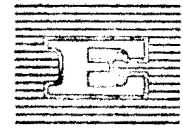


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COMMISSION ON HUMAN RIGHTS  
SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES  
Sixth Session

SUMMARY RECORD OF THE HUNDRED AND THIRTY-SIXTH MEETING

Held at Headquarters, New York,  
on Monday, 25 January 1954, at 10.55 a.m.

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PRESENT:

<u>Chairman:</u>	Mr. SORENSEN	(Denmark)
<u>Rapporteur:</u>	Mr. INGIES	(Philippines)
<u>Members:</u>	Mr. AMMOUN	(Lebanon)
	Mr. AWAD	(Egypt)
	Mr. EMELIANOV	(Union of Soviet Socialist Republics)
	Mr. HISCOCKS	(United Kingdom of Great Britain and Northern Ireland)
	Mr. KULAGA	(Poland)
	Mr. ROY	(Haiti)
	Mr. SANTA CRUZ	(Chile)

Representatives of a specialized agency:

Mr. KLINEBERG )	United Nations Educational, Scientific and Cultural Organization
Mr. ARNALDO )	

Representatives of non-governmental organizations:

<u>Category A:</u>	Miss SENDER	International Confederation of Free Trade Unions
<u>Category B:</u>	Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
	Mrs. WOODSMALL	International Alliance of Women
	Mr. JACOBY	World Jewish Congress
	Mr. PENCE	World's Alliance of Young Men's Christian Associations
	Mrs. POLSTEIN	World Union for Progressive Judaism
<u>Secretariat:</u>	Mr. HUMPHREY	Director, Division of Human Rights
	Mr. SCHWELB	Deputy Director, Division of Human Rights
	Mr. LAWSON	Secretary of the Sub-Commission

RECOMMENDATIONS TO GOVERNMENTS CONCERNING THE APPLICATION OF SPECIAL MEASURES FOR THE PROTECTION OF MINORITIES: STUDY OF THE WHOLE QUESTION, INCLUDING DEFINITION OF THE TERM "MINORITY" FOR THE PURPOSE OF SUCH RECOMMENDATIONS (E/CN.4/Sub.2/154, E/CN.4/Sub.2/L.69/Rev.1, L.70/Rev.1, L.71) (continued)

Mr. SANTA CRUZ said that Mr. Hiscocks had incorporated in his revised draft resolution (E/CN.4/Sub.2/L.70/Rev.1) the last two consideranda of part I of his own draft resolution (E/CN.4/Sub.2/L.71). The speaker had decided to withdraw the third and fourth consideranda of part II, because they had become redundant. Part II contained two main ideas. Firstly, the Sub-Commission had decided to delete from its work programme further work with respect to the revision of the draft resolution on "Interim Measures to be taken for the Protection of Minorities" and of the draft resolution E of its fifth session, relating to "Effective Measures for the Protection of Minorities". Secondly, the Sub-Commission wished to profit by the special studies which would be conducted on discrimination, by including a simultaneous study of any measures of protection which might prove necessary. The latter idea should be maintained, since the special studies were not incompatible with the general study proposed in Mr. Hiscocks' draft; moreover, although it was theoretically essential to distinguish between the prevention of discrimination and the protection of minorities, the differences were not so sharp in practice. It would therefore be regrettable if the Sub-Commission were not to take that dualism of criteria into account in the special studies which it would undertake, especially in the study of discrimination in education. In the course of his study of discriminatory measures, Mr. Amoun could easily draw conclusions on the manner in which minorities could be protected in that particular field. Moreover, that method could be extended to all the Sub-Commission's studies, even to preparatory studies, as in the case of the interim report on discrimination in employment and occupation, which was to be prepared by the ILO; the Sub-Commission might do the same in connexion with studies of discrimination in other specific fields. For all those reasons, he maintained part II of his draft resolution, with the exception of the two deleted consideranda.

Mr. HISCOCKS agreed with Mr. Santa Cruz that the first two operative paragraphs of part II of draft resolution E/CN.4/Sub.2/L.71 should be retained. The remaining paragraphs, however, might merely complicate the work of the Rapporteur on Discrimination in Education, by asking him to deal also with special measures for the protection of minorities, since the two subjects were quite different. It would be inadvisable to add to the work of the Rapporteur, who, although he seemed to think that he could produce his report in a year, would increasingly realize the immensity of his task as time went on.

