

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL

E/CN.4/Sub.2/SR.48
18 January 1950

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

Third Session

SUMMARY RECORD OF THE FORTY-EIGHTH MEETING

Held at Lake Success, New York,
on Monday, 16 January 1950, at 2.40 p.m.

CONTENTS: Definition and classification of minorities: draft resolution
presented by Miss Monroe (E/CN.4/Sub.2/103) (continued)

<u>Chairman:</u>	Mr. MASANI	India
<u>Rapporteur:</u>	Mr. ILIYES PALLARES	Ecuador
<u>Members:</u>	Mr. BLACK	United States of America
	Mr. CHANG	China
	Mr. EKSTRAND	Sweden
	Miss MONROE	United Kingdom of Great Britain and Northern Ireland
	Mr. NISOT	Belgium
	Mr. ROY	Haiti
	Mr. SHAFAG	Iran
	Mr. SPANEN	France

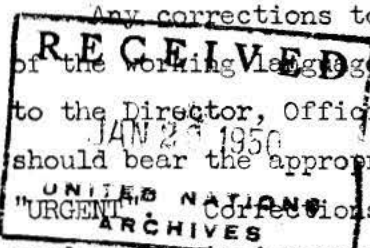
Consultants from non-governmental organizations (category A):

Miss SENDER	American Federation of Labor
-------------	------------------------------

Consultants from non-governmental organizations (category B):

Mr. LEWIN	Agudas Israel World Organization
Mr. MCKOWITZ	Consultative Council of Jewish Organizations
Mr. BERNSTEIN	Co-ordinating Board of Jewish Organizations
Mrs. PARSONS	International Council of Women

Any corrections to this record should be submitted in triplicate in one of the working languages (English, French or Spanish), within two working days, to the Director, Official Records Division, Room F-520, Lake Success. Corrections should bear the appropriate symbol number and be enclosed in an envelope marked "URGENT". Corrections can be dealt with more speedily if delegations will be good enough to incorporate them in a mimeographed copy of the record.



Secretariat:

Mr. LAWSON

Secretary of the Sub-Commission

Mr. LIN MOUSHENG

Division of Human Rights

DEFINITION AND CLASSIFICATION OF MINORITIES: DRAFT RESOLUTION PRESENTED BY
MISS MONROE (E/CN.4/Sub.2/103) (continued)

1. Mr. SPANLEN (France) congratulated Miss Monroe on her work in the preparation of the draft resolution. It seemed to him that an important stage in the Sub-Commission's work had been reached. Before a list of minorities could be established, it was essential for the Sub-Commission to lay down the principles which must govern the establishment of such a list. Miss Monroe's resolution defined the term "minority" in such a way as to make possible the elimination of doubtful cases. The resolution, however, constituted a declaration of principles which would be complementary to the Declaration of Human Rights. The chief work of the Sub-Commission was the protection of minorities; it would not achieve concrete results unless the principles laid down in its resolution were implemented. The work now being done would bear fruit when the Commission on Human Rights was faced with a definite problem to be solved in the realm of protection of minorities.

2. Mr. Spanien stressed the importance of a question raised by Miss Sender (American Federation of Labor) at the morning meeting. The Sub-Commission must draw the attention of the Commission on Human Rights to the necessity of creating a system for the protection of minorities which might cover political minorities as well as the more stable types. Provision must be made for the phase which would lie between a group's claiming minority status and the granting of protection by virtue of that status. With those reservations, he would vote in favour of Miss Monroe's draft resolution.

3. Mr. SHAFAG (Iran) supported Mr. Spanien's views, but thought it necessary to clarify one question relating to protection of political rights. In connexion with Miss Sender's remarks at the morning meeting, he understood that protection of minorities involved two aspects: first, protection of

/a minority

a minority against discrimination, and secondly, the protection of specific rights of a minority. In the first case, there must, of course, be total protection; no group must be discriminated against as regards any of the political rights belonging to its members as citizens. As regards the protection of specific political rights, however, he did not see how such rights, over and above the ordinary political rights of all citizens, could be claimed by a minority group, which owed allegiance to the State of its residence. He felt that the resolution should state clearly the kind of protection which was contemplated.

