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COMMISSION ON HUMAN RIGHTS

Ninth Session

SUMMARY RECORD OF THE THREE HUNDRED AND SEVENTIETH MEETING

held at the Palais des Nations, Geneva,
on Monday, 4 May 1953, at 10.30 a.m.

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Present:

<u>Chairman:</u>	Mr. AZMI (Egypt)
<u>Rapporteur:</u>	Mr. KAECKENBEECK (Belgium)

Members:

Mr. WHITLAM	Australia
Mr. DIAZ-CASANUEVA	Chile
Mr. CHENG PAONAN	China
Mr. CASSIN	France
Mrs. CHATTOPADHYAY	India
Sir Abdur RAHMAN	Pakistan
Mr. INGLÉS	Philippines
Mr. DRUTO	Poland
Mrs. RÖSSEL	Sweden
Mr. KRIVEN	Ukrainian Soviet Socialist Republic
Mr. MOROSOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. LORD	United States of America
Mr. FORTEZA	Uruguay
Mr. JEVREMOVIĆ	Yugoslavia

Representatives of specialized agencies:

International Labour Organisation	Mr. VALTICOS
United Nations Educational, Scientific and Cultural Organization	Mr. BAMMATE

Representatives of non-governmental organizations:

Category A

World Federation of United Nations Associations	Mr. ENNALS
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Representatives of non-governmental organizations (continued):

Category B and Register

Catholic International Union for Social Service	Mr. OSWALD
Commission of the Churches on International Affairs	Mr. NOLDE
Consultative Council of Jewish Organizations	Mr. MOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
Friends' World Committee for Consultation	Mr. BELL
International Conference of Catholic Charities	Abbé BOUVIER
International Council of Women	Miss van EEGHEN
International Federation of Business and Professional Women	Mrs. SCHRADER-RIVOLLET
International Federation of Friends of Young Women	Mrs. FIECHTER
International Federation of University Women	
International League for the Rights of Man	Mr. BALDWIN
Pax Romana	Miss ARCHINARD
Women's International League for Peace and Freedom	Mrs. BAER
World Jewish Congress	Mr. RIEGNER
World Union of Catholic Women's Organizations	Miss de ROMER

Secretariat:

Mr. Humphrey	Representative of the Secretary-General
Mr. Das) Mrs. Bruce)	Secretaries to the Commission

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(item 3 of the agenda) (continued):

Proposals for additional articles relating to the draft covenant on civil and political rights (E/CN.4/674) (continued):

Proposals by the Soviet Union, Yugoslavia and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities for a new article on the rights of minorities (E/2256, E/CN.4/L.222, E/CN.4/L.225, E/CN.4/L.260, E/CN.4/L.261) (continued)

Mr. FORTEZA (Uruguay) said that his delegation's amendment (E/CN.4/L.260), which applied to the Yugoslav proposal (E/CN.4/L.225) as well as to the Sub-Commission's (E/2256, Annex II, Section A.III) had been drafted in the belief that a clear distinction must be drawn between genuine national minorities and immigrants. It was essential to forestall any possibility of a provision on the rights of minorities being interpreted to mean that immigrants were entitled to claim special privileges or form separate communities which might endanger the national unity or security of the State in which they had settled. Certain Latin American countries had had experience of small national groups trying to create a political organization linking them with their country of origin.

Expressing the hope that the Commission would accept his amendment in the spirit in which it had been drafted, he said he would be prepared to consider any proposal which might render its meaning clearer.

Mr. DIAZ-CASANUEVA (Chile) said that the work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and that of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in the same field, as well as the discussions in the Commission, had clearly demonstrated the difficulty of establishing a definition of minorities and of drawing up a legal provision of the kind under consideration. No United Nations body had yet succeeded in the task, and the Commission would be hard put to it to find a text precise and comprehensive enough to serve both as a guiding principle and as a yardstick by which to judge whether legal obligations for the protection of minorities were being honoured. The criteria adopted by different members of the Commission varied according to the situation in their particular country, and should that lead to the adoption of an ambiguous text, there would be an obvious danger of conflicting interpretations giving rise to disputes.