Mr. Hiscocks had, however, been convinced by Mr. Santa Cruz' arguments and he was now in favour of retaining the last three operative paragraphs of part II. Nevertheless, in order to stress the fact that the Rapporteur would not have to make an exhaustive study of minorities throughout the world or to study the problem of special measures of protection where there was no discrimination, he proposed to Mr. Santa Cruz that the phrase "to report on any facts that may come to his attention relevant to the question of the general trend and development of legislation" should be inserted after the words "adopted at the present session" in the fourth operative paragraph.

Mr. SANTA CRUZ said that he also considered the work of the Rapporteur in that light and asked Mr. Ammoun to give his views on the matter.

Mr. AMMOUN also felt that the Special Rapporteur should not be overburdened, but that the Sub-Commission could certainly give him some guiding instructions to enable him to study, within the scope of his work on discrimination in education, the methods applied to minorities in that connexion. The members of the Sub-Commission would thus be able to pool the results they obtained in their respective fields.

Mr. SANTA CRUZ said he was satisfied with Mr. Ammoun's reply and thus could accept the amendment proposed by Mr. Hiscocks.

Mr. INGLES was of the opinion that to grant special measures of protection might in some cases mean giving certain elements of the population privileges not enjoyed by the remainder, which in principle would be a form of discrimination. In education, on the other hand, to enable minorities to receive instruction in their own language was not in reality giving them special protection, but merely putting them on an equal footing with the majority of the population; in other words, it was one form of putting into practice the principle of non-discrimination. Hence, while he considered that the guiding instructions in the draft resolution of Mr. Santa Cruz as to special measures of protection were justified in the case of the study of education, he did not see how it could be applied to the studies which the Sub-Commission contemplated undertaking in other fields.

Mr. EMELYANOV considered that it would make the Sub-Commission's work easier to maintain the distinction adopted at previous sessions between the two aspects of the work in hand: respectively the finding of a definition for "minority", and the drafting of international measures of protection. Similarly, the draft resolutions before the Sub-Commission could be examined more speedily if they were subdivided according to subject, thus enabling the Sub-Commission to reach a decision more quickly.

The debate had shown how difficult it was to find a definition of "minority" which was at once complete and capable of universal application. The existing definition was inadequate, and did not protect minorities against every violation of their rights. However, the Sub-Commission could not postpone the solution of the problem indefinitely, and would certainly have to undertake the detailed and thorough study without which no satisfactory definition could be arrived at.

In any event, the absence of a definition by no means disposed of the need to ensure the protection of minorities. The Sub-Commission should therefore endeavour to fulfil that duty without delay. It was agreed that, for the moment, a universal standard could not be established; hence the best course would be to consider specific cases and make the appropriate recommendations on each.

It would be difficult to take exception to the substance of Mr. Halpern's proposed declaration of rights of ethnic, religious and linguistic groups; the only fault of which it might be accused was that of too limited a scope, for it covered only cultural rights and failed to take account of the social, economic and political rights which minority groups should also enjoy. More serious considerations, however, arose in connexion with Mr. Halpern's proposal. There was first the question whether such declarations led to practical results, which was doubtful. Secondly, there was nothing in the declaration which had not already appeared in the Universal Declaration of Human Rights or in article 25 of the draft covenant on civil and political rights; if the Sub-Commission adopted it, only a purely formal decision would be involved. Lastly, the wording of such a declaration must be given mature consideration if it was not to give the impression of having been adopted purely as a gesture. For all those reasons he would be unable to vote for Mr. Halpern's draft resolution.

Finally, he opposed Mr. Ingles' remark that to grant special measures of protection to a minority was tantamount to discrimination against the majority and termed it a sophistry.

Mr. AWAD congratulated Mr. Hiscocks on the happy formula he had found: the essential virtue of his proposal was that it did not contemplate any hasty action which would run the risk of arousing violent feelings. Admittedly, urgent cases would arise which demanded immediate action, but the Sub-Commission should not on that account fail to consider the possible harmful effects of a premature decision on the question of minorities as a whole. It should not be forgotten that resentment could easily be artificially aroused or fanned in such matters. Furthermore, not all traditions were equally deserving of respect, and there were practices to be found in the world, especially among primitive populations, which did not meet modern civilized standards. The freedoms given to minority groups, therefore, must in no case conflict with the needs of peace and security.

