



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

SUMMARY RECORD OF THE NINETY-THIRD MEETING

Held at Headquarters, New York,  
on Monday, 29 September 1952, at 2.30 p.m.

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PRESENT:

Chairman: Mr. ROY  
Members: Mr. DANIELS  
Mr. EKSTRAND  
Mr. FOMIN\*  
Mr. HISCOCKS\*  
Mr. KULAGA\*  
Mr. MASANI  
Mr. MENESES PALLARES  
Mr. NISOT  
Mr. SHAFIQ  
Mr. TSAO

Representative of a specialized agency:

Mrs. MYRDAL United Nations Educational,  
Scientific and Cultural  
Organization (UNESCO)

Representatives of non-governmental organizations:

Category A: Miss KAHN World Federation of Trade Unions  
(WFTU)  
Miss SENDER International Confederation of Free  
Trade Unions (ICFTU)

Category B and Register:

Mrs. AIETA Catholic International Union for  
Social Service  
Miss ZIZZAMIA World Union of Catholic Women's  
Organizations  
Mr. PENCE World's Alliance of Young Men's  
Christian Associations

Secretariat:

Mr. HUMPHREY Director, Division of Human Rights  
Mr. LAWSON Secretary of the Sub-Commission

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\* Alternate.

ACTION TO BE TAKEN UNDER THE ECONOMIC AND SOCIAL COUNCIL RESOLUTION OF 26 JUNE 1952 (E/2281, E/2229; E/CN.4/Sub.2/L.14, E/CN.4/Sub.2/L.15, E/CN.4/Sub.2/L.18, E/CN.4/Sub.2/L.19, E/CN.4/Sub.2/L.20, E/CN.4/Sub.2/L.22, E/CN.4/Sub.2/L.23, E/CN.4/Sub.2/L.24, E/CN.4/Sub.2/L.25, E/CN.4/Sub.2/L.26, E/CN.4/Sub.2/L.30, E/CN.4/Sub.2/L.31, E/CN.4/Sub.2/L.32, E/CN.4/Sub.2/L.33 and E/CN.4/Sub.2/L.34) (continued)

Proposals relating to past activities of the Sub-Commission

Mr. Hiscocks: draft resolution No. 3 (E/CN.4/Sub.2/L.18)

Mr. HISCOCKS proposed that the continued debate on his proposal should be postponed to the following day so that he could study the amendments submitted by Mr. Fomin (E/CN.4/Sub.2/L.32) and the arguments advanced at the previous meeting.

Mr. NISOT said the Sub-Commission's report should state that a proposal had been laid before it by Mr. Hiscocks to which Mr. Fomin had submitted an amendment and that, as the report of its fourth session contained a similar proposal which had not yet been considered, it had not taken a decision on Mr. Hiscocks' proposal but wished to reaffirm its interest in the subject to which the proposal related.

At Mr. EKSTRAND's request, the CHAIRMAN asked Mr. Nisot to hand a written text of his proposal to the Secretariat which would circulate it before the following meeting.

Mr. Shafaq: draft resolution (E/CN.4/Sub.2/L.29)

Mr. SHAFaq explained that his proposal was based on suggestion D contained in document E/2229 (paragraphs 38 and 39). Its purpose was to broaden the scope of the text proposed by the Sub-Commission at its previous session. It covered the case where new States, or new boundary lines between

States, were established not by treaty but by the decision of an international organ or some other act.

The draft resolution was adopted by 9 votes to none.

Mr. MENESES PALLARES reserved the right to ask for a paragraph to be inserted in the Sub-Commission's report to explain his position with respect to the draft resolution.

Mr. Shafaq: draft resolution (E/CN.4/Sub.2/L.23)

Mr. SHAFQAQ pointed out that his proposal was connected with suggestion F contained in document E/2229 (paragraphs 43 and 44). Its purpose was likewise to broaden the scope of the text proposed by the Sub-Commission at its previous session and to make it possible to collect additional information.

Mr. NISOT, commenting on the preamble, said chances for the protection of minorities obviously occurred in instruments drafted in connexion with protection of minorities. Nor could it properly be said that treaties relating to minorities had been concluded under the League of Nations system, even if those treaties had conferred certain functions on the League. He was therefore unable to accept the preamble and proposed the following amendment: "In view of the importance of possessing the fullest possible documentation on the subject;".

