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Tenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND SIXTY-SECOND MEETING

Held at Headquarters, New York,  
on Monday, 5 April 1954, at 3.10 p.m.

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(15 p.)

54-10328

PRESENT:

<u>Chairman:</u>	Mr. CASSIN	(France)
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. ORTEGA	Chile
	Mr. CHENG PAONAN	China
	Mr. GHORBAL	Egypt
	Mr. JUVIGNY	France
	Mr. ROUSSOS	Greece
	Mr. DAYAL	India
	Mr. PIRACHA	Pakistan
	Mr. INGLES	Philippines
	Mr. BIRECKI	Poland
	Mr. ASIRCGLU	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. MONTERO BUSTAMANTE	Uruguay

Representatives of specialized agencies:

Mr. MANNING	International Labour Organisation
Mr. ARNALDO	United Nations, Educational Scientific and Cultural Organization

Representatives of non-governmental organizations:

<u>Category B:</u>	Mr. GRUENRIDGE	Anti-Slavery Society
	Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
	Mr. JOFTES	Co-ordinating Board of Jewish Organizations

Representatives of non-governmental organizations: (continued)

Category B: (continued)

Mrs. VERGARA	Catholic International Union for Social Service
Mr. LONGARZO	International Conference of Catholic Charities
Mr. BALDWIN	International League for Rights of Man
Mr. JACOBY	World Jewish Congress
Mrs. POLSTEIN )	World Union for Progressive Judaism
Mr. RONALDS )	
Mrs. SCHAEFER	World Union of Catholic Women's Organizations

Secretariat:

Mr. SCHWELB	Assistant Director of the Division of Human Rights
Mrs. BRUCE )	Secretaries of the Commission
Mr. DAS )	

REPORT OF THE SIXTH SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES: DRAFT RESOLUTION B: STUDY OF THE PRESENT POSITION AS REGARDS MINORITIES THROUGHOUT THE WORLD (E/CN.4/703, Annex I; E/CN.4/L.368 and 369) (continued)

Mr. BIRECKI (Poland) said that the first paragraph of the first United Kingdom amendment (E/CN.4/L.368) interpreted Economic and Social Council resolution 502 B II (XVI) in too narrow a sense. The Polish delegation had voted against that resolution and his remarks must not be understood to mean that its attitude had changed. He pointed out, however, that according to the United Kingdom representative the Sub-Commission on Prevention of Discrimination and Protection of Minorities had interpreted that resolution as meaning that its work for the protection of minorities would be fruitless until such time as it had adopted a definition of the term "minority". He himself held, however, that the Sub-Commission had forged ahead with its work. At its ninth session, the Commission had adopted a draft resolution which the Council had not approved and it would be strange to invite the Commission at the present time to confirm resolution 502 B II (XVI) of the Council, as the first paragraph of the first United Kingdom amendment proposed.

The second paragraph of the first United Kingdom amendment would be acceptable to the Polish delegation if the words proposed in the Polish amendment (E/CN.4/L.369) were added to it. The Polish delegation could not accept the third paragraph of the amendment, because, it would entail a complete cessation of the Sub-Commission's work in that field and would prejudice the terms of reference which it was the Sub-Commission's prerogative to determine.

Mr. HOARE (United Kingdom) said that the second paragraph of the first United Kingdom amendment used the same wording as Economic and Social Council resolution 502 B II (XVI) and was in no way designed to restrict the

Sub-Commission to the study of a definition of the word "minorities", as was clear from the third paragraph. He expressed no opinion on the substance of the Polish amendment, but it was wrongly placed because it confused studies and recommendations, and if any reference to recommendations were to be made it should follow the reference to studies and not be inserted as part of the description of studies.

Mr. INGLES (Philippines) said that he had no objection to the first two paragraphs of the first United Kingdom amendment if they were interpreted as intended simply to implement Economic and Social Council resolution 502 B II (XVI). The Philippine delegation considered that resolution F adopted by the Sub-Commission was designed expressly to ensure the application of that resolution. Unlike the representative of the United Kingdom, he did not think that resolution 502 B II (XVI) should be interpreted as meaning that the Sub-Commission must define the term "minority" before undertaking any other work. In his opinion, the real object of the United Kingdom amendments was apparent from the second United Kingdom amendment, which would direct the Sub-Commission not to undertake a study of the situation of minorities throughout the world at the present time. The result of the United Kingdom amendments would thus be to oblige the Sub-Commission to engage in an academic discussion on the definition of the term "minority", instead of undertaking the study of the present position as regards minorities throughout the world, which would enable it to reach a definition based on the facts. If such directives were given to the Sub-Commission, it would be prevented from carrying out its task.

