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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Third Session

SUMMARY RECORD OF THE FIFTY-SEVENTH MEETING

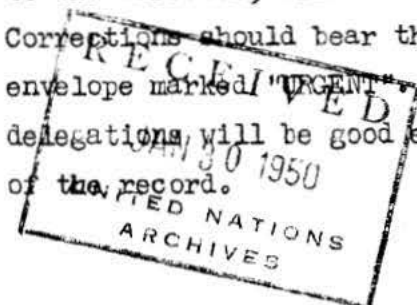
Held at Lake Success, New York,
on Monday, 23 January 1950, at 11 a.m.

CONTENTS: Further consideration of Part C of resolution 217 (III) of the General Assembly, on the fate of minorities (E/CN.4/Sub.2/112) (concluded);
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 (E/1371, E/CN.4/52, E/CN.4/Sub.2/53).
Examination of proposals for measures of implementation of the International Bill of Human Rights.

<u>Chairman:</u>	Mr. MASANI	(India)
<u>Rapporteur:</u>	Mr. MENESES PALLARES	(Ecuador)
<u>Members:</u>	Mr. BLACK	(United States of America)
	Mr. CHANG	(China)
	Mr. EKSTRAND	(Sweden)
	Miss MONROE	(United Kingdom of Great Britain and Northern Ireland)

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Members: (continued)

Mr. NISOT	(Belgium)
Mr. ROY	(Haiti)
Mr. SHATAQ	(Iran)
Mr. SPANLEN	(France)

Consultant from non-governmental organization:

<u>Category B:</u>	Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
<u>Secretariat:</u>	Mr. LAWSON	Secretary of the Sub-Commission
	Mr. LIN MOUSHENG	Division of Human Rights

FURTHER CONSIDERATION OF PART C OF RESOLUTION 217 (III) OF THE GENERAL ASSEMBLY, ON THE FATE OF MINORITIES (E/CN.4/Sub.2/112) (concluded)

1. The CHAIRMAN opened the discussion on the two draft resolutions submitted by the Drafting Committee for adoption by the Sub-Commission (E/CN.4/Sub.2/112). Resolution I proposed the inclusion in the International Covenant of Human Rights of an article listing all the rights to be guaranteed to minorities, while Resolution II related specifically to the right of using the minority language before the courts or of teaching the minority languages as one of the courses of study in State-supported schools.

Draft Resolution I

2. Miss MONROE (United Kingdom) suggested that the text of the proposed article should be amended to read: "Persons belonging to ethnic, religious or linguistic minorities..." in conformity with her original proposal on that subject. In her view, minorities as such had no juridical personality, while the persons belonging to them could be easily defined in law. In order to retain the idea of a group, however, she proposed the insertion of the words "in community with other members of the group" after the words "shall not be denied the right" and pointed out that a similar wording had been used in Article 16 of the Draft Covenant.

The proposed amendment was adopted by 9 votes to none, with 1 abstention.

/Draft resolution

Draft resolution I, with slight drafting changes, was adopted by 9 votes to none, with 1 abstention.

Draft Resolution II

3. Mr. BLACK (United States of America) did not see why the draft resolution on the right of using the minority language should be recommended for adoption by the Economic and Social Council for transmission to the General Assembly only in the event of the article contained in resolution I not being included in the Draft Covenant. In his opinion, one did not exclude the other, and he proposed, therefore, that the words "if the article contained in resolution No. I is not included in the Draft Covenant on Human Rights" should be deleted from the preamble to resolution II.

It was so agreed.

The preamble to resolution II, recommended for adoption by the Economic and Social Council for transmission to the General Assembly, was adopted as amended by 9 votes to 1.

The first paragraph of the draft resolution was adopted.

The second paragraph of the draft resolution was adopted, with slight drafting changes.

4. Mr. MENESES PALLARES (Ecuador) emphasized that it would be difficult to state categorically that all the rights desired by minorities had been granted in the minorities treaties and declarations which had come into force after the First World War and proposed, therefore, that the words "were extensively set forth" should be substituted for the words "were granted".

It was so agreed.

