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COMMISSION ON HUMAN RIGHTS  
SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES  
Third Session  
SUMMARY RECORD OF THE FIFTY-NINTH MEETING

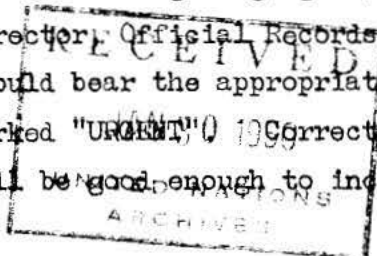
Held at Lake Success, New York,  
on Tuesday, 24 January 1950, at 11 a.m.

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<u>Chairman:</u>	Mr. MASANI	India
<u>Rapporteur:</u>	Mr. MENESES 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. SHAFaq	Iran
	Mr. SPANIEN	France

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Representative from a specialized agency:

Mr. SOTO DE LA JARA International Labour Organisation

Consultants from non-governmental organizations (category B):

Mr. BERNSTEIN Co-ordinating Board of Jewish Organizations

Mrs. PARSONS International Council of Women

Miss Jean CARTLAN                      International Union of Catholic  
Women's Leagues

Mr. PERLZWEIG                      World Jewish Congress

Secretariat:

Mr. LAWSON                      Secretary of the Sub-Commission

Mr. LIN MOUSHENG

Division of Human Rights

EXAMINATION OF PROPOSALS FOR MEASURES OF IMPLEMENTATION OF THE INTERNATIONAL BILL OF HUMAN RIGHTS (E/1371, E/CN.4/Sub.2/113, E/CN.4/353, E/CN.4/353/Add.1, E/CN.4/353/Add.2, E/CN.4/353/Add.3)

1. The CHAIRMAN announced that the item under consideration had been the subject of a paper submitted by Mr. Spanien (E/CN.4/Sub.2/113) outlining the author's views on the question of implementation. Some parts of the paper had been dealt with in the Sub-Commission's decision, taken the previous day, with respect to the convention on genocide. Other parts had yet to be discussed.

2. The nature of the organ to be set up for the implementation of human rights was one of the two main issues which the Sub-Commission had to consider. The other decision concerned the right of initiating procedures before the tribunal or political body: whether that right was to be restricted to States parties to the Covenant, or to be extended to non-governmental organs and to individuals as well.

3. Mr. SHAFAQ (Iran) was opposed to the setting up of an independent tribunal dealing solely with minorities. As for the right of petition, he had no positive suggestion to make, although he wished to point out that he had raised that question before. The Sub-Commission must decide what action was to be taken when claims for the rights

/of minorities

of minorities came up for consideration. There was the question whether the submission of such claims should be restricted to recognized organs of Governments or whether individuals should be given that prerogative; whether, if a minority group was permitted to submit claims, it would enjoy civil or international status. If a minority group within a State were to submit a complaint against that State, there was also the question of how it would co-exist with the latter.

4. The problem was an extremely intricate one and it was incumbent upon the Sub-Commission to take positive steps in dealing with it.

5. Miss MONROE (United Kingdom) observed that resolution VI in the report of the second session of the Sub-Commission (E/CN.4/351) might have a distinct bearing on both points raised by the Chairman.

6. The CHAIRMAN invited Mr. Perizweig, the representative of the World Jewish Congress, to make a statement on the question before the Sub-Commission.

7. Mr. PERIZWEIG (World Jewish Congress) wished to set forth the views of his organization on some of the issues before the Sub-Commission. The World Jewish Congress was most interested in the problems under consideration because there were, among its affiliates, minority communities consisting of survivors of genocide and discrimination of a magnitude never exceeded in history. The World Jewish Congress, moreover, had had a long and by no means unfruitful experience, both under the League of Nations and the United Nations, in the uses of international machinery in mitigating or preventing discrimination and in securing protection for otherwise helpless minorities.

8. Nearly three years had elapsed since the Charter had been adopted, with all its promises of emancipation for the millions who continued to live under systems of discrimination. It had not been expected that the United Nations would be able within a few years to liquidate those monstrous systems which had shackled mankind for centuries, yet it was profoundly disheartening to the minorities to see the organs of the United Nations advance so haltingly from formulation to implementation. Apart from the Convention on Genocide, no single practical step had been taken to establish a general system for the protection of minorities.

