolution be recommended for adoption by the Economic and Social Council for transmission to the General Assembly:

The Economic and Social Council,

Considering that the problem of the fate of minorities was referred to the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities by the General Assembly in Part C of Resolution 217 (III);

Considering that the Sub-Commission on Prevention of Discrimination and Protection of Minorities has adopted a definition of minorities for purposes of protection by the United Nations in Resolution C of its third session; and that the Sub-Commission is now engaged in a further study of the problem of minorities in order that the United Nations may be able to take effective measures for such protection;

Considering that the rights traditionally desired by minorities were extensively set forth in the minorities treaties and declarations which came into force after the First World War;

Considering that many of the rights traditionally claimed by minorities are proclaimed in the Universal Declaration of Human Rights, and that, pending the coming into force of an International Covenant on Human Rights, it is not feasible fully to determine what further measures will become necessary for the protection of minorities;

Considering, however, that neither the Universal Declaration of Human Rights nor the Draft International Covenant on Human Rights fully covers the right of using the minority language before the courts, or of teaching the minority language as one of the courses of study in state-supported schools;

/Recommends that,

Recommends that, as an interim means of displaying its concern for minorities, the General Assembly adopt, and so place the full weight of its authority behind, the draft resolution on facilities to be provided for minorities recommended by the Sub-Commission on prevention of discrimination and protection of minorities at its second session (E/CN.4/351, Annex, resolution V).

53. The Sub-Commission agreed to permit Mr. Nisot to explain his vote in the report as follows:

"I was able to vote for the first resolution because it does not make a direct recommendation to States; it limits itself to proposing that a text should be inserted in a convention, subject to their subsequent acceptance. The resolution is thus compatible with Article 2, paragraph 7, of the Charter. I have not been able to vote for the second resolution because it reaffirms a resolution, adopted by the Sub-Commission at its second session, against which I voted (E/CN.4/351, pp. 13-14)."

## CHAPTER VIII

### CONSIDERATION OF PROVISIONS TO BE INCLUDED IN THE DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS RELATING TO THE PREVENTION OF DISCRIMINATION AND THE PROTECTION OF MINORITIES

54. In addition to recommending a draft article on the protection of minorities for inclusion in the International Covenant on Human Rights, as set forth in the preceding chapter, the Sub-Commission examined each of the substantive articles appearing in Part II of the draft International Covenant (Annex A, report of the fifth session of the Commission on Human Rights E/1351). It considered that the following texts related to the prevention of discrimination and the protection of minorities:

- (a) Article 13, paragraph (d) on the use of language in the court;
- (b) Article 15, on the right to freedom of thought, conscience and religion;
- (c) Article 20, on the principle of equality and non-discrimination; and
- (d) Article 21, on incitement of national, racial or religious hostility.

55. The Sub-Commission endorsed and lent its support to paragraph (d) of article 13, and to the whole of article 16 in their present form.

56. In examining article 20, the Sub-Commission considered whether or not paragraphs 2 and 3 of that article should form a separate article, and whether or not such a separate article should remain in its present position or be moved elsewhere in the Covenant. It was pointed out that freedom from discrimination is not only a right, but also a general principle governing the enjoyment of all rights. On the basis of this consideration, the Sub-Commission decided, by 7 votes to 1, with 1 abstention, to recommend:

- (a) that paragraph 1 of the present article 20 remain in its present position as article 20;
- (b) that paragraphs 2 and 3 of the present article 20 form a separate article, which should be given a position in the Covenant similar to that of the analogous non-discrimination article (article 2) in the Universal Declaration of Human Rights.

57. With respect to article 21, the Sub-Commission considered the two alternative texts which were before the Commission on Human Rights at its fifth session, proposed respectively by the representative of the Union of Soviet Socialist Republics and the representative of France. The Sub-Commission decided to reaffirm the decision which it had taken at its first session by 10 votes to

/none with

none with 1 abstention, which was (document E/CN.4/52, page 6):

"The Sub-Commission recommends to the Commission on Human Rights the inclusion in.....the proposed Convention, in the appropriate places, of clauses denouncing incitement of violence against religious groups, nations, races or minorities."