Paragraph 3, as amended, was adopted.

Paragraph 4 was adopted with slight drafting changes.

Paragraph 5 was adopted by 7 votes to 3, with no abstentions.

5. Mr. NISOT (Belgium) emphasized that in his opinion resolution II was superfluous and would serve no useful purpose, as it merely restated the provisions already contained in resolution V, adopted by the Sub-Commission at its second session (E/CN.4/351).

6. Mr. SPANIEN (France) thought that the Sub-Commission was fully entitled to draw the attention of the Economic and Social Council to any of its previous resolutions.

Paragraph 6 was adopted by 7 votes to 1, with 2 abstentions.

Resolution II, as amended, was adopted by 7 votes to 3, with no abstentions.

7. Mr. NISOT (Belgium) said that he would explain his vote in the report of the Sub-Commission.

8. The CHAIRMAN referred members of the Sub-Commission to the paragraph which the Drafting Committee had recommended should be included in the report of the Sub-Commission if resolution II were adopted (E/CN.4/Sub.2/112). The gist of the paragraph in question was that there would be no need for the Commission on Human Rights to consider separately draft resolution V adopted at the second session of the Sub-Commission, if resolution II were adopted. Indeed, although the aim of both resolutions was identical, resolution II dealt with the matter more adequately and should therefore supersede draft resolution V.

9. Mr. LAWSON (Secretariat) suggested that, in order to avoid procedural difficulties, the report of the Sub-Commission should include a draft resolution for the Commission on Human Rights covering the decisions it had taken both at its second and third sessions.

It was so agreed.

10. The CHAIRMAN said that the Sub-Commission had completed its work on item 8 of the agenda.

11. Mr. LAWSON (Secretariat) drew the attention of the Sub-Commission to item 34 on the agenda of the tenth session of the Economic and Social Council, "abolition of economic and social discriminatory measures against workers, based on race or colour". That item had been proposed by the World Federation of Trade Unions and had been the subject of a memorandum by the WFTU, which had been circulated to members of the

Sub-Commission for their information. The memorandum referred in several paragraphs to the work of the Sub-Commission and the report on the main types of discrimination prepared by the Secretary-General.

12. The CHAIRMAN suggested that if, after reading the memorandum, any member felt that it should be commented upon or discussed, such a proposal might be brought forward under item 12 of the Sub-Commission's agenda.

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 (E/1371, E/CN.4/52, E/CN.4/Sub.2/53)

13. The CHAIRMAN pointed out that certain articles in the Draft International Covenant on Human Rights, relating to the prevention of discrimination and the protection of minorities, had been enumerated in document E/CN.4/Sub.2/53. He proposed, however, to read each of the substantive articles of the draft Covenant, appearing in Part II (E/1371), to ascertain whether any other articles dealt with that subject.

14. In connexion with article 21, he noted that the Commission on Human Rights had decided, by 5 votes to 3, with 4 abstentions, to postpone consideration of the two proposed texts of article 21 until it had considered article 17. Since the Sub-Commission had already considered one of the proposed texts, the Commission's attention might be drawn to the Sub-Commission's earlier decision.

15. Mr. LAWSON (Secretariat) read the decision taken by the Sub-Commission at its first session with respect to an article which read:

"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." (E/CN.4/52).

16. That text had not been adopted, there having been 5 votes for and 5 against, with 1 abstention.

17. By 10 votes to none, with 1 abstention, the Sub-Commission had adopted the following recommendation:

"The Sub-Commission recommends to the Commission on Human Rights the inclusion in the Declaration of Rights or in the proposed Convention, in the appropriate places, of clauses condemning incitement to violence against religious groups, nations, races, or minorities." (E/CN.4/52).

18. The CHAIRMAN suggested that, since the article did not strictly apply to the current discussion, it might be passed over.

19. Mr. MENESES PALLARES (Ecuador) felt that it might appear strange if the Sub-Commission made no pronouncement on an article pertaining to matters well within the scope of its work. In fact, that article was perhaps the very core of the problem of discrimination. The text for article 21 proposed by the representative of France might well be adopted:

"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." (E/1371, Annex I, Article 21).

