Fourth Session

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

SUMMARY RECORD OF THE SEVENTY-NINTH MEETING

Held at Headquarters, New York, on Thursday, 11 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 (item 10): statement by the representative of the World Jewish Congress (E/CN.4/Sub.2/NGO/2); draft resolution submitted by Miss Monroe and Mr. Daniels (E/CN.4/Sub.2/L.4) (continued)

Other problems related to the prevention of discrimination (item 7 (c)): draft resolution submitted by Mr. Spanien regarding persons born out of wedlock (E/CN.4/Sub.2/L.7/Rev.1)

Chairman: Mr. MASANI (India)

Rapporteur: Mr. MENEDES-PALLARES (Ecuador)

Members: Mr. BORATYNISKI (Poland)

Mr. CHANG (China)

Mr. BLACK (United States of America)
The CHAIRMAN noted that owing to ill health Mr. Daniels would not be able to attend the meeting, and that in accordance with rule 70 of the rules of procedure he had appointed Mr. Black to take his place in the Sub-Commission. The Chairman understood that the required consent of the United States Government would be forthcoming in due course.

At the invitation of the Chairman, Mr. Black took his seat at the table.

Mr. PERLZWEIG (World Jewish Congress) drew the attention of the Sub-Commission to four proposals which his organization would like to see included in the agenda of a forthcoming session of the Economic and Social Council. Those proposals were listed in document E/CN.4/Sub.2/NGO/2. The first concerned discrimination in immigration regulations practiced by certain governments against certain minority groups. The second dealt with restrictions on freedom of movement in the form of denial of visas by some States to certain individuals on the ground of their place of birth. He regretted that such an irrational and unjust practice should have originated in certain States of the Western Hemisphere which in other ways were leaders in the ranks of democracy. He pointed out that it was now virtually impossible to convene international non-governmental conferences or scientific gatherings in the countries in question. The practice had inflicted grave hardship on many innocent persons, and he appealed to the Sub-Commission to promote an investigation of the problem by the appropriate United Nations body.

The third proposal concerned discrimination in education, particularly the admission of members of certain religious and racial groups to schools, more especially to institutions of higher learning. Finally, the fourth proposal dealt with the question of international safeguards of minority rights in newly established States. In that connexion he pointed out that in many cases such new States had demonstrated their independence by persecuting minorities.

As regards the future of the Sub-Commission, the World Jewish Congress felt that that body had made an important and distinguished contribution to the solution of the problems laid before it, and deeply deplored the Council's decision to dissolve the Sub-Commission, not only because of the technical and psychological value of the Sub-Commission's work, but because its dissolution might seem to originate in a general reluctance on the part of some of the great powers to face one of the challenges of modern civilization. There were many evidences
evidences of a growing tendency on the part of the great democracies to over-emphasize the sovereignty of the State and its exclusive rights in certain spheres of activity, accompanied by a fear that the granting of additional rights to inter-governmental organizations would in some way weaken or lessen the rights of the State. That tendency, which he considered a tragic one, had undoubtedly arisen as a result of the current international tension. The existence of that tension, however, made it even more essential that bodies of experts such as the Sub-Commission, which were in a position to study the problem of protection of minorities from a detached and impartial point of view, should be maintained and encouraged by the United Nations. He did not feel that the work on the draft covenant on human rights could stand as a substitute for the work of the Sub-Commission. He regretted to have to state that, in his opinion, the draft covenant in its present form would be useless, since its implementation would depend upon the action of individual governments; and past experience, in particular the experience of the International Labour Organisation over a period of years, had shown clearly that owing to policy considerations, governments rarely, if ever, found it possible to intervene on behalf of minority groups.

Accordingly, the World Jewish Congress, which represented minority groups in more than 60 countries, hoped it would be made clear that a large body of public opinion was opposed to the dissolution of the Sub-Commission. In any event, if it proved impossible for the Council to maintain the Sub-Commission, the principle for which the latter stood should at least be preserved. In that connexion, the World Jewish Congress, in its statement submitted in document E/CN.4/Sub.2/NGO/2, had suggested that the Secretary-General should be authorized by the Council to appoint a committee of competent and independent experts to continue the work on prevention of discrimination and protection of minorities.

The CHAIRMAN invited the members of the Sub-Commission to resume consideration of Part III of the draft resolution submitted by Miss Monroe and Mr. Daniels (E/CN.4/Sub.2/L.4).

