



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL

E/CN.4/Sub.2/SR.49
19 January 1950

ENGLISH
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES
Third Session

SUMMARY RECORD OF THE FORTY-NINTH MEETING

Held at Lake Success, New York,
on Monday, 17 January 1950, at 11 a.m.

CONTENTS:

Definition and classification of minorities (E/CN.4/Sub.2/35,
E/CN.4/Sub.2/103) (continued).

<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 MCNROE	(United Kingdom of Great Britain and Northern Ireland)
	Mr. NISOT	(Belgium)
	Mr. ROY	(Haiti)
	Mr. SHAFAG	(Iran)
<u>Representative of specialized agency:</u>	Mr. ARNALDO	United Nations Educational, Scientific and Cultural Organization

Any corrections to this record should be submitted in duplicate in either of the working languages (English or French), 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.

RECEIVED

JAN 25 1950

UNITED NATIONS

Consultants from non-governmental organizations:

<u>Category A:</u>	Miss SENDER	American Federation of Labor (AF of L)
<u>Category B:</u>	Mr. LEWIN	Agudas Israel World Organization
	Mr. STEINER	Commission of the Churches on International Affairs
	Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
	Mr. BERNSTEIN	Co-ordinating Board of Jewish Organizations
	Miss GARTIAN	International Union of Catholic Women's Leagues
<u>Secretariat:</u>	Mr. LAWSON	Secretary of the Sub-Commission
	Mr. LIN MOUSHENG	Human Rights Division

DEFINITION AND CLASSIFICATION OF MINORITIES (E/CN.4/Sub.2/85, E/CN.4/Sub.2/103)
(continued)

1. The CHAIRMAN invited the members of the Sub-Commission to resume the discussion on the fourth paragraph of the draft resolution presented by Miss Monroe (E/CN.4/Sub.2/103).

Fourth paragraph (continued)

Sub-paragraph (b)

2. Mr. MENESES PALLARES (Ecuador) asked Miss Monroe for some explanation of the meaning of sub-paragraph (b).

3. Miss MONROE (United Kingdom) replied that sub-paragraph (b) provided for two categories of minorities; the first category covered minority groups which, while clearly distinguished by their language, culture and religion, were in the process of a rapid evolution which it was inadvisable to halt. That

/group

group included, for example, displaced persons who were established in certain countries. The second category covered groups which modern communication facilities were bringing into contact with civilization and whose progress should not be thwarted.

4. Mr. SHAFAG (Iran) asked what were the different methods by which a State could hinder the evolution of the groups provided for in sub-paragraph (b).

5. Miss MONROE (United Kingdom) explained that the most general method was to force a minority to be educated in its own language. That was one way of stopping the evolution of a minority at a given moment.

6. Mr. SHAFAG (Iran) considered that, in that case, sub-paragraph (b) was designed to prevent members of a minority group from being protected against their will.

7. Miss MONROE (United Kingdom) endorsed Mr. Shafag's interpretation.

8. Mr. MONESSES PALLARES (Ecuador) also considered that sub-paragraph (b) sought to obviate the danger of minorities being artificially insulated during the course of their evolution, and to prevent States from hampering the natural assimilation of minorities.

9. He pointed out, however, that means of communication or a new environment were only two of the factors which could determine the rapid evolution of any given minority. He therefore proposed that the text should be amended to read: "when impacts such as that of a new environment or that of modern means of communication...".

10. Miss MONROE (United Kingdom) accepted that amendment.

Sub-paragraph (b), as amended, was adopted.

/Sub-paragraph (c)

Sub-paragraph (c)

11. Mr. NISOT (Belgium) suggested that the words "of which they are nationals" should be deleted, in view of the fact that some people had dual nationality.

12. Miss MONROE (United Kingdom) explained that the paragraph meant that minority groups must be loyal to the State in which they resided and whose privileges they claimed.

13. Mr. NISOT (Belgium) still thought that the question of nationality should not appear in that paragraph.

14. The CHAIRMAN suggested that the second part of the paragraph should be amended to read as follows: "...spontaneous desire for a tranquil life as contented citizens of a State might be disturbed by parties interested in fomenting amongst them disloyalty to that State".

15. Mr. SPANIEN (France) asked Miss Monroe to give a concrete example of the danger envisaged in sub-paragraph (c).

16. Miss MONROE (United Kingdom) replied that a State might take advantage of the measures adopted by the United Nations for the protection of minorities to incite amongst ^{the} minority groups of another State hostile feelings towards that State. A typical example was that of the Sudeten Germans in Czechoslovakia.