20. The CHAIRMAN pointed out that the French text repeated the idea contained in the resolution already adopted by the Sub-Commission (E/CN.4/52).

21. Mr. SPANIEN (France) agreed with the Chairman, but felt nevertheless that the Sub-Commission could adopt the French text.

22. Mr. SHAFAG (Iran) thought there was some merit in the Soviet proposal, in that it stressed fascist-nazi propaganda, or in other words anti-democratic propaganda.

23. Mr. SPANIEN (France) observed that the Soviet Union proposal excluded propaganda. The idea was to condemn propaganda, and that was fully expressed in the French text. He felt that the Sub-Commission would have to decide between returning to the text of 1947 or adopting the French proposal. There seemed to be no other choice.

24. Miss MONROE (United Kingdom) pointed out that since the Soviet text had been opposed by so many members of the parent body, it might be unnecessary for the Sub-Commission to reiterate its opposition to it. The Sub-Commission could, however, draw attention to the fact that the Soviet Union text was particularly objectionable in relation to minorities, while the French text appeared preferable in that respect.

25. The CHAIRMAN thought that, if the Sub-Commission decided to comment on some of the other articles of the Draft Covenant, it might refer briefly to article 21. A paragraph might be included in the report stating that the Sub-Commission considered articles 13(d), 16, 20 and 21 to be relevant to its work, and that it noted that article 21 was still under consideration by the Commission on Human Rights, but felt it appropriate to draw the Commission's attention to the fact that the Sub-Commission could not accept the text proposed by the USSR, but would support the French version.

There was no objection to the Chairman's suggestion.

26. Mr. SPANLEN (France) wished to know whether the Chairman thought that article 2 fell within the present scope of activities of the Sub-Commission. He wondered whether it should be included in the list immediately, or when the question of implementation was discussed.

27. The CHAIRMAN felt that it might be left until the question of implementation was under discussion.

28. Mr. LAWSON (Secretariat) thought that the Sub-Commission might consider the question of the position of article 20 with respect to the other substantive articles of the Draft Covenant.

29. The CHAIRMAN suggested that the article could be moved forward to a more important position in the Draft Covenant. He also thought that the wording could be amended to read: "... shall have equal right to protection...". Furthermore, a special comment on the article might be included in the report to the Human Rights Commission to the effect that the Sub-Commission endorsed it and considered it to be directly concerned with the question of rights.

/30. Mr. SPANLEN

30. Mr. SPANLEN (France) observed that the question of discrimination was a vital one and it was necessary to place the paragraph in an important position. Paragraph 2 of article 20 should therefore become a separate paragraph, which could be placed either at the beginning or the end of the substantive articles of the Covenant.

31. Mr. SHAFAG (Iran) thought that paragraph 2 was merely an elaboration of paragraph 1.

32. The CHAIRMAN agreed with Mr. Spanlen concerning the importance of the question of discrimination and agreed that the paragraph should become a separate article.

33. In reply to a question by Miss MONROE (United Kingdom), Mr. LAWSON (Secretariat) explained that different procedures had been adopted in drafting the Declaration and the Covenant. The article on discrimination in the Declaration had originally been article 45, but had been progressively moved up until it had become article 2. The Sub-Commission had so far considered the Draft Covenant largely from the point of view of substance.

34. The CHAIRMAN put Mr. Spanlen's proposal to the vote.
The proposal was adopted by 7 votes to 1, with 1 abstention.

35. The CHAIRMAN observed that Mr. Formashev had submitted a proposal for the inclusion of various articles in the Draft Covenant (E/CN.4/Sub.2/104). Mr. Formashev had subsequently withdrawn from the Sub-Commission and as no other member had raised the issue, it was understood that the proposal no longer stood.

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

36. Mr. LAWSON (Secretariat) said that a questionnaire had been distributed to Member States concerning the question of implementation, and that some replies had already been received. Copies of those replies were being circulated to members of the Sub-Commission.

37. Mr. SHAFAG (Iran) proposed the adjournment of the meeting.

The meeting rose at 12.50 p.m.