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Tenth Session

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Held at Headquarters, New York,
on Tuesday, 12 April 1954, at 10.50 a.m.

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PRESENT:

<u>Chairman:</u>	Mr. AZMI	(Egypt)
<u>Rapporteur:</u>	Mr. INGLES	Philippines
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. ORTEGA	Chile
	Mr. CHENG PAONAN	China
	Mr. GHOREAL	Egypt
	Mr. CASSIN)	France
	Mr. JUVIGNY)	
	Mr. CARAYANNIS	Greece
	Mr. RAJAN	India
	Mr. PIRACHA	Pakistan
	Mr. BIRECKI	Poland
	Mr. ASIROGLU	Turkey
	Mr. SAPOZHNIKOV	Ukrainian Soviet Socialist Republic
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
	Mrs. LORD	United States of America
	Mr. RODRIGUEZ FABREGAT	Uruguay

Representative of a specialized agency:

Mr. MANNING	International Labour Organisation
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Representatives of non-governmental organizations:

<u>Category B:</u>	Mr. JOFTES	Co-ordinating Board of Jewish Organizations
	Miss RANDALL	International Federation of Business and Professional Women
	Mr. PENCE	World's Alliance of Young Men's Christian Associations
	Mr. POLSTEIN	World Union for Progressive Judaism

PRESENT: (continued)

Secretariat:

Mr. SCHWELB

Deputy Director of the Division of
Human Rights

Mrs. BRUCE)
Mr. DAS)

Secretaries of the Commission

REPORT OF THE SIXTH SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES: 1. COLLABORATION BETWEEN THE SUB-COMMISSION AND THE SPECIALIZED AGENCIES (E/CN.4/703, paragraph 208; E/CN.4/L.359/Rev.1)(continued)

Mr. CASSIN (France) had voted for the United States and Philippine draft resolution (E/CN.4/L.359/Rev.1) despite its defects of form. He was pleased to note that the intentions of the Commission had been appropriately reflected and in that connexion recalled the resolution adopted by the Executive Board of UNESCO on 14 December 1953 along the lines of resolution 502 C (XVI) of the Economic and Social Council. UNESCO had welcomed Mr. Ammoun, who had been appointed by the Sub-Commission as special rapporteur for the study on discrimination in education, and the Executive Board of UNESCO on 23 March 1954 had approved the joint recommendations by the Secretary-General of the United Nations and the Director-General of UNESCO on the subject of the assistance to be provided for that study. That information had been provided by Mr. Laugier, former Assistant Secretary-General, who still took a great interest in the work of the Commission.

Mr. HOARE (United Kingdom) had abstained merely through inadvertence from voting on the preamble to the United States and Philippine draft resolution, to which he had no objection. He had also abstained on sub-paragraph (a) of the operative part, which he thought redundant, and on sub-paragraph (b), because the question which he had raised in that connexion had not been answered. Under those circumstances, the United Kingdom delegation had also abstained on the draft resolution as a whole.

Mr. WHITLAM (Australia) thanked the representatives of the United States and the Philippines for their agreement to delete from sub-paragraph (a) of the operative part of their draft resolution the words which he had considered unnecessary; he had therefore been able to vote for that sub-paragraph. Since, with regard to sub-paragraph (b), the extremely pertinent question raised by the representative of the United Kingdom had not been answered, he had abstained from voting. He had afterwards thought, however, that the sub-paragraph might be

interpreted as referring only to the usual collaboration between the United Nations and the specialized agencies and had thus been able to vote for the draft resolution as a whole.

2. FUTURE SESSIONS OF THE SUB-COMMISSION (E/CN.4/L.374, E/CN.4/L.382) (continued)

Mr. ORTEGA (Chile) said that the draft resolution submitted by the delegations of Chile and Uruguay (E/CN.4/L.374) was intended to enable the Sub-Commission to discharge its tasks within a reasonable period in view of the fundamental importance of its work. He noted that resolution 502 A (XVI) of the Economic and Social Council did not give the Sub-Commission an opportunity to achieve the effective results so necessary to the prestige of the United Nations. It was therefore important for the Commission to express its opinion in that connexion, because there was no denying that, six years after its adoption, the Universal Declaration of Human Rights was still no more than a guide. The Universal Declaration should be given effect as soon as possible in order to avoid dashing all the hopes inspired by it and by the Charter.