58. In line with this earlier decision, the Sub-Commission decided that, in its view, the text for article 21, proposed by the representative of the Union of Soviet Socialist Republics, was not acceptable; but that the Sub-Commission would support the inclusion of the alternative text proposed by the representative of France. The alternative text reads (Article 21, Annex 1, report of the fifth session of the Commission on Human Rights, document E/1371):

"Any advocacy of national, racial, or religious hostility that constitutes an incitement to violence or hatred shall be prohibited by the law of the State."

59. One additional proposal, on provisions to be included in the draft International Covenant on Human Rights, was submitted to the Sub-Commission by Mr. Formashev (USSR). This proposal (E/CN.4/Sub.2/104) was not formally moved for consideration by its author, who had left the session. It therefore was not considered or voted upon.

## CHAPTER IX

### EXAMINATION OF PROPOSALS FOR MEASURES OF IMPLEMENTATION OF THE INTERNATIONAL BILL OF HUMAN RIGHTS

60. At its fifty-ninth, sixtieth, and sixty-first meetings, the Sub-Commission considered item 10 of its agenda, "Examination of proposals for measures of implementation of the International Bill of Human Rights" (E/CN.4/Sub.2/SR.59, 60 and 61).
61. The Sub-Commission had before it Annex III of the report of the fifth session of the Commission on Human Rights (E/1371), and the comments of the following governments on the draft International Covenant on Human Rights, and Measures of Implementation: the Union of Soviet Socialist Republics, the United States of America, the United Kingdom, the Philippines and Israel (E/CN.4/353 and addenda 1 to 4 respectively).
62. At the request of the Chairman, Mr. Spanien (France), prepared and circulated to the members of the Sub-Commission, for information, his observations on the question of implementation (E/CN.4/Sub.2/113). These observations were discussed in detail, the Sub-Commission centering its attention upon:
- (a) the nature of the organ to be established in implementation of the Covenant, and
  - (b) the extent to which the right of petition should be granted, and particularly, whether only States, or individuals and groups as well, should be given this right.
63. At the conclusion of this discussion, Mr. Masani, Miss Monroe, and Mr. Spanien drew up a joint draft resolution on the problem of implementation (E/CN.4/Sub.2/115), which was based largely upon Mr. Spanien's document. This draft resolution expressed the view:
- (a) that petitions from individuals, groups and non-governmental organizations should be dealt with under any machinery established for the implementation of the Covenant, and
  - (b) that an international court or tribunal would provide the most effective guarantee of human rights, failing which the next most effective method would be the establishment of a supervisory and conciliatory body.
64. Drafting and substantive amendments to this joint draft resolution were presented, at the sixty-first meeting of the Sub-Commission, by Miss Monroe (E/CN.4/Sub.2/116) and Mr. Meneses-Pallares (E/CN.4/Sub.2/118). Miss Monroe's  
/amendment

amendment called attention to the fact that to confine the right of initiating proceedings to contracting States presented the drawback that to impel a dissatisfied minority to seek the support of a foreign State increased the risk referred to in paragraph 3 (c) of the definition of minorities adopted by the Sub-Commission. Miss Monroe proposed, therefore, that every effort must be made to provide a minority with other recourses and that due attention should be paid to the experiment carried out, under the auspices of the League of Nations, in Upper Silesia. The amendment then stated that this and other possible solutions of the intricate problem described above had yet to be studied by the Sub-Commission.

65. Mr. Meneses-Pallares was of the opinion, on the other hand, that any effective scheme of implementation of human rights should fully recognize the right of petition of individuals on the same footing as groups, and his amendment advocated accordingly that the right to petition should be granted to groups in the same way as to individuals, and that it was therefore of the utmost importance that non-governmental organizations and groups, as well as individuals, should be given adequate place in the machinery for implementation of the Covenant. His opinion was shared by other members of the Sub-Commission.

66. The Sub-Commission decided to place its views on implementation before the Commission on Human Rights under the following headings:

- (a) Submission of petitions and complaints;
- (b) Machinery of implementation; and
- (c) Recognition of minorities.