Mr. SHAFAGH (Iran) noted a discrepancy between the wording of the opening paragraph and that of sub-paragraph (11) (2). He suggested that the opening paragraph should be amended to read: "...the right of minorities to use their own language, where they spontaneously so request, be regarded..."
Miss MONROE (United Kingdom) and Mr. BLACK (United States of America) accepted the amendment.

Part III, as amended, was accepted by 10 votes to 2.

Mr. ZONOV (Union of Soviet Socialist Republics), explaining his vote on the first three parts of the draft resolution, said that he had found it impossible to support parts I, II and III because he considered them wholly inadequate and, indeed, a step backward in the effort to solve the problem of discrimination. In particular, he found the definition of the term "minority" unsatisfactory, as it laid too little stress upon the obligations of governments and in many ways left the door open to oppression of minority groups. Moreover, many essential economic and social rights, such as the right to equal pay for equal work, the right to social insurance, and right to occupy posts of responsibility in the government, were omitted entirely. In short, he could not associate himself with what he considered an entirely negative action on the part of the Sub-Commission.

In response to a comment by Mr. MENESSES-PALLARES (Ecuador) concerning the wording of sub-paragraph 1 of part IV, Miss MONROE (United Kingdom) and Mr. BLACK (United States of America) agreed to substitute the words "Prompt action" for the words "Positive action".

Mr. ZONOV (Union of Soviet Socialist Republics) requested a separate vote on each sub-paragraph of part IV, since the several sub-paragraphs dealt with different topics.

Sub-paragraph 1, as amended, was accepted by 10 votes to 2.

With respect to sub-paragraph 2, Miss MONROE (United Kingdom) pointed out that the last words of the text had been included because some minority groups, by their own actions, occasionally showed a tendency to create difficulties and to increase international tension.
Mr. MENESSES-PALLARES (Ecuador) pointed out that the UNESCO survey referred to was only one of a number of interesting and valuable studies carried out by that organization. He suggested, in particular, that the text might well include a mention of the study of the race problem, which had recently been brought to the attention of the Sub-Commission.

Mr. CHANG (China) objected to a specific mention of the studies on race, in view of the fact that other minority problems, such as religion and language, were equally susceptible of producing social tensions. He suggested that the text should be amended to read: "...based on the results of UNESCO's relevant surveys...".

Mr. SHAPACH (Iran) agreed with Mr. Chang, and said that he would not be able to vote in favour of the sub-paragraph if it contained a reference to the racial question.

Mr. MISOT (Belgium) proposed that the text should read "...taking into due consideration the results of..." rather than "...based on the results of...".

Mr. ZOLOT (Union of Soviet Socialist Republics) asked exactly what was meant by the term "social tensions", which seemed to him a very broad concept.

Mr. MEYRAUX (United Nations Educational, Scientific and Cultural Organization) regretted that the term was intended to embrace any situation susceptible of creating a conflict in a given area.

Miss HIGGINS (United Kingdom) could not accept Mr. Chang's amendment, as its wording could give no indication of the subjects of the UNESCO studies. She would prefer a more specific wording, and, in order to meet the points raised by Mr. Meneses-Pallares, Mr. Misot and the Chairman, suggested the following revision of the text of sub-paragraph 2: "Prompt and continuous action, taking into due consideration in particular the results of UNESCO's surveys on racial problems and other relevant social tensions...".

Mr. Chang's amendment was rejected by 6 votes to 4.
Sub-paragraph 2, as revised by Miss Monroe, was accepted by 8 votes to none, with 3 abstentions.

Paragraph 3 was accepted unanimously.

Miss MONROE (United Kingdom) pointed out that the model clauses proposed in paragraph 4 would apply to local bilateral agreements and to the non-discrimination regulations of newly-created States like Libya.

After a brief exchange of views, Mr. ROY (Haiti) conceded that paragraph 4 was not incompatible with the recommendation adopted earlier by the Sub-Commission asking the Economic and Social Council to study the possibility of drafting an international convention for the protection of minorities. In fact, it supplemented that recommendation.

Mr. MENESES-PALLARES (Ecuador) suggested the insertion of the phrase "for inclusion in international instruments" after the word "clauses".

Paragraph 4, thus amended, was accepted by 10 votes to none, with 2 abstentions.