Mr. Morosov had perhaps misunderstood the attitude of representatives from Latin American States because the structure of the latter differed from that of the Soviet Union. The nationals of South American countries had a common language, origin and culture, and foreigners enjoyed the usual rights recognized in international law as well as rights provided for by special treaty. Naturalized foreigners became citizens of the State and were treated on an equal footing with all other citizens. There was no discrimination on grounds of origin. Latin American countries, therefore, had no minorities problem, as such. On the other hand, he was well able to understand the problems facing such multi-national States as, for example, China, Yugoslavia and the Soviet Union with their differing nationalities and common citizenship.

It was extremely difficult therefore to find a universally applicable solution in such a delicate and complex matter. In the attempt to seek a general formula, the Commission might run the risk of creating new minorities or of encouraging groups of migrants to claim the status of a minority and special protection. As the Indian representative had pointed out, there were grave disadvantages in fostering an artificial independence among small groups, since such a course could easily frustrate the social and political development of a country and might involve the State in heavy expenditure.

In the absence of a precise legal definition of minorities and of detailed studies on the subject, the Commission should perhaps postpone its decision on the question of including an article on the rights of minorities until the Sub-Commission's reports had been gone into more deeply. It should also consider whether it might not be preferable to limit such a provision to those States with well-established historical minorities, since otherwise it might be difficult to ratify the covenant without reservations, which, for other States, as he had already stated, his delegation thought should be avoided. It was with that last consideration in mind that he had submitted an amendment (E/CN.4/L.261) to the Sub-Commission's text.

The CHAIRMAN thought that the discussion had perhaps gone too far for the Commission to postpone taking a decision. If such procedure were followed in other cases, nothing at all would ever be completed.

Mr. JEVREMOVIĆ (Yugoslavia), describing as completely unfounded the comments made during the discussion of his delegation's proposal (E/CN.4/L.225), and in particular the statement that it would result in creating artificial minorities, regretted that the proposal had not been judged by its true content, which was the fruit of Yugoslavia's bitter experience with minorities. However, since his proposal had failed to find sufficient support, he withdrew it.

He had been disturbed by the statements made concerning the integration of minorities, which was a difficult and complicated problem, even when the minorities concerned were groups of immigrants. It was wrong to have recourse to artificial and anti-democratic methods under the pretence of integrating minorities; integration could only be achieved slowly and democratically. But experience in several countries, among them Yugoslavia, had shown that it was possible, under the pretence of integrating minorities, to deprive them of their rights as a national minority; extreme caution was therefore necessary in that respect.

His delegation was prepared to support the proposals before the Commission, since it considered that the covenant would be substantially improved by the inclusion of an article, even an imperfect article, concerning the rights of minorities. He reserved the right to revert to the question at a later point in the discussion.

Although his delegation had withdrawn its amendment, he wished to propose that the last phrase thereof, reading "without being subjected on that account to any discrimination whatsoever, and particularly, such discrimination as might deprive him of the right enjoyed by other citizens of the same State", should be added to the text proposed by the Sub-Commission.

His delegation's reason for submitting that amendment was that a minority which was guaranteed rights by reason of its being a minority could not be deprived of the rights enjoyed by other citizens of the State. For example, the members of a minority should be entitled to choose between the education provided in their language and that given in the language of the majority of the citizens.

Mr. CASSIN (France) reiterated his delegation's preference for the Sub-Commission's draft, which it considered more flexible and which was based on the sound principle that all men possessed fundamental individual rights and that those belonging to special ethnic, religious or linguistic groups were entitled, as such, not to be denied their minority rights.