The amendments submitted by Miss Monroe and Mr. Meneses-Pallares, which related to the right of petition, were combined and adopted by 6 votes to none, with 4 abstentions, as paragraph (a). The text of the joint draft resolution, on machinery of implementation, was adopted, with drafting changes, by 7 votes to none, with 3 abstentions, as paragraph (b). Miss Monroe's redrafting of the joint resolution text, on recognition of minorities, was adopted by 9 votes to none, with 1 abstention, as paragraph (c).

67. The joint draft resolution as a whole was adopted, as amended, by a roll-call vote of six for, none against, and four abstentions, as follows:

/G.

G.

Resolution on the problem of implementation

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having examined the question of the subsequent implementation of the proposed international covenant on human rights from the point of view of the effective prevention of discrimination and protection of minorities;

Having examined the various proposals and projects submitted to the Commission on Human Rights which have been made available to the Sub-Commission;

Appreciates the natural desire of States to prevent abuse, in particular, by States not parties to the Covenant, of the procedure that may be envisaged for such implementation, on the ground that such abuse might adversely affect States in which there is full freedom of expression, while leaving authoritarian States unaffected; and

Takes this opportunity of placing before the Commission on Human Rights its views upon:

(a) Submission of petitions or complaints

The right to petition the United Nations as a means of initiating procedure for the enforcement of human rights should be granted to both individuals and groups. The Sub-Commission therefore considers it of the utmost importance that non-governmental organizations and groups, as well as individuals, should be given adequate place in a comprehensive machinery for the implementation of the proposed Covenant on Human Rights.

The Sub-Commission is of the opinion that, in the special case of minorities, a decision to confine the right of initiating proceedings to contracting States presents a grave drawback. This drawback is that, by impelling a dissatisfied minority to seek the support of a foreign State, it increases the risk to which attention is drawn in paragraph 3 (c) of the definition of minorities contained in resolution C of the Sub-Commission's third session. The Sub-Commission is of the opinion that, for this reason, every effort must be made to provide a minority with other recourses, and that due attention should be paid to the

/experience of



experience of the League of Nations in general, and in particular, to the lessons of the experiment in the direction of alternative recourse carried out under the auspices of the League of Nations in Upper Silesia. The Sub-Commission intends further to study this and other possible solutions of the intricate problem described above;

(b) Machinery of implementation

The Sub-Commission is of the opinion that an international court of tribunal still remains the most effective guarantee of human rights, and looks forward to the establishment, as soon as may be, of such an instrument of international justice. If the Commission on Human Rights feels, however, that such a step is not immediately feasible, the next most effective method of securing the prevention of discrimination and the protection of minorities through the execution of the International Covenant on Human Rights, would be the establishment of a single, permanent and non-political body having broad powers of supervision and conciliation;

(c) Recognition of minorities

The Sub-Commission is of the opinion that the protection of minorities calls for more than a mere remedy of violations of minority rights. The very demand for minority status may raise complications and give rise to disagreements which only an impartial judicial body can settle. If the rights of minorities are to be adequately protected, the Commission on Human Rights should make provision for placing the relevant powers of decision in the hands of any panel or court which it may recommend, or to some sub-section of that panel or court.

68. On roll call, the following members of the Sub-Commission voted for the above resolution: Mr. Chang (China), Mr. Ekstrand (Sweden), Mr. Masani (India), Mr. Meneses-Pallares (Ecuador), Mr. Roy (Haiti), and Mr. Spanien (France). No members voted against the resolution.

The following members abstained: Mr. Black (United States), Miss Monroe (United Kingdom), Mr. Nisot (Belgium) and Mr. Shafaq (Iran).

69. The Sub-Commission agreed to permit Miss Monroe and Mr. Black to explain their votes in this report as follows:

"We abstained from voting because, while attaching importance to the second part of paragraph (a) and to paragraph (c) of the operative section of the resolution, we held that the remainder was adopted without sufficient study by the Sub-Commission."

## CHAPTER X

### YEARBOOK ON MINORITIES

70. At its fifty-eighth meeting, the Sub-Commission considered further the proposal which had been made at its second session by Mr. Shafaq (Iran), that a Yearbook on Minorities be published by the Secretariat once every three years. Mr. Shafaq explained that, in his opinion, such a Yearbook might contain the following items:

- (a) Articles and studies of a theoretical nature concerning minorities and minority rights;
- (b) Geographical and historical studies of existing well-defined minorities;
- (c) Important news items concerning minorities and their protection;
- (d) Reports on the activities of the United Nations in connexion with the protection of minorities.

