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

FIRST SESSION

REPORT SUBMITTED TO THE COMMISSION ON HUMAN RIGHTS BY
THE SUB-COMMISSION ON THE PREVENTION OF DISCRIMINATION
AND THE PROTECTION OF MINORITIES

(DRAFT)

The Sub-Commission started the work of its first session on 22 November 1947, and finished it on having heldmeetings.

The following were present:

Mr. W.M.J. McNAMARA	(Australia)
Mr. J. NISOT	(Belgium)
Dr. C.H. WU	(Deputy for Mr. Chang (China))
Mr. A. Meneses PALARES	(Ecuador)
Mr. S. SPANIEN	(France)
Mr. H. ROY	(Haiti)
Mr. M.R. MASANI	(India)
Mr. Rezazada SHAFaq	(Iran)
Mr. E. EKSTRAND	(Sweden)
Mr. BORISOV	(U.S.S.R.)
Miss E. MONROE	(United Kingdom)
Mr. J. DANIELS	(United States of America)

Mme. LEFAUCHEUX (France), representing the Commission on the Status of Women, who was invited by the Sub-Commission in virtue of a decision of the Economic and Social Council, also took part in the discussions insofar as they dealt with discrimination on grounds of sex.

The Secretariat of the United Nations was represented by Professor J.P. HUMPHREY, Mr. E. LAWSON, Professor E. GIRAUD and Mr. A.H. HEKIMI.

The Sub-Commission appointed Mr. E. EKSTRAND as Chairman, Mr. H. ROY as Vice-Chairman, and Mr. J. NISOT as Rapporteur.

The present Report gives the result of the work of the Sub-Commission's first session. In particular, it contains, in addition to the recommendations or proposals made by the Sub-Commission, dissident opinions or other observations, drafted in their own terms by certain members of the Sub-Commission who asked for their insertion in the Report.

Terms of Reference of the Sub-Commission

The Sub-Commission's terms of reference had been laid down by the Commission on Human Rights as follows:

"(a) In the first instance, to examine what provisions should be adopted in the definition of the principles which are to be applied in the field of the prevention of discrimination on grounds of race, sex, language or religion, and in the field of the protection of minorities, and to make recommendations to the Commission on urgent problems in these fields.

"(b) To perform any other functions which may be entrusted to it by the Economic and Social Council or the Commission on Human Rights."

There were several discussions in the course of the session as to the exact meaning of these terms of reference, and the Sub-Commission finally decided to submit the following recommendation:

"The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities recommends that the Commission on Human Rights be good enough to re-examine its terms of reference in order to clarify them and extend their scope".

This recommendation was adopted by 9 votes with 3 abstentions.

I.

DRAFT DECLARATION ON HUMAN RIGHTS

The Sub-Commission had before it the draft International Declaration on Human Rights drawn up by the Drafting Committee (E/CN.4/21, Annex F.). It noted that certain articles in the draft were designed to prevent discrimination and protect minorities. Consequently, although the Draft Declaration had not yet been officially communicated to the Sub-Commission considered that it should take that important document into account. It felt that the best way of obtaining concrete results of immediate value was to start by dealing with the subjects coming under its terms of reference within the framework of those articles of the Draft Declaration which had been indicated as relating to those terms of reference.

The Sub-Commission therefore proceeded to study the following articles of the Draft Declaration: article 6, article 13, article 15, article 28, and article 36. For the most part this study resulted in amendments being proposed.

1) Article 6.

Text proposed by the Sub-Commission:

"Every one is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, sex, language, religion, political or other opinion, property status, or national or social origin." (1)

(Adopted by 2 votes to 1, with 1 abstention).

(1) The Drafting Committee's text was as follows:

Every one is entitled to the rights and freedoms set forth in this Declaration without distinction as to race, sex, language, or religion.

The Sub-Commission, in adopting the text, thought there was no need for a special mention of "colour", as that was included in "race".