9. The League of Nations had made a beginning through its system of multipartite treaties. Some attempt should be made to arouse, to generalize and to strengthen, by means of a convention or series of conventions, the concept of international concern for the security and rights of minorities.

10. For multitudes throughout the world the deliberations of the Sub-Commission were not a matter of academic interest but were literally a matter of life and death.

11. Measures of implementation for the protection of minorities had many precedents. Mr. Perlzweig drew the attention of the Sub-Commission to the German-Polish Convention on upper Silesia of 1922 through which, under the guarantee of the League of Nations, hundreds of petitions from persons and groups belonging to minorities had been satisfactorily and peacefully settled. Much of that success had been due to the fact that the minorities, through their own organizations or as individuals, had had the acknowledged right of petition.

12. In conclusion, he expressed support for the principle that a significant place should be given to international non-governmental organizations in any measures of implementation which might be adopted. Governments were not unnaturally reluctant to intervene on behalf of minorities in other lands. Furthermore, the right of petition granted to non-governmental organizations which were genuinely international in character would help to ensure that the grievances of minorities would not be exploited for diplomatic or strategic ends.

13. He suggested that, in discussions on the question of implementation, minorities should be permitted to express their views before the Sub-Commission.

14. Miss MONROE (United Kingdom) drew attention to the main point in Mr. Perlzweig's statement to the effect that States which took up cudgels on behalf of minorities were sometimes in danger of creating a risk for the world. Also important was the fact that if minorities could appeal to States only, the latter might well be reluctant to run the risk of appearing to champion minorities for political objectives, as Hitler had done in the case of the Sudeten Germans. That point was made in section II (c) of Mr. Spanien's paper. (E/CN.4/Sub.2/113).

15. The CHAIRMAN suggested that the two main questions before the Sub-Commission, the structure of the judicial organ to be set up and the right of petition should be taken up separately.

16. He personally felt that a tribunal should be created before which groups and individuals could bring their Governments to account. The time had come to re-examine the concept of national sovereignty, and such a tribunal would be a starting point. Governments might be prevailed upon to cede a certain degree of their national sovereignty and to bow to the decisions of a world tribunal in matters relating to minorities.

17. He would prefer the establishment of a special division of the International Court of Justice, rather than an independent court of human rights, as had been suggested by the representative of Australia on the Commission on Human Rights.

18. Should the Commission on Human Rights be opposed to the establishment of a judicial organ, the Sub-Commission might propose as an alternative the constitution of a small fact-finding body which would examine complaints, more in the spirit of negotiation and conciliation than of arbitration. He would, however prefer the Sub-Commission to propose the establishment of a tribunal.

19. Mr. CHANG (China) agreed that the tribunal should be constituted as a branch of the International Court of Justice. As for the right of petition by groups or individuals, not only should they be granted that right, but measures should be taken to protect them when they complained of treatment in their own countries.

20. Mr. SPANIEN (France) felt that the Sub-Commission was taking upon itself too difficult a task in attempting to come to any decision regarding the structure of the judicial organ to be set up and the right of petition, particularly in view of the time-limit at its disposal. Moreover, the Commission on Human Rights had not requested the views of the Sub-Commission, since its questionnaire on the subject of implementation had not been addressed to the latter.

21. If it was merely a question of expressing a preference, there would be no difficulty. He had already stated that he would support the setting up of a tribunal. It was necessary, however, to be realistic: there was no basis for the hope that States would be prepared to surrender their sovereignty. The Sub-Commission could, however, observe that so far as it was concerned, regardless of what decision the Commission on Human Rights might take, recourse in matters relating to minorities should not be restricted to States, since that would be a retrograde step in comparison with the provisions for the protection of minorities instituted by treaties concluded between the two world wars.

22. The CHAIRMAN pointed out that the Commission on Human Rights had asked for the views of the Sub-Commission on the question of implementation of the International Bill of Human Rights.

23. It was incumbent upon the Sub-Commission to express itself clearly on the problem; it would be failing in its duty if it failed to do so. It might state that it attached the highest importance to the establishment of an organ for the consideration of complaints with respect to infringement of the provisions of the Convention.