Paragraph 2 of the operative part of the Sub-Commission's resolution F (E/CN.4/703, paragraph 200) offered a preliminary definition of the term "minority", for the specific purpose of the proposed study. That new definition was based on that part of the old definition submitted by the Sub-Commission which was endorsed by the majority of the Commission at its previous session. It also limited the scope of the study to ethnic, religious and linguistic minorities in accordance with the decision of the Commission when it adopted article 25 of the Covenant on Civil and Political Rights. He was not surprised that the minority who had opposed that formula the previous year should continue to oppose it today. He was surprised, however, that some delegations which belonged to the majority which had not opposed that particular formula of the Sub-Commission should now criticize it. That was a proof that their opposition to draft resolution B of the Sub-Commission and indeed

to its internal resolution F went deeper than they were willing to admit and certainly could not be due solely to their avowed dissatisfaction with the preliminary definition of the term "minority" adopted for purposes of study by the Sub-Commission.

With regard to the criticism to which the proposal for the appointment of an expert, in the operative part of the Sub-Commission's draft resolution B, had given rise, he felt that the Commission should respect the Sub-Commission's decision since it had been the considered opinion of a body composed of independent experts. If the operative part were rejected, however, the Sub-Commission would certainly have recourse to other methods to implement resolution F and, in the meantime, the Secretary-General would still have the task of assembling all the relevant material for the proposed study, in accordance with paragraph 6 of that resolution. The Philippine delegation would therefore vote in favour of draft resolution B of the Sub-Commission.

The CHAIRMAN recalled that at the 461st session the representative of the USSR had proposed that a vote should be taken on the operative part of draft resolution B of the Sub-Commission and not on the second United Kingdom amendment.

Mr. ROUSSOS (Greece) said that according to rule 60 of the rules of procedure, the operative part of draft resolution B should be put to the vote after the second United Kingdom amendment (E/CN.4/L.368).

Mr. SAPOZHNIKOV (Ukrainian Soviet Socialist Republic) thought that the United Kingdom amendment was inclined to make the Sub-Commission's task in connexion with the study of the present position as regards minorities throughout the world more difficult. In his opinion, the United Kingdom text cited Council resolution 502 B II (XVI) in order to ensure that the Sub-Commission's first task would be the study of the definition of the term "minority". He did not think that the definition could be regarded as an end in itself; its only value lay in the extent to which it might assist in making recommendations. Moreover, the United Kingdom amendment gave no indication of when the study of the present position as regards minorities throughout the world might be begun. The Polish

amendment to the United Kingdom proposal, on the contrary, voiced a desire for positive results. The Ukrainian delegation would therefore support the Polish amendment.

Mr. HOARE (United Kingdom), wishing to dispel certain misunderstandings, explained that the United Kingdom amendment was an attempt at a compromise. The deletion of the second paragraph of draft resolution B would leave a gap which should be filled if the Sub-Commission was not to remain without instructions. The first United Kingdom amendment was designed to show the Sub-Commission clearly what task it was called upon to perform. That task was by no means limited to the study of the definition of the term "minority", for the United Kingdom amendment, repeating the terms of the Economic and Social Council resolution, requested the Sub-Commission to give further study to the whole question. Moreover, although he had serious objections to the study proposed in the Sub-Commission's resolution F, the United Kingdom amendment, in a spirit of compromise, did not express disapproval of the Sub-Commission's decision but merely stated that the study should not be initiated at the present time. The Sub-Commission could use the material assembled by the Secretary-General in accordance with paragraph 6 of resolution F in order to conduct the comprehensive study of the question of minorities. It was in fact free to study the question in any way other than that of the particular study it had proposed.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that he would vote for the Polish amendment. He drew attention to a contradiction in the objections raised by the United Kingdom representative, who, while agreeing with the provisions of the Polish amendment, had said that it should form a separate paragraph and not be inserted in the text of the United Kingdom amendment. The United Kingdom representative had stated that the Polish amendment would promote the achievement of some of the aims which the United Kingdom representative had voiced in connexion with recommendations concerning the protection of national minorities. He wondered why the United Kingdom representative was unwilling to include the Polish amendment in the United Kingdom text in the place specified by the Polish representative; perhaps it was in order that the amended text might be interpreted as giving priority to the study of the definition of the term "minority". He shared the misgivings expressed by the Phillipine

representative concerning the third paragraph of the United Kingdom amendment. The United Kingdom representative's argument that the deletion of the second paragraph of draft resolution B might create a gap was not very convincing. He recalled the Philippine representative's statements in that connexion and pointed out that the Polish amendment defined the Sub-Commission's task clearly.