It also considered that in completing by the words "political or other opinion, property status, or national or social origin", the list given in paragraph 3 of Article 2 of the Charter ("without distinction as to race, sex, language, or religion"), it had not added to that list, but had merely interpreted and clarified it by means of examples. The Sub-Commission's text ("without distinction of any kind such as race.....etc.") is, moreover, intended to show that its list is not exhaustive.

It will be seen that the Sub-Commission has referred in the article to "all the rights.....etc." It intended to show in this way that it was not necessary to develop the idea further in Article 6, as the substance of the rights and freedoms was established in the other articles of the Declaration.

Finally, the Sub-Commission wished to make it clear that the words "national origin" should be interpreted by taking the idea of "nationality" not in its legal sense (subject of a State), but in its sociological sense (national characteristics).

Remarks by Mr. Nisot (Belgium):

"I abstained from voting on Article 6, since, in my view, it should have reproduced only the enumeration found in the Charter: 'without distinction as to race, sex, language or religion', instead of increasing this enumeration. The terms of the Charter, beyond all possible dispute, are binding upon all the Members of the United Nations. It would, therefore, have been wise strictly to adhere to them owing to the organic nature of the text in question (the Declaration)."

Remarks by Mr. Borisov (Union of Soviet Socialist Republics):

"As drafted by the Sub-Commission Article 6 is not satisfactory. In particular, there is no mention of prevention of racial discrimination and no direct reference to enjoyment of equal rights for all in the fields of economic, cultural and social-political life. Even part of these omissions would prevent the rights of everyone "without distinction of race, sex, language or religion" from being secured by the Article."

Mr. McNamara and Dr. Wu submitted a text amending a proposal of Mr. Borisov. Its wording was as follows:

"Any advocacy of national, racial and religious hostility and any action establishing a privilege or a discrimination based on distinctions of race, nationality or religion shall be prohibited by the law of the State."

This text was not adopted, there being 5 votes for and 5 against, with 1 abstention.

On the other hand, the Sub-Commission adopted, by 10 votes with 1 abstention, the following recommendation:

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

2) Article 13

Text proposed by the Sub-Commission:

"Subject to any general law not contrary to the purposes and principles of the United Nations Charter and adopted for specific reasons of security or in the general interest, there shall be liberty of movement and free choice of residence within the territory of each State.

Individuals shall be free to leave their own country and to change their nationality to that of any country willing to accept them." (1)

(Adopted by 8 votes to 2, with 1 abstention).

Discussion centred on the right to circulate outside the country and to emigrate and to change nationality. In the text proposed by the Sub-Commission, the right to emigrate and change nationality is not made dependent upon a condition.

Remarks by Mr. Borisov (Union of Soviet Socialist Republics):

"Mr. Borisov is in favour of deleting the second paragraph of Article 13."

Remarks by Mr. McNamara (Australia):

"Mr. McNamara proposes the following text for consideration by the Commission on Human Rights, and by any Drafting Committee:

"Further, any general law referred to herein shall not be inconsistent with Article 6 of the International Declaration on Human Rights, as amended by this Sub-Commission."

Remarks by Mr. Nisot (Belgium):

"I was unable to agree to Article 13, because of the absolute bearing of its second sentence, which is not subject to the reservation (concerning laws in conformity with the Charter) by which the first sentence is governed. In the absence of such a reservation, the possibility for individuals to leave their country or relinquish their nationality is made dependent, in principle, on their sole will, without the State being able, even for reasons of general interest or national security, to limit this possibility, in particular by making it contingent on authorisation. Such a radical provision cannot, in my view, but diminish the probabilities of the Declaration being, on this point, accepted or observed by Governments."

(1) Text established by the Drafting Committee:

"There shall be liberty of movement and free choice of residence within the borders of each State. This freedom may be regulated by any general law adopted in the interest of national welfare and security.

Individuals may freely emigrate or renounce their nationality."

3) Article 15.

Article 15 of the Drafting Committee's text ⁽¹⁾ gave rise to discussion.

Finally, by 7 votes to 2 (with 2 abstentions) the Sub-Commission decided to take no decision on this Article at the present stage, since the Commission on the Status of Women, which was to meet in January next, was the proper body to make an exhaustive study of the Article, particularly from the point of view of marriage, and the Sub-Commission should await its findings.

