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AND PROTECTION OF MINORITIES

Third Session

SUMMARY RECORD OF THE FIFTY-SECOND MEETING

Held at Lake Success, New York,
on Wednesday, 18 January 1950, at 2.30 p.m.

CONTENTS: Further consideration of Part C of resolution 217 (III) of
the General Assembly, on the fate of minorities (E/CN.4/Sub.2/89,
E/CN.4/Sub.2/91, E/CN.4/Sub.2/92 and E/CN.4/Sub.2/106).

<u>Chairman:</u>	Mr. MASAWI	(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. SHAFAG	(Iran)
	Mr. SPANLEN	(France)

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FURTHER CONSIDERATION OF PART C OF RESOLUTION 217 (III) OF THE GENERAL ASSEMBLY,
ON THE FATE OF MINORITIES (E/CN.4/Sub.2/89, E/CN.4/Sub.2/91, E/CN.4/Sub.2/92,
and E/CN.4/Sub.2/106)

1. The CHAIRMAN announced that the Sub-Commission would resume its discussion on the question of the protection of minorities. He would call upon the sponsors of the various draft resolutions before the Sub-Commission to introduce their proposals.

2. Mr. EKSTRAND (Sweden), introducing the draft resolution which he had submitted jointly with Mr. Black (E/CN.4/Sub.2/106), pointed out that the draft resolution sponsored by Miss Monroe, which the Sub-Commission had adopted at its previous meeting, had defined the term "minority" and had related the problem of the protection of minorities to the wider problem of human rights. While the Sub-Commission was not yet in a position to submit its final recommendations on the problem, it had reached a stage at which it should review its work in the light of the decisions it had so far adopted. The joint draft resolution, of which he was a sponsor, was

/addressed

addressed to the Economic and Social Council through the Commission on Human Rights, since the co-operation of the Council was necessary to enable the Sub-Commission to obtain the information on the treatment of minorities throughout the world, which would form the basis of its work on the classification of minorities.

3. He would deal with the text of the joint draft resolution in detail at a later stage.

4. Mr. SHAFQAQ (Iran), introducing his draft resolution on the status of newly created minorities (E/CN.4/Sub.2/92), said that his proposal was designed to meet the needs of the minorities which had been brought into existence as a result of political and geographical changes in the years following the Second World War. Examples of such minorities were the Arab and Jewish minorities in Palestine, the Muslim minorities in India, the Indian minorities in Pakistan and the German minorities in countries adjacent to Germany. It was essential for the United Nations to define its attitude towards such minorities, to whose fate it could not remain indifferent.

5. The CHAIRMAN drew attention to the fact that the Sub-Commission already had authority to carry out a study on the lines suggested by Mr. Shafaq. The final paragraph of his draft resolution was therefore redundant. If the purpose of the draft resolution was to inform the Commission on Human Rights of the Sub-Commission's decision to study the problem, that purpose would be met by the Sub-Commission's report. He suggested that Mr. Shafaq might wish to submit a more concrete proposal to the Sub-Commission.

6. Mr. EKSTRAND (Sweden), supported by Mr. SPANLEN (France), expressed the view that Mr. Shafaq's proposal was premature, since the frontiers of many of the areas concerned might be affected by peace treaties which had not yet been signed.

/s/ Mr. SHAFQAQ

7. Mr. SHAFAG (Iran), introducing his draft resolution relating to on-the-spot surveys (E/CN.4/Sub.2/91), said that his proposal was based on the view that the thorough study of the question of minorities which the Sub-Commission had been requested to undertake should not be confined to a theoretical study. The surveys he proposed should be regarded as an extension or continuation of the Sub-Commission's work. It was not his intention that such surveys should be undertaken by members of the Sub-Commission alone; other impartial and responsible bodies should be given an opportunity in the field. He was aware that difficulties would be encountered in the implementation of his proposal but he considered, nevertheless, that there were countries in which surveys could profitably be undertaken. Members of the United Nations had, for example, been able to visit Trust Territories and had obtained much valuable information as a result.

8. Mr. NISOT (Belgium) pointed out that in his opinion an amendment of the Charter would be required before the surveys envisaged in Mr. Shafaq's proposal could be carried out.

9. Miss MONROE (United Kingdom) referred to Mr. Shafaq's statement at the previous meeting to the effect that the Sub-Commission was anxious to avoid the creation of a "minority-consciousness". Nothing in her view could be better calculated to achieve that result than the news that surveys of the type proposed by Mr. Shafaq were envisaged. While she was not opposed to the proposal in principle, she would request Mr. Shafaq not to press for its adoption at the existing stage of the Sub-Commission's work.