Mr. RODRIGUEZ FRABREGAT (Uruguay) agreed with the Chilean representative that the work of the Sub-Commission must not be allowed to disappoint the hopes of a large part of the human family. That was why the Uruguayan delegation had joined with that of Chile in submitting the draft resolution which was before the Commission and which would enable the Sub-Commission to prolong its sessions in order to carry out its task without being pressed for time.

Mr. CHENG PAONAN (China) recalled that the Commission at its ninth session had submitted to the Economic and Social Council a draft resolution designed to fix the period of the Sub-Commission's sessions at three weeks at least and to enable the Sub-Commission to meet twice a year. As a result of that draft resolution, the Economic and Social Council had adopted resolution 502 A (XVI), and in 1954 the Sub-Commission had sat for four weeks. With reference to the draft resolution submitted by Chile and Uruguay, he thought that the first paragraph of the preamble should refer to the fundamental importance not only of the prevention of discrimination but also of the protection of minorities. In the

second paragraph of the preamble, he thought that the word "study" would be better than the phrase "complete the study of". As far as the operative part was concerned, he pointed out that the terms of office of members of the Sub-Commission ended in December 1956 and that, in consequence, the wording of the operative part might be interpreted as meaning that the present members of the Sub-Commission would be retained in office indefinitely. Furthermore, the Sub-Commission did not state anywhere in its report that it had found its sixth session either too long or too short and had not asked for longer sessions in future. It would indeed have been difficult for it to do so, since it did not yet know the programme of work for future sessions, but there would be an advantage in determining, if possible, what the feeling of the Sub-Commission was in that respect. He accordingly suggested that the words "yearly sessions of up to six weeks' duration" should be replaced by the words "its seventh session, for not less than four weeks" and said that if the sponsors of the draft resolution were not prepared to accept the changes which he had proposed, he would submit them as a formal amendment.

Mr. CARAYANNIS (Greece) said that he would be rather reluctant to vote for the draft resolution submitted by Chile and Uruguay. He recalled that until 1953 the Sub-Commission had never sat for longer than two weeks in any one year, that in seven years it had held only five sessions, that resolution 502 A (XVI) of the Economic and Social Council had extended the length of the sessions to three weeks and that in 1954 the Sub-Commission had sat for four weeks. The Greek delegation was not in principle opposed to a justifiable increase in the duration of the Sub-Commissions's sessions but did take the view that provision for a six weeks' session would be exaggerated. In order to speed the work of the Commission, he asked the representatives of Chile and Uruguay to accept the changes proposed by the representative of China.

Mr. SCHWELB (Secretariat), referring to the financial implications of the draft resolution submitted by Chile and Uruguay, explained that the members of the Sub-Commission received 25 dollars per diem allowances when the Sub-Commission was sitting in New York, so that if the sessions were to last three weeks longer, an additional expenditure of \$6,300 would be required.

Mr. RODRIGUEZ FABREGAT (Uruguay) noted that the representative of China, even though he had suggested that the words "not less than" should be inserted before the words "four weeks", was in fact suggesting that the sessions of the Sub-Commission should last two weeks less than was proposed in the joint draft resolution. As for the financial implications, the sum of \$6,300 did not represent a very large proportion of the United Nations budget, and the fact that the Sub-Commission was dealing with very delicate and complex problems affecting groups which had not hitherto had an opportunity to be heard should outweigh all other considerations. Mr. Rodriguez Fabregat therefore regarded the duration of sessions proposed in the joint draft resolution as a minimum and could not accept the Chinese representative's suggestions. In his opinion the grounds for objections raised in connexion with the joint draft resolution were more apparent than real.

Mr. INGLES (Philippines) said, in reply to the Chinese representative, that the Sub-Commission had not itself considered the question of the duration of its sessions. The Commission's previous decision which had led to the prolongation of the Sub-Commission's sessions from two to three weeks was not based on a request by the Sub-Commission. If the Commission considered it advisable, it could prolong the Sub-Commission's future sessions even further. In his opinion, three weeks would not be enough to enable the Sub-Commission to do its work.

At its seventh session the Sub-Commission would for the first time be entering into the substance of the matters on its agenda. One week would probably be devoted to the organization of work and to a general exchange of views. The second week would in all likelihood be devoted to considering the very important and probably lengthy study of the Special Rapporteur on discrimination in education.