Remarks by Mr. McNamara (Australia):

"Mr. McNamara submitted the following text for consideration by the Human Rights Commission or by a Drafting Committee:

"The following words to be added after "everyone has the right":

"On the basis of Article 6 as amended by this Sub-Commission"

Remarks by Mr. Masani (India) and Mr. Daniels (United States)

"In view of the decision of the Sub-Commission that this Article was not open to discussion at this stage, in the absence of any recommendations from the Commission on the Status of Women, we would like to place on record our view that this Article should guarantee the right to everyone to consult with and be represented by counsel of his own choice".

Remarks by Miss Monroe (United Kingdom):

"Since the Sub-Commission decided that there should be no discussion on the merits of Article 15, Miss Monroe wished it to be recorded that the right to be represented by counsel does not exist in some native courts in the British Colonial Empire. Representation by counsel has proved to be an alien importation into the judicial process of many backward people, and since it is the British practice to allow Native Courts to develop in the manner best suited to the community which they serve, some courts still adhere to their customary procedure. Since the right to be represented by counsel is recognized in higher courts, including those which hear appeals from the Native Courts in question, the practice is not discriminatory".

Remarks by Mr. Borisov (U.S.S.R.)

"He said that the Drafting Committee of the Human Rights Commission had requested the Sub-Commission to take a decision not on Article 15 as a whole but only on the question of marriage.

As regards the question of marriage, this should, he thought be protected and regulated by law on the basis of equality between men and women, without discrimination of race, religion or origin."

(1) Everyone has the right to a status in law and to the enjoyment of fundamental civil rights.

Everyone shall have access to independent and impartial tribunals for the determination of his rights, liabilities and obligations under the law. He shall have the right to consult with and to be represented by counsel.

4) Article 28

Text adopted by the Sub-Commission.

"Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen. Access to examination for public employment shall not be a matter of privilege or favour." (1)

(Adopted by 2 votes with 2 abstentions)

This article was adopted in the form in which it had been drawn up by the Drafting Committee, after a discussion in the course of which the value of examinations as an impartial method of selection was questioned by certain members of the Sub-Commission.

Remarks by Mr. McNamara (Australia)

"In the second sentence of Article 28, the words 'and the subject matter of such examinations' should be inserted after the words 'public employment'."

Remarks by Mr. Borisov (U.S.S.R.)

"He observed that the system of examinations in various forms facilitated discrimination and non-admission of the poorer classes to public office or employment. The examination system had not proved satisfactory, as was shown by the second paragraph of Article 28 itself, according to which examinations were not open to all and involved privileges and favours for certain persons. He thought that the second paragraph of Article 28, which restricted the rights mentioned in the first paragraph of that article, should be omitted."

5) Article 36

Text proposed by the Sub-Commission

"In States inhabited by well defined ethnic, linguistic or religious groups which are clearly distinguished from the rest of the population and which want to be accorded differential treatment, persons belonging to such groups shall have the right as far as is compatible with public order and security to establish and maintain their schools and cultural or religious institutions, and to use their own language and script in the press, in public assembly and before the courts and other authorities of the State, if they so choose." (2)

(Adopted by 6 votes to 4, with 2 abstentions)

(1) Text drawn up by the Drafting Committee.

Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen. Access to examination for public employment shall not be a matter of privilege or favour.

(2) The following was the text prepared by the Drafting Committee:
 "In States inhabited by a substantial number of persons of a race, language or religion other than those of the minority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right as far as compatible with public order to establish and maintain their schools and cultural or religious institutions, and to use their own language in the press, in public assembly and before the courts and other authorities of the State".

This text differs from the one prepared by the Drafting Committee in that it further defines what is meant in the Article by a minority group:

1. It no longer requires that a "substantial number" of individuals should be involved;
2. It requires that "well defined groups" should be involved;
3. It requires that such groups should be "clearly distinguished from the rest of the population" (objective criterion);
4. It requires that such groups should "want to be accorded differential treatment" (subjective criterion). (1)

In addition, the new text has the following special feature. Under its terms the determination of the persons who are to enjoy the rights enumerated in the Article (which henceforth include the right to use their own "script") is based on the definition of the groups to which they belong.