17. Mr. NISOT (Belgium) thought that there were grounds for Miss Monroe's anxiety. Between the two wars the protection of minorities had often served as a pretext for certain States to foment trouble in neighbouring countries.

/18. Mr. SPANIEN

18. Mr. SPANLEN (France) thought that sub-paragraph (c) was intended to prevent third party States from taking advantage of the measures adopted for the international protection of minorities for their own selfish ends. If that were the case, the text should be more specific.

19. Miss MONROE (United Kingdom) pointed out that the sub-paragraph in question merely drew the attention of the United Nations to one specific aspect of the problem of minorities.

20. Mr. SHAFARQ (Iran) stressed the importance of putting the United Nations on its guard against the abuses that might be committed in the name of the international protection of minorities.

21. Mr. CHANG (China) thought that sub-paragraph (c) was very valuable. He wondered, however, whether the word "risk" necessarily implied that, in the case referred to, it would be inadvisable to apply protective measures. He also wondered whether the word "contented" implied that the full protection necessary would be granted to the minorities covered by that sub-paragraph.

22. Miss MONROE (United Kingdom) stated that she would be willing to replace the word "risk" by a stronger word such as "danger", but care must be taken not to diminish the scope of the sub-paragraph, which was intended to be a warning against what had been one of the principal causes of the last World War.

23. Mr. SPANLEN (France) would prefer to retain the word "risk". The danger of intervention by a third party State would always exist despite all the precautions which might be taken. The question was simply whether the United Nations, though unable to do away with that danger, could run the risk of taking measures to organize the protection of minorities. The main thing was to attempt, as far as possible, to organize that protection in full knowledge of the risks involved.

/24. Mr. CHANG

24. Mr. CHANG (China) felt that sub-paragraph (c) was very important, for it covered cases like that of Outer Mongolia, where peoples who had once been contented and had enjoyed a large measure of autonomy had been the victims of agitators, first from Czarist Russia, later from Japan, and finally from the USSR.

25. The population of Manchuria had gradually become amalgamated with that of China, chiefly through marriage. The case of Manchuria was covered by sub-paragraph (b). If agitation had not been stired up in Outer Mongolia, that country would have followed the same path as Manchuria and would have been assimilated to China. It was impossible to underestimate the danger of allowing foreign intervention amongst minority groups who were contented with their lot and who wished to be assimilated to the peoples of the territory where they were living.

26. The CHAIRMAN pointed out that the precise purpose of the fourth paragraph of the draft resolution was to draw attention to that danger.

27. Mr. CHANG (China) wished to know whether the United Nations would intervene in the cases covered by sub-paragraph (c).

28. Miss MONROE (United Kingdom) replied that sub-paragraph (c) merely drew the attention of the United Nations to a possible risk.

Sub-paragraph (c) was adopted.

Sub-paragraph (d)

29. Miss MONROE (United Kingdom) stated that the practices mentioned in sub-paragraph (d) were cannibalism and human sacrifices, among others.

30. Mr. SHAFAG (Iran) thought that it would be preferable to say "...the laws of humanity, such as those defined in the Universal Declaration of Human Rights", since that list might be incomplete.

31. Mr. BLACK (United States of America) also stressed that there were cases such as polygamy, for which provision was not made in the Declaration.
32. Mr. EKSTRAND (Sweden) would prefer the original text to be retained.
33. Miss MONROE (United Kingdom) pointed out that all those amendments would seem to imply that the Sub-Commission under-estimated the value of the Declaration.
34. Mr. SPANIEN (France) thought that it was essential to abide by the rules laid down in the Universal Declaration of Human Rights, in order to avoid any arbitrary decision and not to be called upon to protect minorities which might lay claim to all sorts of hypothetical rights. If the specific rules contained in the Declaration were not adhered to, absurd situations might arise; for example, the Moslem communities in the French Union might be forced to repudiate their wives.
35. Mr. SHAFQA (Iran) urged that the laws of humanity should not be restricted to those laid down in the Declaration.
36. The CHAIRMAN pointed out that the conception of public morality varied from one country to another and that humanity had not yet worked out a single moral code. The Universal Declaration of Human Rights represented the maximum that could be done at that time in the matter and it would be dangerous to go beyond it.
37. Mr. MENESES PALLARES (Ecuador) thought that Mr. Shafaq might be satisfied if the text were amended to read: "to the laws of humanity, particularly those defined in the Universal Declaration...".
38. Miss MONROE (United Kingdom) pointed out that that amendment would still imply that the Universal Declaration was incomplete.