The Sub-Commission's draft took account of the fact that minorities possessed special rights additional to other human rights and ensured to minorities, whose characteristics might vary greatly according to the type of State, a minimum of protection acceptable to all countries. The Soviet Union proposal, on the other hand, though of great interest, affected only countries where the minorities possessed national characteristics; such cases were not commonly met with in other countries. The Commission's task, however, was to find a text applicable to all cases.

He would like to give his delegation's views on the new developments which had taken place since the French delegation had defined its attitude.

The Chilean representative's suggestion that the question be deferred for the time being was unacceptable. To avoid any loss of time, he would like it to be put to the vote without delay and before the other proposals submitted to the Commission. The French delegation considered that the Commission had already reached the point at which it might decide upon a text. The Sub-Commission had performed its task most conscientiously and the draft it had submitted took account of a very wide range of experience.

The Uruguayan amendment (E/CN.4/L.260) was acceptable as a corrective to the Yugoslav proposal; it reflected faithfully the concern of a unitarian State like Uruguay faced with the concept of a minority held by a federal State like Yugoslavia. It could not, on the contrary, apply to the text of the Sub-Commission, which had already taken into account the important questions raised by Uruguay and whose proposal could not foster the development of artificial political groupings within a State.

He was likewise opposed to the Yugoslav representative's oral amendment to the Sub-Commission's text; in his opinion the points with which both the Yugoslav and the Uruguayan delegations were concerned were adequately covered by article 2 of the covenant. Furthermore, any alteration of the Sub-Commission's text by an amendment such as those proposed by the Uruguayan or Yugoslav representatives would distort the sense of the original.

With regard to the Chilean amendment (E/CN.4/L.261), (though) himself in favour of a universal covenant, he felt it would be unwise to have too many legal subdivisions in the matter of minorities and to establish extremely complex

categories. In drafting its text for the Commission, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had borne all foreseeable cases in mind. His delegation was accordingly in favour of minimum guarantees which, being acceptable to all, would mark a tangible improvement on the existing situation.

The CHAIRMAN said that if the Chilean representative was making a formal proposal for the Commission to defer its decision on an article concerning the rights of minorities, he would put it to the vote immediately in order to save time, since its adoption would put an end to further discussion.

Mr. DIAZ-GASANUEVA (Chile) said that he had only tentatively suggested postponement of a decision, and in the light of the Chairman's remarks he would immediately withdraw his suggestion.

Mr. INGLES (Philippines) said that while supporting the Sub-Commission's text he had considered with sympathy the other proposals, the object of which was to broaden the concept of a minority and to extend minority rights. He agreed that those rights were entitled to protection. While not subscribing to all the ideas contained in the latter proposals he could accept some of them, not as substitutes for the Sub-Commission's text but as valuable additions to it. For instance, he was in favour of amplifying the Sub-Commission's text by reference to the Soviet Union representative's concept of "national minorities", since it reflected one of the main contemporary historical developments, namely the evolution of the traditional notion of a nation state. One of the variants was the multi-national State, of which Mr. Morosov had given an example when speaking of the position of the Turkmens in the Soviet Union.

The Commission had been informed that the Soviet Union text had originally formed part of a Soviet Union proposal on self-determination, which, in amended form, had finally become article 1 of the draft covenants. The Philippines delegation could accept the insertion of the word "national" after the words "persons belonging to" in the Sub-Commission's text, but only on the understanding that it would not prejudice the application of the principle of self-determination to the new article. He believed the right of secession should be given such national minorities as had been incorporated in a multi-national State against their will. That would not be true in the case of ethnic, religious or linguistic

minorities, on the other hand, whose rights would be fully safeguarded by the article which the Commission had adopted on the right to elect and to be elected to public office and to participate in the conduct of public affairs. He was reinforced in his opinion by the fact that the Sub-Commission had made no mention of the political rights of such groups.