71. Several members of the Sub-Commission expressed the opinion that Mr. Shafaq's proposal was still premature and that the expense involved was not warranted, in view of the fact that no system of classification of minorities had been agreed upon and that no machinery had been established whereby persons wishing to be considered as a minority would be internationally recognized as such. In view of these comments, the Sub-Commission decided that the item "Yearbook on Minorities" might usefully be deferred. Mr. Shafaq withdrew his proposal on the understanding that it would be considered again at the Sub-Commission's fourth session.

## CHAPTER XI

### ADDITIONAL ITEMS

72. At the forty-fourth meeting of the Sub-Commission, Mr. Spanien (France), suggested that the Convention on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 (III)), should be examined with a view to determining the extent to which it provided for the prevention of discrimination and the protection of minorities. Accordingly, the Sub-Commission decided to deal with this question under Item 12 of its agenda, "Additional Items".

73. The Sub-Commission had before it, during its examination of this question, a memorandum submitted by the Secretary-General, on the Contribution of the Convention on the Prevention and Punishment of the Crime of Genocide to the Prevention of Discrimination and the Protection of Minorities (E/CN.4/Sub.2/30).

74. At its fifty-eighth meeting, Mr. Spanien submitted a draft resolution, drawing the attention of the Commission on Human Rights to the fact that certain matters were not covered by the Convention in question, and suggesting that these should not be overlooked by the Commission in its consideration of measures of implementation of the International Bill of Human Rights (E/CN.4/Sub.2/114 and 114/Rev.1).

75. This draft resolution was discussed at the fifty-eighth and sixtieth meetings of the Sub-Commission. In the course of the discussion, Mr. Spanien withdrew two paragraphs of his proposal which concerned the possible acceleration of ratifications of the Convention, as this point was already covered by a resolution adopted at the fourth session of the General Assembly on 3 December 1949, inviting Members which have not yet ratified the Convention to do so as soon as possible.

76. Mr. Spanien felt that it was necessary for the Sub-Commission to call the attention of the Commission on Human Rights to the need for action:

- (a) to protect groups against what had been referred to as "cultural genocide" in the early drafts of the Convention; and
- (b) to protect political groups.

He pointed out that these matters had been excluded from the Convention in its final form on the grounds that they were within the field of human rights in general, and should be covered by instruments other than the Convention on Genocide. Mr. Spanien's proposal, with drafting amendments, was adopted unanimously in the following form:

/H. Resolution

H.

Resolution on certain matters not covered by the convention  
on the prevention and punishment of the  
crime of genocide

The Sub-Commission on the Prevention of Discrimination and the  
Protection of Minorities,

Considering that the Convention on the Prevention and Punishment of the Crime of Genocide while open to improvement, constitutes an important instrument for the defence of the rights and freedoms which it is designed to safeguard,

Considering that the reason why certain provisions contained in the original draft of the Convention were not ultimately adopted was that, in the view of a majority of States Members, these provisions could more appropriately be taken care of in the instruments covering the protection of human rights, the prevention of discrimination and the protection of minorities,

Requests the Commission on Human Rights to take these circumstances into account when advising on the measures of implementation and the procedure for appeal to be adopted, in order that rights eminently deserving of respect, including, in particular, those of political groups, should be in no danger of omission from the various instruments which may concern them.

## CHAPTER XII

### PROGRAMME OF FUTURE WORK

77. At its fifty-eighth and sixty-first meetings the Sub-Commission considered item 13 of its agenda, Programme of future work. It decided to place the following items on the provisional agenda of its fourth session:

1. Report of the Committee on Classification of Minorities.
2. Proposal of Mr. Masani (India) on a draft convention for the protection of the ethnic, religious and linguistic traditions and characteristics of Minorities (E/CN.4/Sub.2/108).
3. Yearbook on Minorities.
4. Proposal of Mr. Shafaq (Iran), for on-the-spot surveys (E/CN.4/Sub.2/91).
5. Prevention of discrimination and denial of fundamental freedoms in respect of political groups.