Mr. SHAFQAQ agreed to the amendment.

The CHAIRMAN said that the amendment would be incorporated in the draft resolution.

Turning to the operative part, Mr. NISOT considered that it would be difficult, firstly, to collect all existing provisions for the protection of minorities and, secondly, to determine which were still in effect, particularly

in the case of treaties relating to minorities concluded between the two wars. He therefore proposed that the first clause of the operative part should read: "Requests the Secretary-General to arrange for the collection of treaty provisions relating to the protection of minorities...".

Mr. SHAFAG did not object to the amendment, although he would prefer to retain the words "all existing provisions".

Mr. EKSTRAND proposed that the text should read: "to arrange for as complete a collection as possible...".

Mr. SHAFAG agreed to the amendment.

Mr. NISOT suggested that the word sauvegarder should be used instead of garantit in the French text of the operative part.

The CHAIRMAN put Mr. Shofaq's draft, as amended, to the vote.

The draft resolution, as amended, was adopted by 8 votes to none, with 2 abstentions.

Mr. FOMIN said that he had abstained from voting because a number of provisions relating to the protection of minorities adopted by organs of the United Nations and the League of Nations had been, in the USSR representatives' view, either unsatisfactory or inadequate. He could not, therefore, support the proposal for the collection and publication as a handbook of those provisions.

Mr. MASANI observed that three additional draft resolutions (E/CN.4/Sub.2/L.30, E/CN.4/Sub.2/L.33 and E/CN.4/Sub.2/L.34) were before the Sub-Commission. He wondered whether the proposals were similar to those classified in document E/CN.4/Sub.2/L.26 as relating to the past activities of the Sub-Commission. The latter should decide immediately how to classify them but should not discuss them until the following meeting.

At Mr. HISCOCKS' suggestion, the CHAIRMAN proposed that the officers of the Sub-Commission should confer after the meeting with a view to drafting a revised version of document E/CN.4/Sub.2/L.26 with the assistance of the Secretariat.

Mr. SEFAAQ announced that he was submitting three additional draft resolutions to the officers.

Mr. Masani, Mr. Meneses Fallares and Mr. Shafiq: joint proposal on studies of some forms of discrimination (E/CN.4/Sub.2/L.14) -- Expert of the Union of Soviet Socialist Republics: draft resolution (E/CN.4/Sub.2/L.15/Rev.1).

Mr. FOMIN observed that the joint proposal and his draft resolution dealt with the same subject - the Sub-Commission's work. The solutions proposed in the two texts were different but might well be compared. He therefore requested that they should be considered concurrently.

After an exchange of views in which Mr. SWARUP, Mr. MASANI and Mr. HISCOCKS took part, the CHAIRMAN decided that the Sub-Commission would consider the two texts concurrently, on the understanding that the joint proposal, having been submitted first, would be put to the vote before Mr. Fomin's draft resolution.

Mr. MASANI said that the Sub-Commission might base its current and future work on the joint proposal. Under its terms of reference, the Sub-Commission was to undertake studies, particularly in the light of the Universal Declaration of Human Rights, and to make recommendations to the Commission on Human Rights. As yet, it had been unable to comply with its terms of reference. Accordingly, to prove that the Assembly had been right, at its sixth session, in continuing the Sub-Commission, it should study some forms of discrimination.

In document E/2229 the Secretary-General had suggested certain topics; the joint proposal specified the forms of discrimination to be studied, outlined a programme for future sessions and suggested a procedure to be followed in these studies.

The authors of the joint proposal had largely followed the provisions of Economic and Social Council resolution 242 (IX) relating in particular to educational opportunities for women. Though the proposal referred to co-operation with UNESCO and ILO, it was intended primarily that the Sub-Commission should study the subjects mentioned. In preparing the list of subjects, the authors of the proposal had taken into account some of the resolutions adopted by the Sub-Commission at its fourth session.

The procedure proposed was somewhat similar to that laid down by General Assembly resolution 174 (II) for the International Law Commission; it had worked successfully in the case of a body concerned with the progressive development of international law and might also be applied by the Sub-Commission, which was concerned with the progressive development of international public ethics.

Both the Commission on Human Rights and the Council had requested the Sub-Commission to undertake studies. The latter might therefore, at its current session, take up the study of any one of the subjects listed in the joint proposal without waiting for further authorization from the Council or the Commission. If the proposal had financial implications, the Sub-Commission would, of course, report to the Commission and the Council on that particular point.