Under the terms of the text, protection is granted to "persons" and not reserved for "citizens". There is, therefore, no need to make a distinction as to whether the individuals concerned are or are not nationals of the country in which they are established.

Remarks by Mr. Nisot (Belgium):

"This Article has given rise to a long debate, bearing, in particular, on the question whether its benefit should be limited to nationals, or, on the contrary, should be extended to all individuals, nationals or aliens, members of the groups concerned. The latter solution prevailed: the word "persons" was inserted in the text in preference to the word "citizens". This is why I was unable to agree to Article 36. It appeared to me indeed excessive to grant the differential treatment in question to aliens. These, moreover, may be established on the territory only temporarily (tourists, migrant workers....etc.). It is hardly necessary to recall that the treaties and declarations on minorities which came into being between the two wars apply, in this connection, to nationals alone. It will be for the Commission on Human Rights to study the Draft Declaration from the view point of its compatibility with paragraph 7 of Article 2 of the Charter, which forbids organs of the United Nations to intervene in matters essentially within the domestic jurisdiction of the member States. In my view, such a study will be particularly indicated with respect to Article 36 as adopted by the Sub-Commission."

(1) Mr. Roy had submitted an amendment proposing the deletion of the final words of the Article: "if they so choose". This amendment was not adopted, there being 5 votes in favour, 5 against and 2 abstentions.

Remarks by Mr. McNamara (Australia):

Mr. McNamara had proposed to modify as follows the text of the Drafting Committee:

1. Delete the words "a substantial number of";
2. Delete the words, "as far as compatible with public order,"
- and substitute for them the words, "on the basis of loyalty to the State of which they are resident members";
3. Add the words, "where they have not a practicable facility in the official language" between the words "and" and "before", in the last line but one.

(To be continued)

UNITED NATIONS

NATIONS UNIES

UNRESTRICTED

ECONOMIC
AND
SOCIAL COUNCIL

CONSEIL
ECONOMIQUE
ET SOCIAL

E/CN.4/Sub.2/38
(Continuation)
5 December 1947

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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PREVENTION OF DISCRIMINATION
AND THE PROTECTION OF MINORITIES

FIRST SESSION

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(DRAFT)

(Continuation)

Communications concerning Discriminations and Minorities.

First decision:

The Sub-Commission considers that its task would be facilitated if the Economic and Social Council were requested by the Human Rights Commission to modify and extend its resolution of August 5th, 1947, on "communications concerning Human Rights", and to direct the Secretary-General to perform the same service for the Sub-Commission with respect to communications dealing with discriminations and minorities; with respect to such communications, to give the members of the Sub-Commission the same facilities as are enjoyed by members of the Commission.

(Adopted by 10 votes to 1 with 1 abstention)

Second decision:

The Sub-Commission asks the Economic and Social Council through the Human Rights Commission to extend its decisions in its Resolution of August 1947 concerning communications as to include the following words, 'that the Secretary-General tactfully request by official letter, the governments affected to give any comment or information they desire on the petitions'.

(Adopted by 2 votes to 1 with 8 abstentions)

Communications concerning particular cases.

1. Communications from the National Association for the Advancement of Coloured People.

Decision of the Sub-Commission:

"The Sub-Commission recommends to the Human Rights Commission that the Social and Economic Council be moved to instruct that petitions received from the National Association for the Advancement of Coloured People be circulated to members of this Sub-Commission and resolves that their consideration be placed on the agenda of the next meeting of this Sub-Commission."

(Adopted by 2 votes with 3 abstentions)

This question gave rise to a lengthy discussion. A proposal by Mr. Borisov was to the effect that the Sub-Commission should undertake the study of the said petitions without delay.

That proposal was rejected.

It was pointed out that at the present stage it was impossible to proceed to examine petitions as there were no appropriate rules, the Declaration and the Convention being still only in the form of drafts.