10. Mr. SPANIEN (France) expressed the view that Mr. Shafaq's proposal was premature and outside the scope of the Sub-Commission's terms of reference. It would also impose a heavy additional burden on the members of the Sub-Commission.

/11.Mr. MENESES PALLARES

11. Mr. MENESES PALLARES (Ecuador) considered that Mr. Shafaq's proposal was closely connected with the draft resolution which the Sub-Commission had adopted, requesting information from Governments. In his view, the adoption of Mr. Shafaq's proposal would have a number of advantages. It would provide the Sub-Commission with first-hand information in cases where Governments had failed to reply to the questionnaire and would enable it to supplement and check information received in response to the questionnaire.

12. Mr. SPANLEN (France) pointed out that if Mr. Shafaq maintained his proposal for on-the-spot surveys, the Sub-Commission might be forced to reject it as premature. In order not to sacrifice the principle of a proposal he considered reasonable, he suggested that Mr. Shafaq should withdraw the proposal and present it again at a more propitious time.

13. Mr. SHAFaq (Iran), replying to Miss Monroe's comment, explained that his remark concerning minority consciousness had been a warning to the Sub-Commission against searching for new minorities where none existed; it could hardly apply in the case of already existing and generally recognized new minorities.

14. In answer to Mr. Spanlen, he stated that he did not envisage the immediate introduction of on-the-spot surveys; his proposal was merely a suggestion for a possible future investigation. Since it could be expected that considerable time would elapse between the adoption of such a proposal and the initiation of the surveys, he suggested that the recommendation should be made as early as possible.

15. Miss MONROE (United Kingdom) appreciated Mr. Shafaq's view, but stressed the fact that in view of the probable cost of such an investigation, Mr. Shafaq's proposal would have more chance of adoption if presented at a time when it could be accompanied by definite suggestions regarding the procedure to be followed.

16. Mr. CHANG (China) thought that the question of newly-created minorities could be merged with the larger question of minorities in general. With regard to the proposal for on-the-spot surveys, he considered it a useful one and suggested that it might more profitably be discussed in connexion with item 12 of the agenda, "Additional items", when the Sub-Commission's ideas regarding the classification of minority groups and the rights to be protected had been further clarified.

17. Mr. SPANIEN (France) objected to Mr. Chang's suggestion, for he felt that the two proposals both came within the scope of the item under discussion. Although he considered on-the-spot surveys an interesting idea, he would vote against the proposal as premature.

18. Mr. SHAFaq (Iran) endorsed the view expressed by Mr. Chang. He withdrew his proposal for on-the-spot surveys, reserving the right to present it again in an altered form in connexion with item 12.

19. The CHAIRMAN outlined the substance of a proposal which he intended to present in writing at the following meeting. The proposal was in three parts: first, that the Sub-Commission should accept tentatively the classification headings given by the Secretariat in document E/CN.4/Sub.2/85, pp. 19 et seq.; secondly, that the Economic and Social Council and the Commission on Human Rights should be requested to obtain information on minority groups from Member States, in accordance with the requests made at the Sub-Commission's second session; thirdly, that the Sub-Commission should appoint a sub-committee to prepare, with the help of the Secretariat, specialists and learned societies, a list of minority groups to be circulated to the members of the Sub-Commission before the following session.

20. He pointed out that while the second point of his proposal duplicated in some measure the Ekstrand-Black draft resolution, his first and third points were matters of internal procedure within the Sub-Commission and concerned substantive decisions which he felt must be taken by the Sub-Commission before it could adopt the Ekstrand-Black draft resolution.

/He therefore

He therefore felt that it would not be appropriate for amendments to that resolution to be presented at the moment. If his own proposal were adopted, it would then be necessary to amend the Ekstrand-Black draft resolution accordingly. A general discussion would, however, be useful.

21. Mr. SHAFAG (Iran) asked what action had been taken on the resolution presented by Mr. Meneses Pallares, Mr. Roy and himself at the second session, concerning requests for information from Member Governments (resolution E, document E/CN.4/351).

22. Mr. LAWSON (Secretary) replied that the report of the second session of the Sub-Commission was on the agenda of the sixth session of the Commission on Human Rights.

23. In reply to a comment from Mr. ROY (Haiti), who felt that the Ekstrand-Black proposal would be a duplication of the earlier resolution, the CHAIRMAN pointed out that the Sub-Commission might pass a new resolution, broader in scope, embodying and superseding the earlier one. The Ekstrand-Black resolution was more limited in scope than the one already adopted by the Sub-Commission, since it dealt only with information concerning linguistic rights.