Another week would probably be spent on the ILO study of discrimination in employment and occupation. The Sub-Commission would then have to decide in the light of the preliminary work done by its three members, what further study on discrimination should be undertaken in 1955. It would also have to resume consideration of the question of drafting legislative and administrative proposals that might be made available to Governments desiring to take action in the field of protection of minorities. It would also be required to begin discussion of the question of minorities on which it was required to submit a report to the next session of the Commission. As the Commission had refused to recommend recourse to an expert, the Sub-Commission would have to consider what other method it might use. Finally, on the basis of the information gathered by the Secretariat, it would be called upon to study the measures to be taken for the cessation of any advocacy of national, racial or religious hostility, and it would have to prepare and consider its own report to the Commission. Three weeks would obviously not be enough.

With regard to the financial implications, the Economic and Social Council's decision given in its resolution 502 A (XVI), clearly provided for the possibility of more than one three-week session in a single year. He pointed out that a single six-weeks' session would entail less expenditure than two sessions each lasting three weeks, for travel costs were high. From that point of view, therefore, the Chilean and Uruguayan draft resolution proposed a desirable modification. The Chinese and Greek proposal that sessions should last not less than four weeks was not incompatible with the joint draft which provided for a session not exceeding six weeks. It would be useful to combine the two proposals and to request the Economic and Social Council to authorize the Sub-Commission to hold yearly sessions of not less than four and not more than six weeks.

Mr. HOARE (United Kingdom) thought that, far from impairing the quality of the work of the Commissions and Sub-Commissions, short sessions were more favourable to good work. Moreover, the Sub-Commission on Prevention of Discrimination and Protection of Minorities was made up not of representatives of Governments but of independent experts who had their own duties and

responsibilities and most of whom could not easily devote more than three weeks to the Sub-Commission's work. By way of example, he cited the case of a judge and a university professor who were members of the Sub-Commission. The experts on the Sub-Commission were an excellent team, and the Commission could not risk compelling some of them to resign. Moreover, he joined the Chinese representative in pointing out that the Sub-Commission had not asked for its session to be prolonged, and he thought that the Philippine representative's estimate of the probable duration of work was somewhat exaggerated. The Sub-Commission did not need a full week for the organization of its work and for general debate and probably would be concerned at its next session only with preliminary reports on discrimination in education and in employment and occupation. It would probably not be able to get very far with the study of the whole question of minorities, because it must first decide how that study should be undertaken. In the circumstances, an extension of the forthcoming session to four weeks would seem necessary and sufficient, but the general rule that sessions should last only three weeks should be maintained, although exceptions might be made for particular sessions with a heavy work-load. The Sub-Commission had spaced out its proposed studies in such a way that it should be possible to adhere to that rule.

Mr. WHITLAM (Australia) shared the views of the Chinese, Greek and United Kingdom representatives. Although, like the sponsors of the draft resolution, he realized the importance of the Sub-Commission's work, that factor could not be judged alone but only in relation to the various objectives set forth in Chapter IX of the Charter. The Sub-Commission's sessions had already been extended from two to three and then to four weeks and could not be abruptly extended further to six weeks without some very good reason. It was still too

early to make any accurate estimate of the Sub-Commission's volume of work at its forthcoming session, and the Commission should bear in mind that the Sub-Commission was composed of specially competent experts who were well prepared to deal with the items on the agenda. Moreover, the joint draft resolution should be considered in the light of all the United Nations commitments. Certain considerations of place, time and staff must be taken into account, and at the present stage the Commission could not come to any conclusions as definite as those of the two-Power draft resolution. The question of financial implications could not be settled merely by brushing off an estimate with the assertion that the figure were only so much, but was also largely relative and fell within the purview of the Economic and Social Council. His delegation could not support the joint draft resolution. He saw no objection to transmitting the views expressed during the debate to the Economic and Social Council, which had to take the final decision, but he still felt, with the United Kingdom representative, that it would be better to adhere to the principle of three-week sessions.

Mr. CHENG PAONAN (China) said that in order to facilitate the discussion he had decided to submit his amendment in writing and that the text would be circulated during the meeting. In his opinion, the Philippine representative's statement had clearly shown that the Sub-Commission at its forthcoming session would need more than three weeks to complete its work, but provision for a six-week session did not seem necessary. Moreover, the purpose of the Chinese amendment to the operative part of the draft resolution was to confine the decision to the seventh session, which could last for at least four weeks. His two other amendments were intended merely to improve the form of the two-Power draft resolution. The Chinese amendments as a whole were designed to facilitate the Sub-Commission's work and to enable the Commission to reach a decision more quickly.