39. Mr. BLACK (United States of America) proposed the following phrase: "...which are contrary to the public morality of the country in which they live and to the laws of humanity as defined in the Universal Declaration of Human Rights", in order to take into account the fact that the moral code differed from one country to another.

40. The CHAIRMAN pointed out that the moral code in certain countries was so primitive that the United Nations could not encourage its continuance. Furthermore, he recalled that the Universal Declaration of Human Rights had been adopted by the General Assembly by an overwhelming majority.

41. Miss MONROE (United Kingdom) said that if the Sub-Commission adopted the text proposed by Mr. Black, it would be encroaching upon the field of domestic jurisdiction of States. She therefore proposed the following text: "the undesirability of affording protection to practices which are inconsistent with human rights as proclaimed in the Universal Declaration of Human Rights".

42. Mr. BLACK (United States of America) and Mr. MENESES PALLARES (Ecuador) withdrew their proposals.

43. The CHAIRMAN put to the vote the text of sub-paragraph (d) as amended by Miss Monroe.

Sub-paragraph (d), as amended, was adopted by 9 votes.

Sub-paragraph (e)

44. Mr. SHAFAG (Iran) pointed out that the question raised in sub-paragraph (e) was not merely of a financial or economic nature. It might be understood from the terms of the sub-paragraph that any minority would be able to claim the status of a minority so long as that did not involve any expenditure for the State.

/45. Miss MONROE

45. Miss MONROE (United Kingdom) admitted that it was of course always possible to envisage extreme cases. She explained that the idea she had introduced in that sub-paragraph had been prompted by the question of the language of instruction in schools. No minority, however small, should of course be forbidden to set up a private school for its own use; but the question was whether such a minority should benefit from State services financed from public funds. There were many examples of such a situation: thirty-eight different Indian dialects, for instance, were spoken by the population on the Island of Mauritius. Only six of those dialects were used in schools in addition to English and French.

46. The actual purpose of sub-paragraph (e) was to indicate to Governments that the Sub-Commission was fully aware of the complications arising from that aspect of the problem and of the difficulties with which they might be faced.

47. Mr. SHAFAG (Iran) pointed out that the Sub-Commission was seeking to establish principles which should be as general as possible. He drew attention to paragraph 62 of the Secretary-General's memorandum (E/CN.4/Sub.2/85), where it was stated that a minority considered as a group, entitled to special positive services or special rights should properly include a number of persons sufficient by themselves to develop their own particular traits.

48. He considered that definition adequate and preferable to the wording of sub-paragraph (e). He felt that the sub-paragraph should be drafted in more general terms.

49. The CHAIRMAN proposed, as a compromise, that the idea of "public funds" might be replaced by that of "resources of the State".

50. Miss MONROE (United Kingdom) stated that in her view that expression was weaker. She would prefer the words "public funds" to be retained.

She was well aware that that provision could provide a loop-hole for States which meant to oppress minorities; it was for that reason that care must be taken to restrict that possibility.

51. The CHAIRMAN admitted that a certain limit must be fixed. Furthermore, the concept of small or negligible numerical strength was relative, and the only valid reason which might be invoked was that of a disproportionate burden upon the national economy.

52. He felt, however, that the idea of national resources included the concept of public funds or of services financed from public funds.

The amendment proposed by the Chairman was adopted.

53. Mr. SPANIEN (France) felt that Mr. Shafaq had raised an important question. It was inappropriate to refer to any financial limitation in a definition of principle. It might perhaps be possible to overcome that objection by changing the end of the sub-paragraph to read: "...by small groups, in particular when special treatment would place...", thus giving secondary importance to the financial factor only.

54. Mr. BLACK (United States of America) stated that, apart from the Chairman's amendment which replaced the words "public funds" by "resources of the State", the original text of the paragraph seemed preferable.

55. The CHAIRMAN wished to know whether in the Sub-Commission's opinion the word "small" should be interpreted as "small in number".

56. Mr. NISOT (Belgium), supported by Mr. SPANIEN (France), thought that the word should be understood as referring to the numerical strength of the group.

57. After a brief discussion on that point, Mr. SHAFaq (Iran) wondered whether it would be possible later to reconsider the meaning of the words

/ "small groups".