24. Mr. EKSTRAND (Sweden) explained briefly the various paragraphs of the joint draft resolution.

25. The first paragraph of the preamble of the resolution it recommended for adoption by the Economic and Social Council might be considered as an interim report to that Council.

26. With regard to the second paragraph, it was important to draw attention to the list of factors complicating the problem, which was given in the resolution defining minorities; it seemed wiser to attach that resolution as an annex rather than to incorporate in the proposal itself the text of the definition in question.

27. With regard to the third paragraph, although the minorities treaties in force after the First World War could not be considered to be final or to cover all minority groups, he thought it was generally agreed that they should form the starting point for the work to be done by the United Nations concerning minority problems.

28. Proceeding to the fourth paragraph, Mr. Ekstrand pointed out that in view of the extent to which the traditional rights of minorities were covered in the Universal Declaration of Human Rights, it had been decided to call the attention of the Economic and Social Council to the fact that the field of activity called "prevention of discrimination" embraced a large part of the traditional "minorities" field.

29. In the fifth paragraph, it had been deemed desirable to refer in a general way to the draft International Covenant on Human Rights, since it covered many rights traditionally desired by minority groups.

30. The sixth paragraph of the preamble delimited, for the purposes of the United Nations, the boundary between rights falling under the heading "prevention of discrimination" and those coming within the meaning of "protection of minorities". It was made clear, however, that the Sub-Commission's finding was an initial one and not final.

31. The first paragraph of the operative part of the same resolution affirmed, in the form of a decision by the Council, the initial finding of the Sub-Commission. It was important that the Council should take note of that finding, since its help would be needed if the Sub-Commission should decide to request a substantial body of information from the Member States. The two parts of the last paragraph of the resolution made provision for the further work of the Sub-Commission on the problem.

32. Mr. SHAFAQ (Iran) expressed his support, in general, of the concept of preservation of minority languages, which was not a new idea in the United Nations. It was, however, a complex and intricate question, fraught with dangers. While it was natural to think of the principle in terms of well-defined and recognized languages, it must be remembered that throughout the world thousands of languages and dialects were in use, each of them incomprehensible except to a small group. Some of them, such as the languages of the

American Indian tribes, were primitive to the point of never having been put into writing. It was inconceivable that such languages should be revived for use in the schools of the modern world. That point should, he thought, be clarified in the draft resolution.

33. Miss MONROE (United Kingdom) explained that the clause in her definition of minorities (E/CN.4/Sub.2/103) which referred to the difficulties involved in claims to minority status of groups so small that special treatment would place a disproportionate burden upon the resources of the State was intended to cover cases such as those described by Mr. Shafaq. Since that definition was to be annexed to the Ekstrand-Black draft resolution and would therefore virtually form part of it, she considered that Mr. Shafaq's point was adequately met.

34. Mr. SHAFaq (Iran) did not agree that his objection was met by the clause referred to by Miss Monroe. The Ekstrand-Black draft resolution should clearly specify that the protection contemplated could not be granted to those who spoke primitive languages or dialects, having neither grammar nor script.

35. Mr. MENESES PALLARES (Ecuador) found the Ekstrand-Black draft resolution generally unsatisfactory. The decisions and recommendations it contained did not seem to warrant the lengthy and cumbersome preamble.

36. Mr. BLACK (United States of America) pointed out that a number of amendments had been submitted which would considerably expand the operative part. The authors of the draft had felt that some points which might appear superfluous to members of the Sub-Commission should be included in the preamble, because the draft resolution, if adopted, would come before a series of other organs less conversant with the subject. The draft resolution did not strive for originality; its virtue, in Mr. Black's view, was that it united all the ideas which had so far been evolved on the action which should be taken for the protection of minorities.

37. Mr. NISOT (Belgium) remarked that if that was the sole purpose of the preamble, the points it contained might equally well be included in the Sub-Commission's report.

38. Mr. EKSTRAND (Sweden) replied that a resolution generally carried more weight than a report; he would therefore prefer the clauses of the preamble not to be transferred to the report.

39. Miss MORICE (United Kingdom) intimated that she would submit an amendment to the operative part of the draft resolution, although she approved of the text as a whole. In her view, it was necessary to stress that the decision set forth in Mr. Daniels' resolution, adopted at the preceding session, was indeed only an initial finding, and that, as a result of further studies, the Sub-Commission might extend the scope of its action to fields other than that of language.