Mr. ORTEGA (Chile) noted with satisfaction the great interest displayed by the Commission in the Sub-Commission's work. He was surprised that some members had apparently been dismayed by the joint draft resolution which proposed that the Commission should request the Council to authorize the Sub-Commission to hold yearly sessions of up to six weeks' duration. As a matter of fact, the Sub-Commission itself, having regard to its work and to the decision by which the Council would fix a maximum, should decide the number of weeks during which it should sit. Most of the objections to the draft resolution had resulted from the fact that the draft had been interpreted as requesting the Council to fix the Sub-Commission's session at six weeks. The representatives of Greece, China and the United Kingdom had indicated that they were in favour of permitting the Sub-Commission to sit one week longer. The Philippine representative had suggested a compromise. Although the Chilean delegation was prepared to accept the compromise, it thought that the original proposal was better.

By adopting the joint draft resolution, the Commission would compensate for the effects of the two negative decisions which it had taken previously and which could not but hamper the Sub-Commission in its work. The Commission had, in the first place, been unwilling to recommend the appointment of an expert even though in the Sub-Commission's view that approach was best suited to the exigencies of its work. The Commission had, in the second place, failed to take steps to comply with the Sub-Commission's request in its resolution J, paragraph 1, that the Commission should study the means of expediting its work by setting aside adequate time for the consideration of its report or in certain cases by providing that the Sub-Commission could report to the Council direct. The Commission on Human Rights should not blind itself to the fact that as a result of those two negative decisions the Sub-Commission's work was seriously affected, and it would be only fair to give the Sub-Commission, by way of compensation, an opportunity of meeting for six weeks if it thought that necessary.

With regard to the Chinese amendments, he pointed out that the words "prevention of discrimination" implicitly referred to the protection of minorities, since discrimination was directed specifically against minorities and therefore it was the minorities who would benefit from any provisions adopted for the

elimination of discrimination. The omission in the first paragraph of the preamble of the joint draft resolution to which the Chinese representative had referred was therefore only apparent. Nevertheless, the sponsors of the draft resolution had no objection to a completely explicit wording and would accept the Chinese amendment to the first paragraph of their draft.

He did not, on the other hand, feel that the second Chinese amendment was justified, because what ultimately mattered was that the Sub-Commission should be able to complete the studies entrusted to it, and that was precisely why the joint draft resolution provided for prolonging the Sub-Commission's session. He likewise could not accept the amendments proposed by the Chinese representative to the operative part of the draft resolution, because he felt that the arguments put forward by the latter against the text of the operative part were groundless.

The Australian representative had stated that it was too early as yet to take a measure such as that contemplated in the joint draft resolution. It was true that the Commission could not definitely determine the duration of the Sub-Commission's sessions beforehand, because it did not know to what extent the Sub-Commission's future work programme would be approved by the Council and, if only for that reason, was not in a position to foresee how much time the Sub-Commission would require. However, the sponsors of the joint draft had not lost sight of that consideration and had expressly drawn up their text so as to provide that the Commission on Human Rights would not be required to fix the duration of the Sub-Commission's sessions. It should be emphasized once again that the draft resolution merely provided that the Sub-Commission could sit for a maximum period of six weeks if necessary, that is, if in its opinion such a step was necessary or desirable.

The financial implications of the joint draft resolution had been referred to by some delegations. The Philippine representative had rightly recalled that the Council had already adopted a resolution allowing the Sub-Commission to hold two annual sessions of three weeks each. The expenses for two three-week sessions should be roughly the same as for one six-week session, and there was no doubt that, before adopting its resolution, the Council had not failed to consider the financial implications of its decision. The arguments against the joint draft resolution on financial grounds were therefore apparently untenable.

Mrs. LORD (United States of America) appreciated the purpose of the Chilean and Uruguayan proposal and was grateful to the Philippine representative for his explanations to the Commission. The United States delegation attached great importance to the Sub-Commission's work and recognized that, in view of the task it must accomplish, four weeks would be needed for the next session. She was of the opinion, however, that the Economic and Social Council should as a rule determine the duration of the sessions of its subsidiary organs according to each one's programme of work. In the matter under discussion, various other considerations which the Council should and would take into account had been stressed. For instance, the need for the Council to consider the requirements of the other organs and to co-ordinate the various meetings as well as possible should not be lost sight of. Moreover, as the United Kingdom representative had pointed out, it would be inconvenient for some members of the Sub-Commission to take part in longer sessions. There was the further consideration that, at its next session, the Sub-Commission would have to devote some time to considering the preliminary work that had been undertaken. Her delegation was in favour of the Chinese amendment which, in her opinion, took all those factors into account.