78. The Sub-Commission agreed that in the future it would be preferable for its annual meeting to precede the annual meeting of the Commission on Human Rights.

CHAPTER XIII

ADOPTION OF THE REPORT OF THE SUB-COMMISSION  
TO THE COMMISSION ON HUMAN RIGHTS

79. At its \_\_\_\_\_ meeting, the Sub-Commission adopted the report of its third session \_\_\_\_\_ to the Commission on Human Rights by \_\_\_\_\_ votes to \_\_\_\_\_ with \_\_\_\_\_ abstentions.

80. The Sub-Commission decided to include in its report a single consolidated draft resolution for the Commission on Human Rights, covering the work of both its second and third sessions (see Annex to this report).



ANNEX

CONSOLIDATED DRAFT RESOLUTION FOR THE COMMISSION ON HUMAN RIGHTS,  
COVERING THE WORK OF THE SECOND AND THIRD SESSIONS OF THE  
SUB-COMMISSION

I.

LEGAL MEASURES FOR THE PREVENTION OF DISCRIMINATION

The Commission on Human Rights,

Requests the Secretary-General:

- (a) To make arrangements with each Member Government, and other Governments, to furnish him as soon as practicable but, in any case not later than 31 December 1950, examples (with appropriate citations where possible) of legislation, judicial decisions, and other methods which have been found to be especially useful in that country in preventing discrimination, in one or more of the fields covered by the Universal Declaration of Human Rights; and
- (b) To distribute a brief summary of that material to the members of the Sub-Commission prior to its fourth session.

II.

EDUCATIONAL MEASURES FOR THE PREVENTION OF DISCRIMINATION

The Commission on Human Rights

Recommends that the Economic and Social Council adopt the following draft resolution:

"The Economic and Social Council,

"Believing that much may be accomplished in the prevention of discrimination through education, and that more lasting and more positive results in preventing discrimination are attainable in the school than in other social spheres;

"Affirms its conviction that the principal goals of education in this field should be:

- (1) to abolish all forms of social discrimination;
  - (2) to abolish such prejudices as may lead to the commission of unlawful acts of discrimination;
- and to this end:

"Calls upon all Member States to take all steps available to them to eliminate all forms of discrimination from their schools;

/"Emphasizes

"Emphasizes the part which private educational establishments and non-governmental organizations have to play in combatting prejudice and discrimination,

"Invites UNESCO to give due emphasis to those practical activities in the field of education which are likely to lead to the abolition of prejudice and discrimination, and in this connexion to bear in mind the opportunities for progress to this end afforded by adult educational schemes;

"Notes with pleasure the following resolutions in the programme of UNESCO, which it considers capable of producing practical results:

- (a) Resolution 2.3. The improvement of textbooks and teaching materials, which work should be directed to preventing the creation of prejudice which leads to discrimination;
- (b) Resolution 2.2. The conduct of educational seminars, since the attitude of the teacher is among the most significant factors in preventing the formulation of prejudice;
- (c) Resolution 2.4. The publication and distribution of selected materials from each seminar, which can be of use, both to teachers and in connexion with schemes of adult education, to the general public, and

"Urgently awaits UNESCO'S forthcoming statement on race from the viewpoint of present scientific knowledge, and as soon as it is available:

1. Requests UNESCO to give priority and the necessary funds to the preparation, publication, and dissemination of simple and readable books or pamphlets, based on scientific facts, explaining the fallacies of exaggerated race theories and religious and other prejudices; and
2. Invites Member States to distribute such books or pamphlets widely among all their peoples, and to disseminate these ideas in their public education programmes.