Remarks by Miss Monroe (United Kingdom): "Miss Monroe abstained from voting on the para. 1 proposed by Mr. Borisov, because, while strongly in favour of the right of coloured groups and of women to present petitions, she felt that to single out two such groups for most favoured treatment was invidious and unfair to other coloured and women's groups who may have submitted petitions of equal weight."

Nine members of the Sub-Commission associated themselves with these remarks.

2. Communication from the International Democratic Federation of Women.

Decision of the Sub-Commission.

"The Sub-Commission recommends to the Commission on Human Rights that the petition from the International Democratic Federation of Women be considered by this Sub-Commission after it has been studied by the Commission on the Status of Women."

(Adopted by 6 votes to 2 with 4 abstentions)

A suggestion to this effect had been made by Mme. Lefauchaux, who represented the Commission on the Status of Women.

IV

MACHINERY FOR THE PREVENTION OF
DISCRIMINATION AND THE PROTECTION OF
MINORITIES

Decision of the Sub-Commission

"1. The Sub-Commission is of the view that the implementation of the rights formulated in those parts of the proposed Declaration and Convention on Human Rights which deal with the prevention of discrimination and the protection of minorities will be of vital importance."

(Adopted by 11 votes with 1 abstention).

"2. The Sub-Commission recognizes that the machinery covering this matter forms but one part of the machinery for implementation of Human Rights as a whole. The Sub-Commission feels, however, that its opinion on the formulation of such part of that machinery as concerned it might be of service to the Human Rights Commission, and it, therefore, recommends that the Sub-Commission be invited to meet and formulate its proposals for the machinery in question at the earliest appropriate date."

(Adopted by 8 votes to 2 with 2 abstentions).

Several members of the Sub-Commission had submitted proposals for the establishment of an organised system for the examination of petitions, powers being conferred for this purpose on the Secretary-General of the United Nations, special committees (committees of three) and even on the International Court of Justice.

The Sub-Commission had considered these solutions premature, seeing that no Declaration on Human Rights or Conventions had yet been adopted and, moreover, the Sub-Commission had not been asked to go into the matter.

V

SCOPE OF THE CONCEPTS OF DISCRIMINATION AND MINORITIES

Decision of the Sub-Commission:

The Sub-Commission submits to the Human Rights Commission that the final drafting of Articles on the prevention of discrimination and the protection of minorities may be facilitated by the following considerations:

1. Prevention of discrimination is the prevention of any action which denies to individuals or groups of people equality of treatment which they may wish.
2. Protection of minorities is the protection of non-dominant groups which, while wishing in general for equality of treatment with the majority, wish for a measure of differential treatment in order to preserve basic characteristics which they possess and which distinguish them from the majority of the population. The protection applies equally to individuals belonging to such groups and wishing the same protection. It follows that differential treatment of such groups or of individuals belonging to such groups is justified when it is exercised in the interest of their contentment and the welfare of the community as a whole. The characteristics meriting such protection are race, religion and language. In order to qualify for protection a minority must owe undivided allegiance to the Government of the State in which it lives. Its members must also be nationals of that State.

If a minority wishes for assimilation and is debarred, the question is one of discrimination and should be treated as such.

(Paragraph 1 was adopted by 9 votes to 1, with 2 abstentions; Paragraph 2 was adopted by 7 votes to 3 with 2 abstentions.)

The opinion was put forward in the Commission that it was not possible, at the present stage, to frame definitions which could be made binding upon Member States; in other words, juridical definitions. The formulation of such definitions pre-supposes, in fact, the existence of rules which are to be enforced, or, in this case, of a Declaration or a Convention. However, such instruments are still in course of drafting and have by no means reached their final form.

Although this point of view was not shared by all its members, the Sub-Commission decided not to submit definitions, and to confine itself to indicating the considerations which in its opinion should be taken into account in framing provisions (Declaration or Convention) to be put into effect. Such, therefore, is the scope of the above texts, which relate on the one hand to the prevention of discrimination, and on the other to the protection of minorities.