4. Mr. NISOT (Belgium) pointed out that according to the wording of the resolution, it was not clear whether the protection envisaged would apply both to nationals of the State concerned and to aliens.

5. Miss MONROE (United Kingdom) agreed to the insertion of a phrase indicating that the provisions of the resolution applied only to nationals.

6. Mr. SPANIEN (France) considered it self-evident that a group of aliens could not be admitted to the status of a minority, and that the general and fundamental rights were covered by the Declaration of Human Rights.

7. Mr. BLACK (United States of America) did not think the Sub-Commission could entirely overlook the question of political rights, even though it was not directly within the scope of its terms of reference. He suggested the addition, in the second paragraph of the preamble, of a phrase such as, "...assuming that all such groups desire the rights covered by the Declaration of Human Rights..."

8. The CHAIRMAN suggested that in the course of discussion of the resolution paragraph by paragraph, additions might be made to the text, to indicate that the minority groups referred to must be nationals, and that the fundamental rights of both nationals and aliens were proclaimed in the Declaration of Human Rights.

9. The Chairman stressed the distinction which must be drawn between the question of political minorities and the question of the political rights of racial, religious or linguistic minorities. Whatever the sympathy it might feel for political minorities, the Sub-Commission would be unwise to enter upon a discussion of their rights, which were entirely outside the scope of its terms of reference. Such a discussion might involve the Sub-Commission in questions of denial of fundamental rights to majority or minority political groups in certain States. The Chairman thought a phrase should be inserted in the resolution, expressing the Sub-Commission's concern with the question and indicating the reasons why it could not enter into an examination of the matter.

10. The CHAIRMAN called upon the Sub-Commission to consider the draft resolution submitted by Miss Monroe (E/CN.4/Sub.2/103) paragraph by paragraph.

Second paragraph of the preamble

11. The CHAIRMAN suggested that the word "racial" might be changed to "ethnic" throughout the text of the draft resolution as there was grave doubt as to the precise meaning of "racial".

12. Replying to Mr. BLACK (United States of America), Miss MONROE (United Kingdom) explained that, although the word "racial" was used in General Assembly resolutions, the word "ethnic" seemed to be more appropriate, as it referred to the entire biological, cultural and historical heritage of an individual or a group whereas "racial" referred only to the physical aspects of such a heritage.

13. Mr. NISOT (Belgium) thought that it was superfluous to list cultural characteristics among the factors constituting a majority. Such cultural characteristics as might be legitimately claimed to warrant minority status

were, in his view, adequately covered by the concept of ethnic, religious and linguistic characteristics. He proposed therefore that the words "or cultural" in the second line should be deleted.

14. Mr. SPANLEN (France) shared Mr. Nisot's view.

15. Mr. SHAFAG (Iran) remarked that the concept of culture included historical tradition and a way of life not necessarily connected with either religion or culture. He would prefer the words "or cultural" to be retained.

16. The CHAIRMAN felt that, in view of the substitution of the word "ethnic" for "racial", the concept of cultural characteristics might be dropped. He recalled that in the Convention on Genocide the term "ethnic" was used to cover cultural, physical and historical characteristics.

It was decided to delete the words "or cultural".

17. Mr. BLACK (United States of America) proposed that the words "there exist in many States..." should be replaced by "there are among the nationals of many States...".

It was so decided.

The first and second paragraphs of the preamble were adopted in the following form:

"The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

"Recognizing that there are among the nationals of many States distinctive population groups possessing ethnic, religious or linguistic characteristics different from those of the rest of the population, usually known as minorities;"

Third paragraph of the preamble

Sub-paragraph (a) of the third paragraph was adopted without change.

18. Mr. CHANG (China) proposed that the words "fall within the field of those articles" in sub-paragraph (b) should be replaced by "are covered by those articles".

It was so decided.

/19. Mr. ROY

19. Mr. ROY (Haiti) proposed that the word "seeks" in sub-paragraph (b) should be replaced by "claims".

After some discussion, it was decided to retain the word "seeks" in the English text, leaving it to Mr. Roy, Mr. Spanien and Mr. Nisot to decide upon the appropriate corresponding term in the French text.

20. Mr. NISOT (Belgium) proposed that the words "complete identity of treatment" in sub-paragraph (b) should be replaced by "complete equality of treatment". Such a wording would correspond more closely to the international texts on protection of minorities adopted in the period between the two World Wars.