The remainder of the Soviet Union proposal, however, was vitiated by the emphasis it laid upon special privileges to be accorded to minorities. Such a provision would create obvious difficulties in a country like his own where many native languages were spoken, though they could not be described as languages belonging to national minorities. The Philippines Congress had been directed, under the terms of the Constitution, to develop a common national language based on one of the existing native languages, and the language selected was now being taught in the schools together with English and Spanish. It would be running directly counter to the declared national policy if in addition to that language the Government had to provide for the use of other native languages, and even less widely spoken dialects, in schools, courts of law, government offices, etc. The Sub-Commission's text in that respect was far more practicable in that it would allow members of linguistic minorities to use their language among themselves and in their own schools, but would not commit governments to providing special schools for them. Because of the financial considerations involved, his Government regarded the cultivation of the other native languages as a matter entirely for private initiative.

He failed to see any conflict between the terms of the Sub-Commission's text and the immigration policy of certain Latin American countries. He agreed that immigrants stood in a class by themselves, but pointed out that they could not claim any more extensive rights under the Sub-Commission's text than the right to enjoy their own culture, practise their own religion or use their own language. There was nothing in the text to enable them to claim any special privileges not enjoyed by other nationals of the State concerned. While the Uruguayan amendment might perhaps have been applicable to the original Yugoslav proposal, which appeared to contain some suggestion of special privileges, it would not be applicable to the Sub-Commission's text, which was free of any such suggestion. However, in order to allay the apprehensions of the Latin American members of the

Commission, he asked whether the Uruguayan representative might not be satisfied with a statement on the substance of his amendment in the Commission's report, making it clear that the Commission considered that immigrants should not be accorded special privileges or be entitled to form separate communities to the detriment of the unity or security of the State.

The amendment orally proposed by the Yugoslav representative contained a valuable new idea. While the principle of non-discrimination had already been embodied in article 2 of the draft covenant, that amendment went further, by prohibiting discrimination which might deprive a minority of the rights enjoyed by other citizens of the same State. He would, however, suggest that the words "on that account to any discrimination whatsoever, and particularly" might be deleted as being unnecessary. As had been emphasized by the representatives of India, France and the Soviet Union, it was very desirable that minority groups should be identified as far as possible with the prevailing national, cultural and linguistic group, so that they should not become isolated from the main stream of national life.

To sum up, his delegation supported the Sub-Commission's text, with the Yugoslav amendment, modified as he had suggested, and with the word "national" inserted before "ethnic, religious or linguistic minorities". With regard to the Chilean amendment, the English text of which had not yet been distributed, his delegation was sympathetic to the proposal that the article on the rights of minorities should be limited to those countries where established minorities already existed.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that he must refute one of the arguments which had been adduced by the United Kingdom and some other representatives against the text submitted by his delegation (E/CN.4/L.222). It had been asserted that the Soviet Union proposal would impose on States having minority groups among their citizens the obligation to use an indefinite number of languages for conducting all official business. That, however, was to distort its meaning. In the Soviet Union, a considerable number of national languages were actually used in Parliament and in public affairs. The Soviet Union proposal, however, did not make any suggestion as to the number of official languages to be used by any individual country.

All delegations, he believed, recognized the principle that minorities had the right to speak their own language and have their own national schools and cultural institutions. But the Sub-Commission's text, while based on that principle, was couched in negative terms, and made no provision for practical implementation. It was necessary to make it plain that the rights of minorities should be assured to them by special legislation by the State concerned.

The Philippines representative had suggested the inclusion of the conception of national minorities in the Sub-Commission's text. Would it not, however, be preferable to accept as a basis the Soviet Union proposal, which both proclaimed the right of stable minority communities to their own language and culture and provided for the concrete means to make that right effective? In his view, it was essential to include those two aspects of the question in the proposed article.

The point raised by the Philippines representative as to the right of secession was, he thought, bound up with the question of self-determination. The right of self-determination established by article 1 of the draft convention unquestionably implied the right of any national group to secede. That right was accorded to any Soviet Socialist Republic by Article 17 of the Soviet Constitution.