Mr. NISOT (Belgium) observed that the joint draft resolution and the Chinese amendment both left the Sub-Commission some discretion as to the duration of its sessions, but the Chinese amendment, unlike the joint draft resolution, provided for no maximum. Thus for those who, like himself, thought that the Sub-Commission's sessions were already too lengthy in proportion to the results obtained, the Chinese proposal was even less acceptable than the joint draft resolution.

Mr. CARAYANNIS (Greece) stated, in reply to the Uruguayan representative's observations, that he agreed with the United Kingdom representative that the duration of the sessions of a Commission or a Sub-Commission should not be prolonged unless absolutely necessary. In the case of the Sub-Commission, he could see no valid reason for prolonging the next session up to six weeks.

With regard to the Chinese amendment, he understood it to mean that the Sub-Commission's seventh session ought to last for four weeks and, in the circumstances, he thought it better to delete the words "not less than" before the words "four weeks". If those words were retained, he would consider asking for a separate vote.

Mr. CASSIN (France) pointed out that his delegation had always been desirous of facilitating the Sub-Commission's work and therefore considered that the Chilean and Uruguayan representatives had been moved by the most praiseworthy motives. To the extent that the smooth working of the Sub-Commission required a decision, he felt that the financial implications should not be a determining factor. With regard to the matter under discussion, his delegation was thus anxious to see the Commission reach a decision as favourable as possible to the success of the Sub-Commission's work.

As to the Sub-Commission's next session, it would be better to ask the Council to provide for a duration of four weeks rather than six, since four weeks would suffice and, should it subsequently become necessary to ask for the Sub-Commission to be allowed to sit for six weeks, the Council might be unfavourably impressed by the fact that the Commission on Human Rights had previously recommended a longer session than had really been necessary.

The CHAIRMAN pointed out for the benefit of the members that the Council, when preparing the programme of conferences, was influenced chiefly by considerations of time and place and by the financial implications of the decisions it was called upon to reach and that the recommendations submitted to it were sometimes not given very much weight.

Mr. HOARE (United Kingdom) asked whether, to comply with the Belgian representative's legitimate wishes, the Chinese representative would not agree to modify his text so as to use a formula commonly applied in such cases. It would then read: "... its seventh session not exceeding four weeks".

Mr. PIRACHA (Pakistan) pointed out that the discussion seemed essentially to bear upon the maximum duration to be set for the Sub-Commission's sessions and that some confusion had arisen in that connexion. The situation would therefore be infinitely clearer if the Philippine representative's earlier suggestion were agreed to, and if the minimum and the maximum duration were specified as four and six weeks respectively.

Mr. CHENG PAONAN (China), in reply to the question by the United Kingdom representative, observed that if the words "not less than" were put to the vote separately, as requested by the Greek representative, the possible rejection of those words would satisfy the delegations desirous of fixing the maximum duration at four weeks.

Mr. MOROZOV (Union of Soviet Socialist Republics) agreed with the Chilean representative that the draft resolution did not provide that the Sub-Commission must necessarily sit for six weeks. In the terms of the draft, the Sub-Commission itself would determine how much time it would require to complete its work, subject to the condition that its sessions could in no case exceed six weeks. That being the case, he did not think the objections raised against the joint draft resolution were valid. He was in particular unable to accept the French representative's argument that the Council would no longer have confidence in the Commission on Human Rights if the latter asked for the Sub-Commission to be allowed to sit for a possible six weeks and the Sub-Commission subsequently happened to require only four weeks. Criticism of the joint draft resolution could not be based on considerations of that kind.

With regard to the financial implications, a prolongation of the Sub-Commission's sessions would not necessarily burden the United Nations budget, since it would be possible to effect savings on other items of the budget and thus make available the sums needed for the additional expenditure entailed by the prolongation. He would not discuss that question in detail, because the Secretary-General and the Fifth Committee were responsible for making the necessary arrangements.

The CHAIRMAN said that there were no more speakers on his list and that the general debate was therefore closed.

Mr. NISOT (Belgium) said that if the Chinese representative, as a result of the comments made by the United Kingdom and other representatives, considered revising his text, he hoped that any alterations made would be communicated to the Commission in writing.

The meeting rose at 1 p.m.