With regard to the voting procedure it would be better not to reverse the order in which the Commission would vote on the different paragraphs of the United Kingdom amendment, since some members might rightly consider that their vote on the second paragraph must depend on the result of the vote on the first paragraph.

Mr. BIRECKI (Poland) said that he had not sought to define the United Kingdom representative's intentions but had simply wished to show the effects of the adoption of the United Kingdom amendments. The United Kingdom proposal would have the effect of stopping the work of the Sub-Commission described in resolution F. The Polish amendment represented a compromise and showed the Sub-Committee what it could undertake in that field. The Polish delegation had voted against Economic and Social Council resolution 502 B II (XVI) for reasons of principle; nevertheless the Polish amendment, while making no mention of that resolution, did not conflict with it. He hoped that the United Kingdom delegation having accepted the principle of the Polish amendment, would no longer regard it as a "foreign body" and would include it in its logical place in the United Kingdom text.

Mr. HOARE (United Kingdom) pointed out that the United Kingdom amendment requested the Sub-Commission to give further study to the whole question, including the definition of the term "minority". It was possible that, as a result of that study, the Sub-Commission would be able to submit recommendations to the next session of the Commission, and his amendment did not exclude that possibility. Specific reference to recommendations seemed to him therefore unnecessary but in any event it should not be inserted in a way which confused recommendations based on study with the study itself. The Polish amendment did not make that important distinction. He therefore suggested to meet the intention of the Polish representative, a somewhat different formula for the



last part of the second paragraph, which might read: "... to report thereon together with any recommendations that it may be in a position to make to the eleventh session ..."

Mr. ORTEGA (Chile) recalled that he had drawn attention to the contradiction which had previously existed between the first and second paragraphs of the United Kingdom proposal. Now that the text had been amended that contradiction had disappeared, but another had been created between the first and second paragraphs on the one hand, and the third paragraph on the other. The first two paragraphs referred to a study of the whole question of minorities, while the third decided that a part of that question would not be studied. The Chilean delegation was thus unable to support the third paragraph of the United Kingdom proposal.

The Polish amendment could easily be inserted in the United Kingdom amendment. He clearly understood the reasons which had led the Polish representative to propose that the Sub-Commission should be requested to examine, during its study of the whole question, recommendations concerning the application of special measures for the protection of minorities.

In short, he considered that the Sub-Commission was right in recommending the appointment of an expert to carry out the proposed study on its behalf. He also approved of the first two paragraphs of the United Kingdom text, together with the Polish amendment.

Mr. NISOT (Belgium) asked whether the United Kingdom and Polish representatives could agree to withdraw their amendments.

Mr. HOARE (United Kingdom) said he had certainly not expected that the amendment which he had submitted in a spirit of conciliation would give rise to such a prolonged discussion. At the present stage of the discussion, the United Kingdom delegation could only conclude that its amendment had not produced the desired compromise and it therefore felt it would be better to withdraw the whole amendment.

Mr. BIRECKI (Poland) said that in that case he would withdraw his amendment to the United Kingdom amendment.

The CHAIRMAN put to the vote draft resolution B as it appeared in annex I of the report (E/CN.4/703).

The preamble of draft resolution B was adopted by 6 votes to 2, with 8 abstentions.

The operative part of draft resolution B was rejected by 9 votes to 6, with 1 abstention.

The CHAIRMAN said that, in accordance with the rules of procedure, the rejection of the operative part entailed the rejection of the draft resolution as a whole. As no other text had been adopted in place of the draft resolution, the summary records of the Commission's debates should be transmitted to the Sub-Commission, in order to provide it with the necessary information.

Mr. NISOT (Belgium), explaining his vote, said that, as he had intended to vote against the operative part of draft resolution B, he had thought it logical to vote against the preamble also. Moreover, the preamble mentioned resolution F, to which the Belgian delegation had serious objections; that was a further reason for his voting against it.