21. Miss MONROE (United Kingdom) felt that, in the context, "identity of treatment" was the appropriate term. A minority seeking complete equality of treatment might claim the right to protection of its special characteristics on an equal footing with those of the dominant group; it could not, consequently, be said not to pose the problem of special protection. On the other hand, a minority seeking complete identity of treatment, such as the Negro minority in the United States, definitely renounced all claims to special treatment.

22. Turning to the first paragraph of the preamble, Mr. CHANG (China) pointed out that it was virtually identical with sub-paragraph (a) of the operative part and was therefore superfluous. He proposed its deletion.

23. Miss MONROE (United Kingdom), while not opposing Mr. CHANG's proposal, remarked that it might be advisable to retain the fourth paragraph of the preamble for the sake of clarity and continuity.

After some discussion, it was decided to delete the fourth paragraph of the preamble.

24. Mr. NISOT (Belgium) remarked that, since the fourth paragraph had been deleted, it was essential to make it clear that the special protection referred to in the third paragraph was, in fact, protection of the special characteristics of minorities rather than protection of minorities against discrimination. In that connexion, he recalled that previous treaties on the subject had attempted to deal with both those forms of protection.

/25. He proposed

25. He proposed that the words "the problem of special protection" in the introductory sentence of the third paragraph should be changed to "the problem of protection of these distinctive characteristics."

It was so decided.

The third paragraph of the preamble was adopted in the following form:

"Recognizing, however, that not all such groups pose the problem of protection of these distinctive characteristics, which is not required:

(a) when the group in question, though numerically inferior to the rest of the population, is the dominant group therein, and

(b) when the group in question seeks complete identity of treatment with the rest of the population, in which case its problems are covered by those articles of the Charter of the United Nations, the Universal Declaration of Human Rights, and the Draft International Covenant on Human Rights that are directed towards the prevention of discrimination;"

Fifth paragraph of the preamble (including sub-paragraph (a))

26. Mr. SPANLEN (France) drew attention to the French translation of the word "undesirability" in the first line of sub-paragraph (a), which he considered unsatisfactory.

27. The CHAIRMAN suggested that the French-speaking members of the Sub-Commission should reach agreement on the best translation of the word.

28. Mr. BLACK (United States of America) suggested that the meaning of sub-paragraph (a) would be clearer if the phrase "do not wish to be treated differently from the rest of the population" was replaced by the phrase "consider that these characteristics are adequately protected by the public laws of the State in which they live".

29. Miss MONROE (United Kingdom) explained that the paragraph was intended to cover individual members of a minority group who did not wish to receive special treatment but preferred to be treated on the same footing as the majority. Mr. Black's proposal covered the rather different case of minority groups which were satisfied with their treatment and for that reason did not wish for special treatment.

30. Mr. ROY (Haiti) suggested that Miss Monroe's intention might be made clear by the insertion of the words "individuals belonging to" between the words "upon" and "a group" in the first line of the sub-paragraph.

31. Mr. BLACK (United States of America) agreed to withdraw his proposed amendment in deference to Mr. Roy's suggestion.

32. Mr. NISOT (Belgium) suggested that, since the fifth paragraph of the preamble was in opposition to the preceding paragraph, the word "further" in the first line of the paragraph should be replaced by the phrase "on the other hand".

33. The CHAIRMAN expressed the view that both clauses were limiting in their effect.

34. Mr. BLACK (United States of America) suggested the alternative phrase "at the same time".

35. Mr. NISOT (Belgium) proposed that the first two lines of the ^{fifth} paragraph from the words "the special aspect..." up to and including the words "...which include" should be replaced by the phrase "the need for bearing in mind".

36. Miss MONROE (United Kingdom) agreed to Mr. Nisot's suggestion.

The fifth paragraph and sub-paragraph (a) of the fifth paragraph were adopted in the following form:

"Recognizing, at the same time, the need for bearing in mind:

(a) 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."

37. The CHAIRMAN announced ~~that the~~ Sub-Commission would begin its consideration of sub-paragraph (b) of the fifth paragraph at the following meeting.

The meeting rose at 4.40 p.m.