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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

SUMMARY RECORD OF THE SEVENTY-SEVENTH MEETING

Held at Headquarters, New York,
on Wednesday, 10 October 1951, at 10.30 a.m.

CONTENTS:

Decision of the Economic and Social Council to discontinue the Sub-Commission, and future work of the United Nations for the prevention of discrimination and the protection of minorities: proposal of Mr. Shafagh (E/CN.4/Sub.2/136)(continued)

<u>Chairman:</u>	Mr. MASANI	(India)
<u>Rapporteur:</u>	Mr. MENESES-PALLARES	(Ecuador)
<u>Members:</u>	Mr. BORATYNSKI	(Poland)
	Mr. CHANG	(China)
	Mr. DANIELS	(United States of America)
	Mr. EKSTRAND	(Sweden)
	Miss MONROE	(United Kingdom of Great Britain and Northern Ireland)
	Mr. NISOT	(Belgium)
	Mr. ROY	(Haiti)
	Mr. SHAFAGH	(Iran)
	Mr. SPANLEN	(France)
	Mr. ZONOV	(Union of Soviet Socialist Republics)

Mr. ZONOV (Union of Soviet Socialist Republics), on the contrary, favoured paragraph (c) especially in view of the uncertain fate of the covenant and because of the United Nations' continuing responsibility to deal with the specific matter of protection of minorities apart from the broader obligation to afford safeguards of all human rights to all persons. Just as the Convention on Genocide did not conflict or interfere with the draft covenant, there was no reason to believe that the proposed convention would do so.

Mr. SHAFAGH (Iran), while he conceded that such a convention might add nothing to the safeguards already in the draft covenant, pointed out that it might strengthen that instrument in future when new problems of discrimination arose. It might be useful to retain paragraph (c) if only to impress upon the Council, the need to bear constantly in mind the necessity to prevent discrimination in all circumstances.

Paragraph (c) was rejected by 7 votes to 3, with one abstention.

Mr. ZONOV (Union of Soviet Socialist Republics) attached considerable importance to paragraph (d) and felt that the Sub-Commission must support it if it was to fulfil the responsibility entrusted to it that it would deal with the problem of the protection of minorities. In his opinion, to vote against that item was to vote against the Sub-Commission.

Miss MONROE (United Kingdom) would vote against paragraph (d) precisely for the reasons which had led her to oppose the adoption of the draft convention previously submitted (E/CN.4/Sub.2/127). As had been pointed out in the final observations of the Study of the Legal Validity of Undertakings concerning Minorities (E/CN.4/357), the problem of minorities could not be very well viewed as it was in 1919. The emergency of a system of international protection of the human rights of all persons in the form of the draft covenant made it imperative to alter the approach to the problem of special provisions in favour of minorities as such. Miss Monroe was convinced that such provisions, embodied in a special convention, would in fact weaken the covenant, which safeguarded the rights of minorities to the same extent that it protected the rights of all human beings. Furthermore, in view of the greatly diversified nature of minority groups, they could be better protected by local bilateral agreements, each adapted to the specific group in the specific country. Finally, if a further affirmation of general principles and measures designed to protect minorities were desired, the Sub-Commission would find them in the paper submitted jointly by Mr. Daniels and herself (E/CN.4/Sub.2/L.4).

/Mr. MENESES-PALLARES

Mr. MENESES-PALLARES (Ecuador) thought it was misleading to maintain that minority rights were adequately protected by the draft covenant and that the latter instrument was a panacea for all evils arising from discrimination against minorities. He warned the Sub-Commission against the considerable delay that was bound to occur before the draft covenant came in effect and was ratified, and called attention to the urgency of ensuring minority protection. Minorities represented special entities and it was the business of the Sub-Commission to provide for their welfare.

Mr. SHAFAGH (Iran) also stressed the Sub-Commission's duty to give special emphasis to the minorities problem at least to the extent of asking the Council to envisage the possibility of preparing a convention on it.

Mr. NISOT (Belgium), on the contrary, thought that such a convention would be neither timely nor feasible and that the Sub-Commission had adequately fulfilled its trust by asking its parent commission to include in the draft covenant "measures practicable in the field of discrimination and minorities...".