MR. ORTEGA (Chile) recalled that during the discussion he had mentioned the danger that the efforts of some delegations to limit the Sub-Commission's activities might finally paralyse the work which the United Nations had undertaken for the protection of human rights in general and of minorities in particular. It was something of a paradox that while the Economic and Social Council had instructed the Sub-Commission to study the whole question of minorities, the Commission on Human Rights, a subsidiary organ of the Council, should take a decision which ran counter to that of the Council. He did not mean by that that the Commission on Human Rights should be denied any autonomy or should become a mere echo of the Council, but it was a matter of regret that the Commission had not seen fit to encourage the Sub-Commission to study the position of minorities throughout the world. The Commission on Human Rights had already, on three occasions, sent back to the Sub-Commission a draft resolution defining the term "minority", asking it to give the matter further consideration. The work of the Sub-Commission had therefore been in vain.

What the Chilean delegation found most regrettable was not so much that the Commission disagreed with the Sub-Commission but that it had failed to show any constructive spirit **in its deliberations**. It was a matter of astonishment that the Commission, which knew very well how to tell the Sub-Commission what it did not want, was apparently incapable of saying what it did want, in other words, of offering the Sub-Commission constructive suggestions and giving it specific directives.

It was in that light that the Chilean delegation had voted and it hoped that in future the Commission would have occasion to give the Sub-Commission the guidance and encouragement it required to go forward with its work.

Mr. JUVIGNY (France) did not think that the Sub-Commission faced an absolute void as a result of the Commission's decision. By its resolution the Council had entrusted to the Sub-Commission work which the latter had not carried out along the lines indicated by the Council. The Commission on Human Rights had not approved the work of the Sub-Commission, which now found itself once again at its starting point: namely, entrusted with work for the execution of which it should be guided by the Council's resolution, and particularly by paragraph 1 of that resolution.

Mr. DAYAL (India) felt that the Commission had just taken a most regrettable decision, which would strengthen the views of those inside and outside the United Nations who thought they detected a backward rather than a forward movement in the matter of the protection of minorities and of the promotion of human rights, generally. The decision could not fail to have unfortunate consequences for the general problem arising from the struggle for the recognition of, and respect for, human rights.

The Indian delegation could not support the argument that nothing at all could be done until the term "minority" had been satisfactorily defined, for that position amounted to an indefinite postponement of the study and recommendations which would make it possible to adopt the necessary measures for the protection of minorities.

It would have been desirable to provide the Sub-Commission with directives. In that connexion, the Chairman had observed that the summary records of the Commission's discussion should be transmitted to the Sub-Commission. Unfortunately, that procedure would be only a makeshift, for if the Sub-Commission was obliged to look for the instructions it needed in the summary records, it would again be left to its own resources, as no positive indication of the definition of the term "minority" had been given by any of the objecting members.

Mr. CHENG PAONAN (China) recalled that, having pointed out the defects of resolution F adopted by the Sub-Commission, he had nevertheless indicated in the general debate that he would support draft resolution B. The Chinese delegation had therefore voted in favour of both the preamble and the operative part of the resolution and it deeply regretted the final rejection of the resolution.

Mr. MONTERO BUSTAMANTE (Uruguay) said that he had voted in favour of draft resolution B. There was no doubt that all kinds of objections could be made to the text, in particular to the idea of entrusting to experts such complex studies as those connected with the problem of minorities. Nevertheless, those were only technical considerations which should not obscure the fact that the minorities in the world today had placed all their hopes in the work of the United Nations. The least the Commission could have done was not to take a decision likely to disappoint those hopes. However that might be, there was still the Council's resolution and the battle was not irretrievably lost. He paid a tribute to the rapporteur of the Sub-Commission and expressed the hope that the Sub-Commission would be able to continue the work it had begun, the value of which could not be challenged.

Mr. GHORBAL (Egypt) said that he had unfortunately been absent during the voting and that his delegation had intended to vote in favour of draft resolution B. It was very regrettable that after so much effort the Commission

had not taken any constructive decision. It was still possible, however, for delegations to present draft resolutions on the various parts of the Sub-Commission's report and he hoped that a resolution could be adopted in which the Commission would give its views on resolution F and draft resolution B and would give the Sub-Commission some directives to guide it in its future work.