### III.

#### DEFINITION OF MINORITIES FOR PURPOSES OF PROTECTION BY THE UNITED NATIONS

The Commission on Human Rights,

Recognizing that there are among the nationals of many States distinctive

/population

population groups possessing ethnic, religious, or linguistic traditions or characteristics different from those of the rest of the population, usually known as minorities, and that among these are groups that need to be protected by special measures, national or international, so that they can preserve and develop the traditions or characteristics in question,

Recognizing, however, that not all such groups pose this problem of protection, which is not required:

- (a) when the groups in question, though numerically inferior to the rest of the population, is the dominant group therein, and
- (b) when the group in question seeks complete identity of treatment with the rest of the population, in which case its problems are covered by those articles of the Charter of the United Nations, the Universal Declaration of Human Rights and the Draft International Covenant on Human Rights that are directed towards the prevention of discrimination,

Recognizing at the same time that any definition of minorities that is made with a view to their protection by the United Nations must take into account complex situations such as:

- (a) the undesirability of imposing unwanted distinctions upon individuals belonging to a group who, while possessing the distinctive characteristics described above, do not wish to be treated differently from the rest of the population,
- (b) the undesirability of interfering with the spontaneous developments which take place when impacts such as that of a new environment or that of modern means of communication, produce a state of rapid racial, social, cultural, or linguistic evolution,
- (c) the risk of taking measures that might lend themselves to misuse amongst a minority whose members' spontaneous desire for a tranquil life as contented citizens of a State might be disturbed by parties interested in fomenting amongst them a disloyalty to that State,
- (d) the undesirability of affording protection to practices which are inconsistent with human rights as proclaimed in the Universal Declaration of Human Rights,
- (e) the difficulties raised by claims to the status of a minority by groups so small that special treatment would, for instance, place a

/disproportionate

disproportionate burden upon the resources of the State,

Resolves that from the standpoint of such measures of protection of minorities as the United Nations may wish to take, and in the light of the exceptions and complexities set out above;

- (a) the term minority includes only those non-dominant groups in a population which possess and wish to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population;
- (b) such minorities should properly include a number of persons sufficient by themselves to develop such characteristics;
- (c) the members of such minorities must be loyal to the State of which they are nationals.

#### IV

##### INFORMATION ON THE STATUS OF MINORITIES

The Commission on Human Rights,

Considering the use for thorough and precise information regarding minorities,

Calls upon the Secretary-General to request the various Governments to furnish him with full information regarding legislative measures for the protection of any minority within their jurisdiction, and regarding the status of such minorities in the light of the provisions of the Universal Declaration of Human Rights;

Decides to include in the Draft International Covenant on Human Rights a provision pledging each contracting State to conform with this request.

#### V

##### MEASURES FOR THE PROTECTION OF MINORITIES TO BE INCLUDED IN THE INTERNATIONAL COVENANT ON HUMAN RIGHTS

The Commission on Human Rights

Decides to include in the Draft International Covenant on Human Rights a provision pledging the contracting States not to use governmental licensing arrangements, or to permit restrictions, prohibiting the entry into any business, profession, vocation, or employment of a citizen by reason of his race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

/Decides also

Decides also to include in the Draft International Covenant the following article:

"Persons belonging to ethnic, religious, or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."

## VI

### INTERIM MEASURES TO BE TAKEN FOR THE PROTECTION OF MINORITIES

The Commission on Human Rights,

Recommends that the Economic and Social Council adopt and transmit to the General Assembly the following draft resolution, on interim measures to be taken for the protection of minorities:

The Economic and Social Council,

Considering that the problem of the fate of minorities was referred to the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities by the General Assembly in Part C of Resolution 217 (III);

Considering that the Sub-Commission on Prevention of Discrimination and Protection of Minorities has adopted a definition of minorities for purposes of protection by the United Nations in Resolution C of its third session; and that the Sub-Commission is now engaged in a further study of the problem of minorities in order that the United Nations may be able to take effective measures for such protection;

Considering that the rights traditionally desired by minorities were extensively set forth in the minorities treaties and declarations which came into force after the First World War;

Considering that many of the rights traditionally claimed by minorities are proclaimed in the Universal Declaration of Human Rights, and that, pending the coming into force of an International Covenant on Human Rights, it is not feasible fully to determine what further measures will become necessary for the protection of minorities;

Considering, however, that neither the Universal Declaration of Human Rights nor the Draft International Covenant on Human Rights fully covers the

/right of

right of using the minority language before the courts, or of teaching the minority language as one of the courses of study in state-supported schools;

Recommends that, as an interim means of displaying its concern for minorities, the General Assembly adopt, and so place the full weight of its authority behind, the following draft Resolution on facilities to be provided for minorities, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its second session;

The General Assembly,

Considering that the discriminatory treatment of minorities has been and could be a major cause of international tension leading to war;