Mr. SPANIEN (France) made the point that there was no room for a special general convention on minorities between a covenant, properly amended to ensure their full protection, and local bilateral agreements adapted to specific minority groups, as suggested by Miss Monroe. Moreover, it was hardly possible at that stage to gauge how adequate a future special convention on minorities might prove.

Mr. ROY (Haiti) feared that the covenant, even properly amended, might not afford adequate protection to minorities and he therefore advocated a special convention to give general protection to those groups, which should be supplemented by local agreements applicable to specific minorities.

Miss MONROE (United Kingdom) replied that unless the special convention were as broad as the covenant itself, it might actually be harmful to minorities as it might imply that they should enjoy only those rights enumerated in the special instrument and not the whole gamut of rights guaranteed in the covenant.

/On the other

On the other hand, the general principles and measures contained in her proposal (E/CN.4/Sub.2/L.4) represented a more effective method than a special convention to ensure protection of minorities, and anyway, the two methods were incompatible.

Mr. ZONOV (Union of Soviet Socialist Republics) said that by accepting paragraph (d), the Sub-Commission would be requesting a departure from statements of general principle like those in the Charter and the Declaration of Human Rights and a specific solution of the problem of protection of minority rights. The Conventions on Genocide and on the Suppression of Traffic in Women and Children among others, were precedents for such a departure. Moreover, it was normal for the Sub-Commission to ask the Council to take up the matter on the basis of its deliberations as the Sub-Commission was going out of existence.

The CHAIRMAN would vote for paragraph (d) because he felt that even if a properly amended covenant offered adequate protection of minorities, a separate formulation of general principles on the subject might be necessary either as a supplementary convention or as a basis for local bilateral agreements. Thus Mr. Shafagh's proposal did not preclude the adoption of Miss Monroe's general measures. Paragraph (d) did not commit the United Nations to definite action on such a convention; the Council was merely being asked to consider the possibility of preparing it. As an expert body entrusted with the specific task of ensuring protection of minorities, the Sub-Commission could hardly object to that preliminary study.

In reply to one of Miss Monroe's objections to a special convention, he explained that such a document would in no case have the effect of limiting or removing the rights given to all persons under the covenant, including minorities. He then called for a vote on paragraph (d).

Paragraph (d) was accepted by 8 votes to 3, with one abstention.

Section III. With regard to action to be taken by Member States of the United Nations

Mr. NISOT (Belgium) felt compelled to vote against the acceptance of paragraph (a), which seemed to him to involve a violation of the domestic jurisdiction of States, as safeguarded by the United Nations Charter.

/Mr. SHAFAGH

Mr. SHAFAGH (Iran) and Miss MONROE (United Kingdom) explained that the paragraph in question could not involve any intervention in the domestic affairs of States, as it merely proposed a recommendation by the Council to the Member Governments to take certain action.

Paragraph (a) was accepted by 11 votes to 1.

As regards paragraph (b), Mr. NISOT (Belgium) said he would oppose acceptance of the text for the same reasons he had put forward with respect to paragraph (a).

Miss MONROE (United Kingdom) objected to the wording of paragraph (b) because, in her opinion, the initiative in establishing the national or local committees mentioned should come from private citizens rather than from governments.

Mr. ZONOV (Union of Soviet Socialist Republics) favoured acceptance of the paragraph.

Mr. MENESES-PALLARES (Ecuador) could see no logical objection to the paragraph. In his view, any government should not only accept but welcome the establishment of such national or local committees; it should either establish them itself, or at least co-operate in their creation. He felt that the Sub-Commission should show confidence in the good-will of the Member Governments and their desire to implement fully the covenant on human rights, once that covenant was adopted.

Mr. CHANG (China), supported by Mr. ROY (Haiti), suggested that the text should be altered to read: "...recommend to Governments, Members of the United Nations, that they encourage the establishment of national and local committees..." and that the words "...establish or..." should be deleted.

Paragraph (b), as amended, was accepted by 8 votes to 2, with 2 abstentions.

Mr. NISOT (Belgium) reserved his right to have his dissenting opinion recorded in the Sub-Commission's report.

/Section IV

Section IV. With regard to action to be taken by the Secretary-General

The CHAIRMAN put to the vote the question whether section IV, or any part of it, should be retained in any form.