Miss MONROE (United Kingdom) amended paragraph 5 by inserting after the word "establishment" the phrase "as part of any general implementation of the covenant on human rights". The object of the paragraph was to emphasize that the procedure whereby a minority in a specific country was forced to solicit the assistance of another country for redress of grievances represented a source of great friction and might even disrupt friendly relations between States. By pointing out that real danger, stress could be laid on the importance of providing recourse other than the good Offices of a foreign government for minorities inadequately protected by their own governments.

Mr. SHAFA GH (Iran) objected to the paragraph because the problem it raised could only be settled properly under the covenant or under a special minorities convention; the proposed solution was premature.

/Mr. SPANIJEN
Mr. SPANIEN (France), on the contrary, considered it essential, even though the international machinery it called for might overlap with the broader implementation measures of the covenant.

Asked for his opinion, Mr. SCHWEIB (Secretariat) said that that machinery, however, would, under the terms proposed, be accessible only to minorities as defined under Part II of the proposals under discussion but not to such groups as did not wish to preserve the characteristics which distinguished them from the majority.

Mr. CHANG (China), referring to the phrase "in order to remove the threat to peace...", wondered whether the international machinery proposed could be invoked even when the action of a minority seeking redress through the intermediary of a foreign government was not such as to endanger peaceful relations between the two States concerned.

Mr. ZONOV (Union of Soviet Socialist Republics), supported by Mr. BORATYNSKI (Poland), noted that under the Charter the Security Council and the General Assembly were empowered to deal with threats to peace; there seemed to be no need to create additional machinery.

Mr. BLACK (United States of America) explained that paragraph 5 was designed to prevent such a threat from arising. The international machinery proposed would resolve the problem before it became serious enough to endanger peaceful relations. It would in no way replace the Security Council or the General Assembly or impinge on their powers. That idea might better be expressed by the phrase "potential international tension" instead of "threat to peace".

Mr. ROY (Haiti) wished to distinguish clearly between two types of minority groups: those claiming the status of minorities and those recognized minorities which were dissatisfied with the adequacy of domestic protection. He proposed the deletion of all of paragraph 5 after the words "domestic protection". /Mr. NISOT
Mr. NISOT (Belgium) proposed that paragraph 5 should be redrafted to read:

"Establishment, as part of general implementation of the Covenant on Human Rights, of international machinery directly accessible to a minority, a method which would remedy the fact that, as matters now stand, a minority cannot bring its case before the United Nations except through a foreign government, whose intervention may create international tension."

Such international machinery would be accessible both to individuals, members of minority groups, or to spokesmen for the groups themselves.

The CHAIRMAN adjourned discussion of paragraph 5 (E/CN.4/Sub.2/L.4) in order to provide an opportunity for the representative of the Commission on the Status of Women to speak on item 7 (c) of the Sub-Commission's agenda.

OTHER PROBLEMS RELATED TO THE PREVENTION OF DISCRIMINATION (item 7 (c)): IRAFT RESOLUTION SUBMITTED BY MR. SPANIEN ON THE POSITION OF PERSONS BORN OUT OF WEDLOCK (E/CN.4/Sub.2/L.7/Rev.1)

Miss BERNARDINO (Commission on the Status of Women) explained that the Commission which she represented attached great importance to close collaboration with the Sub-Commission because women, as a group, actually came within the category of minorities and suffered from discrimination on the grounds of their sex. The Commission on the Status of Women was striving to abolish such discrimination and to ensure that all groups should enjoy fully the rights set forth in the Charter and in the Declaration of Human Rights without discrimination on any grounds whatsoever. Much still remained to be done before that objective was achieved. For those reasons, it was imperative that the Sub-Commission should continue to exist and to carry on the important work in which it was engaged, free from the threat of discontinuance.
On the specific problem raised in Mr. Spanien's draft resolution, the Sub-Commission should adopt a resolution requesting the Commission on Human Rights to give priority to inclusion in the covenant of provisions for equal social protection, equal treatment before the law and equal rights as proclaimed in the Declaration for children born out of wedlock. Without an explicit provision to that end, the covenant would never be an adequate instrument. The United Nations could scarcely hope to build a better world and improve understanding between peoples if it did not abolish all forms of discrimination, whatever the grounds.

Consequently, Miss Bernardino strongly supported Mr. Spanien's draft resolution in all its details.

The meeting rose at 1 p.m.