24. Miss MCNROE (United Kingdom) agreed with Mr. Spanien's view that the Sub-Commission should decide whether its recommendations to the Commission on Human Rights should range over the whole subject of the implementation of the International Bill of Human Rights or whether they should concentrate on the points directly related to the prevention of discrimination and the protection of minorities. She felt that the Sub-Commission should follow the latter course, thus remaining within its terms of reference and at the same time doing something really concrete for those whom it wished to protect. It could concentrate first on the questions concerning minorities and discrimination and then, in the light of that discussion, proceed from the particular to the general and express its view that the machinery for the protection of minorities should form a part of the general machinery for the implementation of the International Bill of Rights. In that connexion, she suggested that the ideas and principles set forth in the working papers of Mr. Spanien should be incorporated into a draft resolution to be considered by the Sub-Commission.

25. Mr. SPANIEN (France) was of the firm opinion that the Sub-Commission should confine its recommendations to the fields clearly and explicitly defined in its terms of reference. It was true that the question of effective redress in matters of discrimination against minorities was closely bound up with the whole machinery for the implementation of the Bill of Human Rights; the Sub-Commission, however, should approach that question from the sole point of view of minorities and discrimination.

26. The CHAIRMAN agreed with the procedure proposed by Miss Monroe and suggested that she, Mr. Spanien and he himself should prepare a draft resolution for the following meeting on the basis of the working paper submitted by Mr. Spanien and in the light of the Sub-Commission's decisions on the following two points: whether the enforcement of human rights should be entrusted to a judicial tribunal or to a conciliatory body; and whether or not the right to initiate proceedings should be restricted to Governments only.

27. After an exchange of views between the CHAIRMAN, Miss MONROE (United Kingdom) and Mr. SPANIEN (France), it was agreed that the Sub-Commission might suggest the setting up of a conciliatory body as the best means of achieving what it considered ultimately preferable: the establishment of a judicial tribunal.

28. The CHAIRMAN then turned to the question of the right to initiate proceedings on matters of human rights and said that there seemed to be general agreement among members of the Sub-Commission that such a right should not be restricted to Governments only. The issue before the Sub-Commission was whether that right should also be granted to groups or individuals, or to both.

29. Mr. SPANIEN (France) feared, on the basis of the information available, that the Commission on Human Rights would restrict the right to initiate proceedings to Governments only; he considered that the Sub-Commission would achieve no useful purpose by emphasizing the disadvantages of such a procedure in general. All it could do was to stress those disadvantages in connexion with the particular problem of minorities with which it was specifically

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entrusted, and then hope that the principle would be gradually extended to all fields of human rights.

30. In reply to a question by Mr. Shafaq, Mr. PERLZWEIG (World Jewish Congress) said that the Polish-German 1922 Convention on Silesia had contained no references to any specific group and had only laid down the collective and individual right of minorities to appeal for redress. Two organizations had then spontaneously sprung into existence, one representing the German minority in Poland and the other representing the Polish minority in Germany. The right of those two bodies to petition had been gradually recognized in practice by the Council of the League of Nations and indeed their very existence had been of great help to the League. In his opinion, minorities should be given an opportunity to set up organizations which would be truly representative, and would be recognized as such.

31. Miss MONROE (United Kingdom) emphasized the need to classify minorities and give them a legal personality. Indeed, she believed that the successful implementation of the German-Polish Convention mentioned by Mr. Perlzweig had been mainly due to the fact that the legal identity of the minorities concerned had been based on a legal document.

32. Mr. SHAFAG (Iran) thought it would be dangerous not to refer to any specific group, because dissident groups might be set up and the resulting confusion might jeopardize the effective protection of minorities.

33. The CHAIRMAN said that the draft resolution to be submitted to the following meeting would show how, in the light of its own particular problem, the Sub-Commission had come to the conclusion that the right to initiate proceedings should not be restricted to Governments only but that minority groups should also enjoy that right. In his opinion, that right should not be denied to individuals, either. He agreed with Miss Monroe's suggestion that the draft resolution might contain a reference to the need to protect the liberties of political groups.

The meeting rose at 1 p.m.