Remarks by Mr. Shafag (Iran):

"while not in disagreement with the text proposed as to the definition of Discrimination and of Protection of Minorities, may I declare that the main reasons of my abstention from voting are as follows:"

"1. It fails to extend the protection offered to a minority, not wishing assimilation, to the majority. The majority should also be given the right to refuse assimilation with a minority in the sense of intermarriage and the like.

"2. It fails to mention that a minority's wish for differential treatment on certain scores must be conscious and spontaneous. Unless this is mentioned the description given fails to draw a sufficient distinction between a genuine minority and one artificially created for spurious political purposes."

Mr. SHAFQA submits the following amendments:

"Protection of minorities is the protection extended to them as citizens (whether groups or individuals) against assimilation for which they do not wish. This is not meaning that the dominant group is not subject to the same protection."

"A minority is a non-dominant group possessing basic characteristics of a distinctive nature which is spontaneously conscious of its status as a minority."

Remarks by Mr. McNAMARA (Australia):

Mr. McNAMARA makes the following reservations concerning Document E/CN.4/Sub.2/35, as amended and adopted (Protection of Minorities):

"1. "Prevention of Discrimination" is the prevention of any action which denies to individuals, or to groups, essential equality of treatment, on the grounds (inter alia) of race, distinctive national origin, language and religion.

"2. "Prevention" is distinguished from "protection" by referring to steps taken to forestall the origination of such discriminatory action, whereas "protection" refers to steps taken to correct such discriminatory action after it has been originated.

"3. "Discrimination" is any action, as referred to above.

"4. "Protection of Minorities" is the protection (as defined above) of groups or individuals against discriminatory action (as defined above).

"5. Differential treatment of such groups or individuals is justified when it is exercised in their interest and the welfare of the community as a whole.

"6. Protection", as defined, can be claimed only on the basis of allegiance to the Government against which such protection is claimed.

"7. The term "minority" in the above contexts has no necessary numerical significance, but connotes an unequal discriminatory status.

Comment

"In the above attempt at a definition of the terms referred to us for definition, all the terms (and not only some, as in E/CN.4/Sub.2/35, as amended) are defined, including "Prevention" as distinct from "Protection": and I feel that there is a unity in it that is lacking in E/CN.4/Sub.2/35, as well as an avoidance of a number of dangerous new problems raised by E/CN.4/Sub.2/35."

VI

STUDIES TO BE UNDERTAKEN

1st Decision of the Sub-Commission:

a) Discrimination.

"The Sub-Commission recommends that the Economic and Social Council be moved to request the Secretary-General to organize studies and prepare analyses designed to assist this Sub-Commission in determining the main types of discrimination which impede the equal enjoyment by all of

human rights and fundamental freedoms, and the causes of such discrimination. He will consider whether such groups are of recent or long historic origin, and whether in the past they have been in the nature of active protesting minorities. Such statement to be made available to delegates to the Sub-Commission on Minorities and Discrimination."

b) Minorities.

"The Sub-Commission recommends to the Human Rights Commission that it adopt a proposal instructing the Secretariat to prepare a statement, setting out the various racial, national or religious groups in each nation; the statement to give known or estimated totals, to indicate whether the groups are compact or scattered, whether such groups are of recent or long historic origin, and whether in the past they have been in the nature of active protesting minorities. Such statement to be available to delegates to the Sub-Commission on Minorities and Discrimination."

(Adopted by 7 votes to 2 with 3 abstentions).

Remarks by Mr. Daniels (United States):

"Mr. Daniels suggested that, in connection with the proposed studies, the Secretariat take into consideration the statement of the American Federation of Labor contained in Document E/CN.4/Sub.2/16."

Second Decision:

"The Sub-Commission considers that, in order satisfactorily to fulfil its task and effectively to protect minorities, it must have at its disposal, for purposes of its future work, all information that it may require in order to distinguish between genuine minorities and so-called minorities which might be created for propaganda purposes.

It therefore recommends the Commission on Human Rights to secure the adoption by the Economic and Social Council of such measures as are necessary to this end".

(Adopted by 8 votes to 1 with 2 abstentions).