40. The CHAIRMAN said that he would submit a draft resolution to the effect that, with a view to enabling the Sub-Commission to consider further action on the protection of minorities, the Secretary-General should be requested to prepare for consideration by the Sub-Commission a draft convention on the protection of ethnic, religious and linguistic traditions and characteristics as defined in the Sub-Commission's resolution of 18 January 1950, in the minority treaties and agreements which had come into force after the First World War, and in the Universal Declaration of Human Rights. The draft convention should be circulated to members not later than 30 June 1950.

41. He stressed that the proposed draft convention would serve as a basis for discussion only, and would involve no commitments for the Sub-Commission or the Secretary-General.

42. Mr. NISOT (Belgium) recalled that he had repeatedly pointed out in the past that the treaties and agreements which had come into force after the First World War provided not only for protection of special characteristics of minorities but also for equality of treatment. The definition adopted by the

Sub-Commission on 18 January 1950, on the other hand, was aimed at the protection of special rights only. He did not see, therefore, how a draft covenant on protection could be prepared on the basis of both that definition and the treaties and agreements in question.

43. Miss MONROE (United Kingdom) thought that the Chairman's proposal was an interesting one. Nevertheless, she questioned the desirability of adopting such a proposal at the same time as the draft resolution submitted by Mr. Ekstrand and Mr. Black. While the two drafts were not mutually exclusive, their simultaneous adoption might give the impression that the Sub-Commission was of two minds about the scope of its work. Moreover, the Chairman's proposal appeared to leave out of account the fact that the Draft Covenant on Human Rights, which had not yet come into force, might in its final form ensure the adequate protection of the rights of minorities other than those mentioned in the Ekstrand-Black draft. In the meantime, the Sub-Commission should seek only to give protection wherever a certain amount of differential treatment was required because a minority wished to preserve its special characteristics.

44. Mr. NISOT (Belgium) stressed that, having adopted Miss Monroe's definition, the Sub-Commission should also abide by the restrictive interpretation of its task implicit in that definition.

45. The CHAIRMAN did not believe that the definition adopted by the Sub-Commission meant the automatic exclusion of all forms of protection not contemplated in the definition. Moreover, it was only a definition and not a concrete decision. The Sub-Commission was surely not precluded from ensuring the legitimate right of minorities to fair and equal treatment.

46. Mr. CHANG (China) was inclined to agree with Mr. Nisot that the Sub-Commission should confine its action to taking effective measures for the protection of the specific rights of minorities as such.

47. Mr. LAWSON (Secretary of the Sub-Commission) drew attention to the Secretariat paper on the contribution of the Convention on the Prevention and Punishment of the Crime of Genocide to the Prevention of Discrimination and the Protection of Minorities (E/CN.4/Sub.2/80). While it had been agreed that the question of genocide would be considered under item 12 of the agenda, members might find it helpful to consult that document in the context of the present discussion.

48. In that connexion, he drew attention to the list of acts of cultural genocide appearing on page 8 of the document. Of those acts, only the first -- forced transfer of children to another human group -- had been included in the Convention on Genocide by the General Assembly. However, in deciding not to provide for the prevention and punishment of other acts of cultural genocide, the view had been expressed in the General Assembly that action in that respect might more appropriately be taken within the field of the protection of minorities.

49. Mr. SPANLEN (France) agreed with Mr. Nisot that the Sub-Commission must be clear about the scope of its work. The definition evolved by Miss Monroe laid down the criteria of admissibility of claims for protection of specific rights. The Ekstrand-Black draft resolution was complementary to that definition inasmuch as it defined the zone of application of the protection of special characteristics. The treaties adopted after the First World War had had to provide for equal treatment of minorities, because at that time there had been no international contractual agreements such as the United Nations Charter, the Universal Declaration of Human Rights and the Draft Covenant on Human Rights to ensure the protection of minorities against discrimination. Now that those texts were in existence, however, there was no need for a further convention on non-discrimination against minorities. The Sub-Commission should therefore confine itself to dealing with the protection of certain specific rights which minorities might legitimately claim over and above the right to equal treatment.

50. The Ekstrand-Black draft resolution outlined the scope of the Sub-Commission's work within those limits. Mr. Spanlen therefore felt that the preamble of the draft resolution should be retained and should not be transferred to the Sub-Commission's report.

/51. Referring

51. Referring to Mr. Lawson's remarks, he agreed that the international machinery for the prevention and punishment of genocide as laid down in the Convention was not yet perfect; the Sub-Commission might attempt to fill the gaps when it came to examine the question of genocide, under item 12 of its agenda.

The meeting rose at 4.30 p.m.

20/1 p.m.