Mr. DIAZ-CASANUEVA (Chile) pointed out that neither the French nor the English text of his amendment(E/CN.4/L.261), both of which had now been distributed, contained the word "historical", which was included in his original Spanish text. The idea in the mind of his delegation had been that of minorities which had been formed by historical processes.

Mr. WHITLAM (Australia) doubted whether it was possible to amend the Sub-Commission's text in such a way as to distinguish between recognizable national minorities and other minority groups without confusing the clear concepts with which its drafters had started. The Soviet Union proposal applied specifically to national minorities; and if that text were prefaced by some such words as "In those States in which national minorities exist", that might avoid the risk of tending to create new minorities. But he was inclined to think that if the Sub-Commission's text was amended the conception of minorities which its authors had had in mind would become blurred.

Mr. KAECKENBEECK (Belgium) repeated that his delegation was in favour of the Sub-Commission's text. The amendments submitted during the discussion could, in his opinion, only be justified if the Commission accepted their authors' conception of minorities, which was not the same as the Sub-Commission's. He feared that any alteration in the Sub-Commission's text brought about by amendments based on a different conception of minorities would result in a hybrid text which might even be dangerous.

Taking as an example the Chilean amendment, he feared the words "stable and well-defined" would cause difficulty. Moreover, would it be right that a minority not recognized as stable and well-defined should be debarred from claiming the rights specified in the covenant?

The Chilean proposal, though just if considered from the standpoint of a protected group enjoying special rights, was not acceptable for inclusion in the Sub-Commission's proposal, which was expressed negatively. It would even rob the latter text of some of its meaning.

On the other hand, he had some sympathy for the Yugoslav amendment, which offered a safeguard against the danger run by members of minority groups given special protection, that they might be denied the rights enjoyed by the majority. The Yugoslav amendment was, however, also based on a conception of minorities other than that of the Sub-Commission.

He therefore considered that it would be a mistake to amend the Sub-Commission's text in the manner proposed. It would suffice to note the doubts expressed by a number of representatives in the summary record and, possibly, in the Commission's report.

Mr. JEVREMOVIĆ (Yugoslavia) thanked the Philippines representative for supporting his amendment to the Sub-Commission's text. Although he could have accepted a suggestion to delete only the words "to any discrimination whatsoever, and particularly", he could not accept Mr. Inglés' suggestion to delete the words "on that account" as well.

Replying to the comments made by the French and Belgian representatives on his amendment, he stressed the need for avoiding any ambiguity in the interpretation of the rights of minorities. Hence, while admitting the value of article 2 of

the covenant, he was anxious that the article relating to minorities should specify that minorities could not be deprived of the rights possessed by other citizens.

With regard to the Belgian representative's comment on the difference between the conception of minorities on which the Sub-Commission's proposal was based and that underlying the Yugoslav delegation's proposal, he quoted the Sub-Commission's report on its fourth session (E/CN.4/641) to show that the Sub-Commission had in fact been concerned with the problem dealt with by the Yugoslav amendment. Page 43 of the Sub-Commission's report spoke of "the undesirability of imposing unwanted distinctions upon individuals belonging to a group who, while possessing the distinctive characteristics described above, do not wish to be treated differently from the rest of the population". Thus, the Yugoslav amendment was in no way irrelevant to what the Sub-Commission had had in mind, and the Commission should recognize the danger which existed and endeavour to eliminate it.

The CHAIRMAN suggested that, if no one had anything further to say on the subject, the Commission should proceed to vote immediately on reassembling at the next meeting. Voting would take place on the various proposals in the following order:

1. The Soviet Union proposal (E/CN.4/L.222);
2. The Chilean proposal (E/CN.4/L.261);
3. The Yugoslav representative's oral amendment;
4. The Uruguayan proposal (E/CN.4/L.260); and
5. The proposal of the Sub-Commission, as amended.

The meeting rose at 12.55 p.m.