It was decided, by 5 votes to 4, with 2 abstentions, to retain section IV in one form or another.

Mr. ZONOV (Union of Soviet Socialist Republics) suggested that the Sub-Commission might accept paragraph (a) and eliminate the remaining paragraphs of section IV, since paragraph (a) appeared to him to cover all the particular activities listed in the succeeding paragraphs. Moreover, he pointed out that while paragraph (a) would simply serve to recall and stress the Secretary-General's recognized obligations in the field of prevention of discrimination, the succeeding paragraphs listed certain functions which might well be regarded as outside the scope of his authority as laid down by the Charter. He felt that the Sub-Commission should take great care that its recommendations should not be open to misinterpretation from that point of view.

In reply to the Chairman, Mr. SCHWELB (Secretariat) said that he had no instructions from the Secretary-General and, consequently, could not commit the latter as regards his attitude toward the question at issue. It was not clear to him, however, what the Secretary-General's exact duties would be, should paragraph (a) be accepted by the Sub-Commission and confirmed, in due course, by the Economic and Social Council. He emphasized the fact that if requested to do so by a principal organ of the United Nations, the Secretary-General could review the activities of United Nations bodies and report on such review, but he could hardly ensure the implementation of the principle of non-discrimination.

Mr. SHAFAGH (Iran) explained that as regards the word "ensure", his wording implied merely determining and recommending all possible ways of implementation of the principle of non-discrimination. In his opinion, such

an activity

an activity was a part of the Secretary-General's normal function of co-ordinating the activities of all United Nations bodies; the Sub-Commission would simply be requesting that special attention should be paid in the future to the question of discrimination. Moreover, while he did not actually oppose Mr. Zonov's suggestion, he did not feel that paragraph (a) covered all the activities set forth in the succeeding paragraphs of section IV; on the contrary, he had included those paragraphs because they concerned a series of separate questions which he felt deserved specific mention.

Mr. ROY (Haiti) shared the opinion expressed by Mr. Zonov. The functions of the Secretary-General were clearly defined in Article 98 of the Charter; the Sub-Commission could not recommend that he should be entrusted with tasks which lay outside those functions. On the other hand, the Secretary-General, in his annual report, had never paid particular attention to the question of the principle of non-discrimination; therefore the Sub-Commission would be within its rights in recommending that emphasis should be placed in the future on the implementation of that principle. Accordingly, he proposed that the text of paragraph (a) should be altered to read: "...that the Secretary-General periodically review all activities of the United Nations and its subsidiary bodies, and report to the General Assembly on the implementation of the principle of non-discrimination".

Mr. EKSTRAND (Sweden) supported Mr. Roy's proposal.

Mr. NISOT (Belgium) considered it doubtful that the Secretary-General could be given functions which would make it necessary for him to analyse and judge, even from one particular point of view, decisions taken by the major organs of the United Nations.

In reply to a comment by Mr. Spanien, who shared the view that the task required of the Secretary-General in paragraph (a) exceeded the functions attributed to him by the Charter, the CHAIRMAN proposed that the text should

/be revised

be revised to read: "...that the Secretary-General periodically review all activities of the United Nations and its subsidiary bodies and take all measures within his power in order to promote full realization and implementation...".

Mr. SCHWELB (Secretariat) felt that the question was a delicate one which needed further clarification. He assumed that the purpose of paragraph (a) as drafted apparently was to request a separate report from the Secretary-General, apart from his annual report provided for by the Charter. He pointed out, however, that any such additional functions assigned to the Secretary-General must originate either with the General Assembly or with one of the Councils, according to the terms of Article 98 of the Charter. He doubted whether it would be within the powers of the Secretary-General either to "ensure" or to "promote" full implementation of the principle of non-discrimination. Accordingly, he requested the Sub-Commission to postpone its decision on the matter until the next meeting; in the meantime he would consult the appropriate Secretariat authorities.

The CHAIRMAN noted the Sub-Commission's agreement to Mr. Schwelb's request, and announced that the amendments put forward by himself and Mr. Roy would be distributed in written form at the next meeting.

The meeting rose at 1 p.m.

20/11 p.m.