Mr. MOROZOV (Union of Soviet Socialist Republics) recalled that in the general debate he had pointed out that in his delegation's view the rejection of draft resolution B would simply mean that the Commission did not approve the procedure of entrusting the proposed study to an expert who was not a member of the Sub-Commission. The USSR delegation still considered that there was no need for the Sub-Commission, which was itself composed of experts, to call upon an outsider to perform the tasks which were its own responsibility. It should itself assemble the material and information necessary for the preparation of recommendations for the protection of minorities, especially in view of the fact that the preparatory work was of the highest importance and governed the adoption of well-advised recommendations.

The fact that the Commission had not approved the use of outside persons to do the work of the Sub-Commission by no means meant that its task was seriously compromised or that its very existence was threatened. He did not think that the pessimism some delegations had expressed was justified. The texts which laid down the terms of reference of the Sub-Commission had not been amended and the latter still had every possibility previously open to it to continue its study and to try to draw up recommendations for the Commission on Human Rights. It was in the light of those considerations that the USSR delegation had voted against the operative part of draft resolution B and that it interpreted the Commission's decision.

Mr. HOARE (United Kingdom) explained that by its vote his delegation had wished not only to record its opposition to the procedure of using the services of experts other than members of the Sub-Commission, but to indicate that, in its view, a study aimed at describing the position of each minority in need of special protection could only be provocative in character and was incompatible with the functions which, broadly speaking, had been assigned to the Sub-Commission and with Article 2(7) of the Charter.

Mr. PIRACHA (Pakistan) regretted that the Commission had voted down resolution B. He regarded it as a backward step which was all the more deplorable since it was taken in the Human Rights Commission. Nevertheless, it was comforting to note that some of the delegations which had voted against draft resolution B had been opposed only to the procedure suggested by the Sub-Commission and not in principle to the study. He hoped that the Sub-Commission would re-double its efforts both to arrive at a definition of "minorities" and to draft recommendations for the protection of minorities.

Mr. INGLES (Philippines) had voted for draft resolution B and he too regretted that the Commission had taken a negative decision. As long as the Commission on Human Rights failed to provide the Sub-Commission with the means of carrying out its terms of reference, it would be useless for the Commission and the Council to express their hopes that the problem of minorities should be the subject of a thorough study. The task of the Sub-Commission had been made more difficult by the decision the Commission had just taken and the latter would have only itself to blame if in the future it once again considered that the Sub-Commission had failed in its task.

Mr. WHITLAM (Australia) did not think that the Commission's decision had made any change in the Sub-Commission's terms of reference. The Australian delegation felt that it was not opportune at the present time to appoint a rapporteur for the proposed study or to undertake a world-wide investigation before establishing a solid basis for that investigation; any other attitude

would be tantamount to some kind of reversal of the natural order. It was in that spirit that he had voted on draft resolution B and he was convinced that the Commission's decision would not prevent the Sub-Commission from continuing this work with as much zeal as in the past.

Mr. BIRECKI (Poland) did not share the pessimism felt by some representatives. The Commission's decision would not prejudice the Sub-Commission's work. All things considered, the result of the latter's labours would not depend on the Commission's acceptance of the working method recommended by the Sub-Commission, which provided for the appointment of a special rapporteur. The Commission might feel that there were better working methods, and was fully competent to express its views on that question. He was convinced that the Sub-Commission could continue the work it had begun.

Mr. SAPOZHNIKOV (Ukrainian Soviet Socialist Republic) explained that when voting his delegation had been guided by the same considerations as those of the USSR and Poland. In voting for the operative part of resolution B, the Ukrainian delegation had not wished to make the Sub-Commission's work more difficult. It had merely wished to show that it opposed the working method recommended by the Sub-Commission, which called for the appointment of a special rapporteur or an expert.

Mr. ROUSSOS (Greece) said that he had abstained in the vote.

Mr. NISOT (Belgium) said that it was clear that on the whole the Commission had taken a decision principally on the procedure proposed by the Sub-Commission and on the question whether the Sub-Commission showed the necessary judgment in seeking means for the protection of minorities. No one questioned the fact that the problem of minorities should be one of lively concern to the United Nations.

Mr. GHORBAL (Egypt), supported by Mr. CHENG PAONAN (China), proposed the adjournment of the meeting.

The meeting rose at 5.30 p.m.