Considering at the same time that rights accorded minorities entail a corresponding obligation on their part towards the larger society in which they live and must not, therefore, be used to threaten or undermine the unity and security of States;

Considering that provision has been made in the Universal Declaration of Human Rights and in the Draft International Covenant on Human Rights and in the Draft International Covenant on Human Rights for the recognition of such traditional minority rights as freedom of religion, speech, assembly and association;

Recommends that, in the interest of enabling recognized minority groups to maintain their cultural heritage when they desire to do so, Member Governments should provide adequate facilities, in districts, regions and territories where they represent a considerable proportion of the population, for:

- (1) the use in judicial procedure of languages of such groups;
- (2) the teaching in state-supported schools of languages of such groups, provided that such groups request it and that the request in reality expresses the spontaneous desire of such groups;

Affirms that such groups shall not possess these or other rights so long as they are not used for the purpose of threatening or undermining the unity or security of States.

## VII

### THE HANDLING OF PETITIONS

The Commission on Human Rights

Recommends that the Economic and Social Council amend its resolution 75 (V)  
/with a view



with a view to granting the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities the right to make reports on matters brought to its attention in the course of examining communications relative to the prevention of discrimination and the protection of minorities;

Recommends also that the Economic and Social Council make more specific provisions concerning the exercise of this right, that it approve the following procedure for the handling of urgent problems in the field of discrimination pending the establishment of measures for the

(1) Communications alleging the existence of urgent problems in the field of discrimination which may be brought to the attention of the Sub-Commission by any Member of the United Nations, or by any principal organ, or by any specialized agency brought into relationship with the United Nations under Article 63 of the Charter, or by any non-governmental organization having consultative status with the Economic and Social Council under Article 71 of the Charter, shall be examined by the Sub-Commission. The Secretary-General should also be requested to examine petitions received on the subject of discrimination, and to communicate to the Sub-Commission those which he considers to indicate the existence of urgent problems. He should also be authorized, at his discretion, to circulate such petitions to members of the Sub-Commission in advance of its sessions.

(2) The Sub-Commission should decide whether any case warrants further study. In such a case a committee on petitions composed of three members should be appointed by the Sub-Commission with authorization to request further information from the persons and States concerned, with a view to obtaining the fullest possible documentation with regard to the case. The committee on petitions should work in collaboration with the Secretariat and should be authorized to delegate such part of its work as may be appropriate to the Secretariat. Proceedings of the Sub-Commission pursuant to the present paragraph should be conducted without publicity unless otherwise specially decided.

(3) The Committee on Petitions should report to the Sub-Commission, but should be required to report the particulars of its activities only if it decides that further consideration of the case by the United Nations is desirable.

/(4) If the State

(4) If the State concerned in the alleged discrimination advises the Committee on Petitions that it regards the matter as one essentially within its domestic jurisdiction, the Committee should report this fact to, and await further guidance from, the Sub-Commission.

### VIII

#### CO-OPERATION OF NON-GOVERNMENTAL ORGANIZATIONS

The Commission on Human Rights,

Recognizing the valuable co-operation already given by various non-governmental organizations which have been brought into consultative status with the United Nations;

Recognizing the special and important role that such organizations can play in the development of the tasks of the Sub-Commission;

Requests the Secretary-General:

(a) to invite all such organizations as he deems appropriate to furnish annually, and at any other time desired by them, factual information relevant to the Sub-Commission's terms of reference; in particular such factual and statistical information as may assist the Sub-Commission to determine whether, to what extent, and why, any particular group is being discriminated against on the basis of the categories referred to in article 2 of the Declaration of Human Rights, i.e., "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

(b) to furnish to the members of the Sub-Commission information received from such non-governmental organizations, prior to each session of the Sub-Commission, such information to be accompanied, if available, by any relevant commentaries or other data obtained by the Secretariat from (a) Governments, or (b) experts or correspondents working in collaboration with the Secretariat.

### IX

#### NATIONAL CO-ORDINATING COMMITTEES

The Commission on Human Rights,

Recognizing the need for speedy effectualization of the principles enunciated in the Universal Declaration of Human Rights,

Requests the Secretary-General:

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