Mr. MENESES PALLARES and Mr. SHAFaq supported Mr. Masani's statement.

Mr. FOMIN said that under its terms of reference the Sub-Commission was to submit recommendations to the Commission on Human Rights and the Council on the prevention of all kinds of discrimination. The joint proposal failed to make clear what aims the Sub-Commission should endeavour to achieve. Although it called for studies, it failed to say what results they might be expected to produce. The Sub-Commission, having studied a number of questions during its first four sessions, was being asked to study some further topics. He took the view that the Sub-Commission should offer some precise recommendations, rather than carry on academic work year after year.

In resolutions adopted at its first and sixth sessions the General Assembly had specified what the Sub-Commission should do; his own draft resolution was similarly specific. It invited the Sub-Commission to study a number of subjects at its two forthcoming sessions and to make suitable recommendations which would enable Member States to take concrete measures.

By contrast with his own text the joint proposal was unrealistic. Its sponsors called only for study and their list of subjects to be studied omitted social and cultural discrimination and discrimination based on national origin; apparently they believed that discrimination in employment and occupation was the only form of economic discrimination. Nor did the joint proposal provide for studied recommendations on the cessation of all forms of propaganda for racial and national exclusiveness, hatred or contempt.

He urged the Sub-Commission not to spend its time in purely academic discussion but to heed the General Assembly's resolutions and submit concrete proposals to the Commission and the Council.

Mr. HUMPHREY (Secretariat) recalled that Mr. Masani, in introducing the joint proposal, had said that the Sub-Commission might begin the study of one or other subject without waiting for the Economic and Social Council's authorization.

In resolution 443 (XIV) the Council had requested the Sub-Commission to report on its future work to the Commission on Human Rights. In a sense the request appeared to confirm Mr. Masani's view. However, according to the procedure outlined in the joint proposal, the Secretary-General was to approach some of the specialized agencies and the governments of Member States; moreover, the proposal had financial implications. Those three considerations would make it necessary to ask for the Council's approval through the Commission on Human Rights.

If it was asked how far the Sub-Commission might go in such studies in anticipation of the Council's decision, he would answer that the Sub-Commission might well designate the rapporteur to be appointed under the joint proposal and that it might also draw up a plan of work. However, it should not circulate the plan of work to Member States before submitting it to the Council for approval.



Mr. DANIELS said that he was particularly impressed by the breadth of the programme outlined in the joint proposal. A study of discrimination in immigration and travel would involve a study of immigration legislation. A study of political rights was sometimes complicated by the fact that some Members were federal States.

He drew attention to paragraph (d) on page 3 of the joint proposal and wondered how many persons - members of the Sub-Commission or other experts - would be expected to devote themselves to the task proposed, which seemed likely to involve substantial expenditures.

In reply to Mr. FOMIN, Mr. SHAFaq said that all members of the Sub-Commission wished to achieve concrete results and not limit themselves to academic studies. However, before it could submit recommendations on the prevention of discrimination to the Commission on Human Rights, the Sub-Commission should first study the principal forms of discrimination.

In reply to Mr. DANIELS, Mr. SHAFaq pointed out that the rapporteur referred to in the proposal would be assisted by a member of the Secretariat and would submit a report on a single subject to each session of the Sub-Commission. In that way the Sub-Commission would be in a better position than in the past to achieve concrete results.

In reply to a question from Mr. NISOT, Mr. HUMPIREY (Secretariat) said that so far as he knew no decision had been taken on the future status of the Commission on Human Rights. In 1950 the Economic and Social Council had studied the reorganization of its work and one member of the Council had proposed that the Commission's status should be re-examined when it completed the drafting of the covenants on human rights, but the Council had not taken any decision in the matter. Finally, he pointed out that, of all the Council's Commissions, only the Commission on Human Rights was mentioned in the Charter (Article 68).

Mr. MASANI took the floor to reply to questions raised by some members.

Mr. Daniels had expressed the fear that the studies mentioned in the draft proposal might be too expensive and require too large a staff. According to the terms of the draft proposal, the rapporteur would be appointed from among the members of the Sub-Commission and the governments themselves would supply the information in reply to a circular letter. Therefore, the cost should not be very great and in any case it would be fully justified by the result. The collaboration of other members, as described in paragraph (d), would of course be carried out by correspondence (they would submit memoranda or documentary material, for example). It would thus amount to continuing collaboration throughout the whole year rather than merely an annual meeting.