To adopt Mr. Halpern's proposed declaration would be unwise, for it would only inflame the feelings of minority groups before the Sub-Commission had had time to study the problem thoroughly and propose a system of measures of protection. On the other hand, he approved of Mr. Hiscocks' proposal that an

expert should be appointed to study a number of selected cases; but the expert must be made to appreciate the importance of the spontaneous evolution which minorities underwent, which tended to weld them into the population of their country of residence.

Mr. Santa Cruz's suggestion that the Sub-Commission's Special Rapporteurs should be asked to conduct an enquiry into the situation of minorities under the headings of their respective studies in no way conflicted with the over-all study contemplated by Mr. Hiscocks; hence it would be a simple matter to combine the two draft resolutions, and this in its turn would make it easier to adopt them.

He felt, however, that it would be better not to overburden the definition of "minority" with a reference to the problem of minority groups numerically superior to the dominant group in the population. Besides being extremely rare, such cases were the province of other United Nations organs such as the Trusteeship Council, for the principle under which such groups could claim international protection was that of the right of peoples to self-determination.

Mr. INGLES likewise viewed with disfavour the idea of proclaiming a separate declaration of rights of ethnic, religious and linguistic groups. The General Assembly had pointed out in its resolution 217 C (III) that the question of minorities was not sufficiently universal in character to be covered by a specific provision of the Universal Declaration of Human Rights; still less could it be covered by a separate declaration. Furthermore, there were no new ideas in the text except perhaps a specific reference to the cultural rights of minority groups, of which a consequential amendment to article 25 of the draft covenant on civil and political rights would be sufficient acknowledgement.

Part B of Mr. Halpern's draft was also in the nature of a declaration, since the only positive decision it contained was so vague that the manner of its eventual application was far from clear. Mr. Halpern had said that he had deliberately refrained from specifying which organ he would make responsible for studying the claims advanced by minority groups and making appropriate recommendations although he had pressed the view that it should be the General Assembly. That being the case, he failed to see why the Sub-Commission should not

approach the matter more directly by asking the superior organs for authority to deal with specific claims. Certainly the Sub-Commission was competent under its existing terms of reference not only to recommend the procedure to be followed with respect to specific complaints, but also to make recommendations of a general nature aimed at the protection of minorities.

He therefore preferred the draft resolution which seemed to be taking shape as a result of the joint efforts of Mr. Hiscocks and Mr. Santa Cruz. Mr. Hiscocks deserved praise for the manner in which he had solved the problem of the definition of minorities. The Economic and Social Council had never opposed the framing of such a definition; it had on several occasions invited the Sub-Commission to continue its examination of the question. Past difficulties had been due to the fact that the Sub-Commission had hitherto endeavoured to draw up a definition which might serve as a basis for measures of protection. The definition proposed by Mr. Hiscocks would be applicable only to a survey which would enable the necessary measures of protection to be sifted out: in Mr. Ingles' opinion that was a very accurate interpretation of the Council's resolutions.

He shared Mr. Ammoun's misgivings about the wording of sub-paragraph (ii) (a) of the draft resolution proposed by Mr. Hiscocks, which would introduce a new notion, that of numerical ratios, whereas in the definition proposed for the purposes of the study, the term "minority" referred to any group requiring special protection, whether numerically inferior or superior to the remainder of the population. It might therefore be advisable to insert between sub-paragraphs (i) and (ii) an additional provision stipulating that the need of special measures for the protection of minorities arose from the fact that they constituted a non-dominant or underprivileged group, irrespective of numerical superiority or inferiority to the rest of the population.

Such a provision would assuredly involve the question of Non-Self-Governing Territories. Unlike Mr. Awad, however, he considered that the Sub-Commission was competent in the matter: moreover it had expressly decided not to exclude the Non-Self-Governing and Trust Territories from its study on discrimination in the field of education. The same consideration held good in the case in point. Neither should it be forgotten that colonial countries were not the only ones in which it might be



found that the large portion of the population was becoming the underprivileged group because it was dominated by a small portion of the population. It was enough to quote the instances of the Union of South Africa or of Southern Rhodesia, which were self-governing.

He was not in favour of the appointment of an independent expert. In other cases, after lengthy discussion, the Sub-Commission had preferred to entrust the studies it intended to carry out to a special rapporteur appointed from among its members. The question was, however, of minor importance and he would defer to the opinion of the majority on that point.