VII

EDUCATION

1. Education Programme

Decision of the Sub-Commission:

"The objectives of the United Nations in the fields of the prevention of discrimination and protection of minorities can be achieved only as the peoples of the world are willing to end discrimination and to give due respect to the rights of minorities;

"This can result from universal recognition of the dignity and worth of the human person and of the equal rights of men and women and of peoples;

"Therefore the Economic and Social Council requests the Secretary-General

1. In connection with any studies which he may be directed to make in the fields of the prevention of discrimination and the protection of minorities, to keep in mind the possible desirability of formulating effective educational programs in these fields and to report any findings that may assist the Sub-Commission on the Prevention of Discrimination and Protection of Minorities in making appropriate recommendations to this end.

2. To advise UNESCO of the interest of the United Nations in such programs, to request UNESCO to make available any relevant materials or analyses that may result from that Organization's proposed study of Social Tensions or from any other UNESCO programs, and to suggest collaboration between the United Nations and UNESCO in the possible formulation of such a program.

3. To suggest that UNESCO consider, as a first step, the desirability of initiating and recommending the general adoption of a program of disseminating scientific facts with regard to race."

(Adopted by 10 votes against 1 and 1 abstention)

2. Committee on Education

Decision of the Sub-Commission:

"The Sub-Commission recommends that UNESCO be asked to consider the creation of a Committee of world leaders in educational theory and practice, which should make its business to study and select the most common and basic principles of a democratic and universal education in order to combat any spirit of intolerance or hostility as between nations and groups."

(Adopted by 5 votes to 3 with 4 abstentions)

VIII

PEACE TREATIES: PROTECTION OF MINORITIES

Decision of the Sub-Commission:

"The Sub-Commission requests the Human Rights Commission to declare that in any peace treaties still to be ratified there be included wherever appropriate specific clauses seeking to protect minority rights."

(Adopted by 6 votes to 4 with 2 abstentions)

Remarks by Mr. Nisot (Belgium):

"The possibility of introducing clauses into treaties normally arises during negotiation prior to signature. A treaty may not be ratified and yet be already signed. In such a case it is too late to act."

IX

SURVIVAL OF CERTAIN TREATIES AND DECLARATIONS

Communication from the Sub-Commission to the Commission
on Human Rights

"The attention of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities has been drawn to League of Nations document C.L.110.1927 (Annex), which reproduces a large number of texts of treaties and declarations relating to international obligations undertaken to combat discrimination and protect minorities.

"The question has been raised whether, and to what extent, these treaties and declarations should be regarded as being still in force, at least for as much as they would entail, between contracting States, rights and obligations of which the existence would be independent of their guarantee by the League of Nations.

"The Sub-Commission has not attempted to answer this question. However, because of its bearing upon the matter in issue, the Sub-Commission feels unable to abstain from bringing it to the notice of the Commission on Human Rights. In so doing, the Sub-Commission confines itself, for its part, to expressing the view that there is here involved a juridical situation which, owing to its implications and possible consequences, should, in any event, be elucidated, possibly through a request for an advisory opinion addressed by the Economic and Social Council to the International Court of Justice."

(Adopted by 8 votes to 1)

More than fifteen declarations or treaties came into existence between the two wars; they are of great interest in combating discrimination and protecting minorities. In particular, they go further in that direction than the draft Declaration proposed by the Drafting Committee. While the latter (Article 5) would seem, in the matter of equality of treatment, to prescribe only equality in law, the above-mentioned texts prescribe in addition equality in fact. The difference is essential (cf.: Permanent Court of International Justice, Advisory Opinions, No.6 and No.7). The competent organs of the United Nations cannot pursue their activity in this domain without concerning themselves as to what remains at this time of the international rights and obligations resulting from these declarations and treaties. It would seem that one could not do better to elucidate this question than inconsulting the International Court of Justice.

APPENDIX

Agenda of the next session

"The Sub-Commission will place on its agenda for its next session the question of full Commission status for the Sub-Commission."

(Adopted by 2 votes with 1 abstention)