The Sub-Commission had a perfect right to take decisions forthwith on certain points - appointment of the rapporteur, for example - even if there were other points - financial implications, requests to governments for information - on which it could not dispense with the approval of the Commission on Human Rights and the Economic and Social Council, as Mr. Humphrey had rightly observed.

Mr. Fomin had said that the joint draft proposal did not go far enough. Mr. Masani agreed but felt that studies on the principal forms and causes of discrimination would represent a good beginning. Mr. Fomin's own draft resolution, which referred to the extirpation of various forms of discrimination, was hardly realistic, for that was surely a task beyond the scope of the United Nations. First and foremost, an effort should be made to educate public opinion.

In his draft resolution, Mr. Fomin called for the cessation of all forms of propaganda for racial and national exclusiveness. Mr. Masani could not join him in that course either, because he did not believe in the usefulness of police measures. Even laws could remain without effect. Despite the laws in the USSR which proclaimed equality for all, the Chairman of the Presidium of the Supreme Soviet of the RSFSR in a statement written in 1946 had spoken in very clear language of the superiority of the Russian people, which he called the master nation. That statement did not come from unofficial sources and there was every reason to believe that the situation had not changed since 1946. A solution would not be found in censorship and police methods but rather in open discussion where all points of view could be freely expressed.

According to Mr. Fomin, the sponsors of the joint proposal had failed to mention discrimination based on national origin and given consideration to only one social question, namely education.

In answer to Mr. Fomin's first criticism, Mr. Masani pointed out that the classification had been prepared, not according to population groups which were discriminated against, but according to possible forms which discrimination might take.

As for the second criticism, Mr. Fomin would note that the draft proposal also spoke of residence, travel and the right to choose a spouse, all of them social matters.

In any event, each member was free to submit amendments. The joint draft only proposed certain subjects for study and it was for the Sub-Commission to determine the order of priority.

Mr. FOMIN was happy to note that Mr. Masani read the Soviet press but regretted that, misled perhaps by a not very accurate translation, he had incorrectly interpreted the words of a Russian leader. Actually, the statement quoted by Mr. Masani spoke of the leading part played by the Russian people in the liberation of the peoples who, before the Great October Socialist Revolution, had been backward and in a state of colonial dependence. That was the leading part played by the Russian peoples in uniting the entire population of the Soviet Union into a brotherhood for the creation of a socialist society.

Mr. Masani seemed to place great hopes in education, a point of view which unfortunately he could not fully share. Education could, of course, play an important part, but it could not suffice as long as segregation laws and practices like lynching still existed. Energetic measures were absolutely required at the government level. The Constitution of the USSR, for example, proclaimed that the equal rights of USSR citizens without distinction as to national origin or race in all forms of economic, public, cultural, social and political life were an immutable law, and any restriction of those rights, any attempt to create privileges based on racial or national considerations would be punished by law. The Penal Code also provided that any propaganda inciting to national or racial hatred was punishable by law. He conceded that a decision by the United Nations

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was not enough to do away with discrimination but, to quote the language of his draft resolution, it could "promote" that objective. He was sure that the Sub Commission could do useful work if Member States gave it their co-operation.

In spite of Mr. Masani's explanation, he still did not understand why national origin was not included in the draft proposal while race, colour, and religion were mentioned in the second and fourth paragraphs of the operative part. Either the grounds of discrimination should not be mentioned at all, or else they should be specified in full.

Furthermore, the draft proposal took into consideration only one very narrow aspect of the social field; it spoke of education, but not of culture, although the latter term occurred in the covenant of human rights; nor was health mentioned. The same observation could be made for the economic field. The draft resolution provided only for the study of questions connected with employment and occupation, although, as was known, a large number of other matters fell under the heading of economic affairs.

He did not wish to ascribe ulterior motives to the sponsors of the joint proposal but he was bound to observe that the draft was not precisely worded and left many questions unanswered.

Finally, the draft proposal did not place sufficient emphasis on the recommendations that were to be transmitted to the Commission on Human Rights; yet the Sub Commission's studies and proceedings were to culminate in precise recommendations to the parent body.

The meeting rose at 5.5 p.m.