Mr. SANTA CRUZ agreed that his draft resolution II (E/CN.4/Sub.2/L.71) should be divided into two parts to be voted on separately. The first would include the first, second, fifth, sixth and seventh paragraphs of the preamble, and the first three paragraphs of the operative part. The Sub-Commission might rapidly reach a decision on that point, since no objection had been raised to the proposed text by any member. He pointed out that paragraph 2 of the operative part merely removed from the Sub-Commission's programme of work any further attempt at "revision" of the earlier draft resolutions. The adoption of that paragraph would not prevent the Sub-Commission from recommending other measures of protection later, based on the study to be undertaken in accordance with draft resolution E/CN.4/Sub.2/L.70/Rev.1, which was therefore in no way incompatible with his own.

As to the definition of the term "minority", the Sub-Commission would have to examine it on the basis of the proposal put forward by Mr. Hiscocks.

He would then submit, as a separate proposal, the last three paragraphs of the operative part of draft resolution II, which referred to special studies of discrimination considered in relation to the problem of the protection of minorities. The three paragraphs would be preceded by a short preamble.

Mr. HISCOCKS made a few observations on the revised text of his draft resolution E/CN.4/Sub.2/L.70/Rev.1. He had inserted two further considerations which formed the third and fourth paragraphs of the preamble and followed the text of Mr. Santa Cruz's proposal. Likewise, in the second paragraph of the operative

part, the clause "and with no intention of determining which groups should receive special protection" had been introduced in the light of a remark made by Mr. Santa Cruz.

He pointed out to Mr. Ingles that, in the following paragraph, sub-paragraph (ii) (a) had been included to make quite clear the meaning of the term "non-dominant", used in the preceding paragraph. The Sub-Commission should not be concerned with the fate of majorities which might claim to be oppressed by a dominating minority, because such a situation did not belong to the field of the protection of minorities, but to that of respect for human rights. The members of the majority in such a case were only claiming equality of treatment with the dominant group, in accordance with the provisions of the Universal Declaration of Human Rights. On the other hand, the Sub-Commission could not ignore the position of certain minority groups residing in Non-Self-Governing or Trust Territories and in need of special measures of protection.

The fourth paragraph of the operative part more accurately defined the nature of the contemplated study.

With regard to the next paragraph, he had come to realize, after various conversations, that the Secretary-General would not be in a position to undertake such a study. Hence it would be necessary to convince the Economic and Social Council of the need for entrusting the task to an expert, preferably a specialist in social sciences, who would set to work with the essential impartiality and determination. He had thought it advisable to define the relationship between the Sub-Commission and the expert, and to state that the Sub-Commission's Chairman would be consulted about the expert's appointment.

Finally, the last paragraph of the operative part requested the Secretary-General to assemble all available material within the limits of the Secretariat's normal work. Sub-paragraphs (iii) and (iv) had been mentioned to intimate clearly that the fact that the United Nations was undertaking a study of the problem of minorities must in no case encourage hitherto contented groups to submit unjustified claims.

He remarked that Mr. Santa Cruz's views and his own tallied well enough for the two draft resolutions to be finally merged. He hoped that, as Mr. Awad had proposed, Mr. Santa Cruz would agree to delete paragraph 6 of his draft resolution.

Mr. SANTA CRUZ agreed to the suggestion.

He shared Mr. Hiscocks' opinion that, after having decided separately upon the various aspects of the problem of minorities, the Sub-Commission might be able to submit the texts it had adopted to the Commission on Human Rights as a single draft resolution.

Mr. AMMOUN hoped that the final text would take into account the suggestions put forward by Mr. Ingles. There were two weak points in Mr. Hiscocks' revised proposal. In the first place, he had not paid sufficient attention to minorities which were impeded in their evolution towards a better social position and a higher standard of living. Moreover, the observations made by Mr. Ingles had clearly shown that there were, outside Non-Self-Governing Territories, several countries where the numerically superior section of the population was not the dominant one. The Sub-Commission was the only United Nations organ which could deal with that class of non-dominant groups, and would be failing in its mission if it refused to study such cases.

The CHAIRMAN summed up the position: the Sub-Commission would examine in turn the first part of Mr. Santa Cruz's draft resolution II, the entire draft resolution proposed by Mr. Hiscocks, Mr. Santa Cruz's proposal concerning special studies and, finally, should occasion arise, Mr. Halpern's proposal (E/CN.4/Sub.2/L.69/Rev.1).

The meeting rose at 1 p.m.

15/2 a.m.