"small groups". That, in his view, was a basic question which must be settled. He did not intend for the time being to press for a new formula, but he wished it to go on record that he regarded the wording of the paragraph as unsatisfactory. He inquired, however, whether it would not be possible to use the formula contained in the Secretary-General's memorandum, which he had quoted earlier.

58. Miss MONROE (United Kingdom) stated that she was well acquainted with the passage in the Secretariat document to which Mr. Shafaq had referred, but she pointed out that the words "public funds" had been used in that document also. She had thought that the use of that expression in the text of the draft resolution would solve the problem satisfactorily.

59. With regard to the meaning of the word "small", she recalled that in former treaties determining the fate of minorities the expression "appreciable" had been used; they, however, had involved compact population groups which had been isolated as a result of changes of frontiers, while the minorities with which the Sub-Commission had to deal were sometimes made up of small groups scattered over certain regions of a country, so that it seemed very difficult to use the word "appreciable".

60. The CHAIRMAN thought that it would be quite feasible to use the words of the Secretary-General's memorandum, as Mr. Shafaq had suggested, by incorporating them in the operative part of the draft resolution.

61. Mr. MENESES PALLARES (Ecuador) pointed out that the question raised by Mr. Shafaq had not yet been solved. Sub-paragraph (e) mentioned only one of the difficulties to which the protection of a small minority might give rise. It should be made clear that the difficulty was mentioned merely as an example and that there might be others. He therefore proposed that the words "for instance" should be included in the last phrase of the sub-paragraph.

The amendment was adopted.

62. The CHAIRMAN read out the text of sub-paragraph (e) as amended, which ran as follows:

63. "the difficulties raised by claims to the status of a minority by groups so small that special treatment would, for instance, place a disproportionate burden upon the resources of the State".

Sub-paragraph (e) was adopted.

Fifth paragraph

64. The CHAIRMAN thought that the words "against oppression" in the second line of the paragraph might perhaps be deleted.

65. Mr. NISOT (Belgium) asked what was the object of that paragraph.

66. The CHAIRMAN explained that it was intended to show that, in spite of the difficulties and risks mentioned in the preceding paragraph, the Sub-Commission felt that it was essential to ensure that minorities would be protected when such protection was necessary.

67. Mr. SPANIEN (France) agreed that such an idea was very commendable, but wondered whether it was really advisable to include it in that part of the draft resolution. If the Sub-Commission really wished to point out that, in spite of the problems that arose and the risks involved, it had decided to take up the cause of the minorities and to see that they were protected, it would be better to state that fact clearly immediately before the paragraph which drew attention to those difficulties and risks. In his opinion, it was a simple question of arranging the text.

68. Mr. SHAFAG (Iran) did not wholly share that opinion. He felt that the paragraph was in fact an introduction to the operative part of the resolution, which defined the term "minority".

69. The CHAIRMAN thought that it would perhaps be better to ask Mr. Spanien and Miss Monroe to come to some agreement with regard to the amendment of the paragraph and the place where the amended text should be inserted.

It was so decided.

Sixth paragraph

70. Mr. SHAFAG (Iran) recalled that he had proposed, as an amendment, that a new sub-paragraph should be added to the sixth paragraph, using the wording of the passage from the Secretary-General's memorandum which he had quoted at the meeting. The new sub-paragraph would be inserted before sub-paragraph (b) of the original text, which would become sub-paragraph (c).

71. Mr. BLACK (United States of America) said that he had already proposed that in the first line of the paragraph the word "afford" should be replaced by the word "recommend".

72. The CHAIRMAN suggested that the first sentence of the paragraph should be amended to read "That for purposes of such protective measures as the United Nations may wish to take", so that the text would harmonize with that of the preceding paragraphs.

The amendment was adopted.

Sub-paragraph (a)

73. Mr. BLACK (United States of America) pointed out that the definition of the term "minority" given in sub-paragraph (a) might be misinterpreted if it were taken out of the context. He therefore proposed that the words "in the light of the exceptions and limitations set out above" should be inserted after the words "the term 'minority'".

The amendment was adopted.

74. The CHAIRMAN drew the attention of the Sub-Commission to the word "inherited" and wondered whether it might not be deleted or replaced by some idea of "heritage".

75. Miss MONROE (United Kingdom) explained that she had used the word in order to take into account the opinions expressed by some members for whom inherited traditions and characteristics were an important factor. Religious or linguistic characteristics might nevertheless be acquired, and she personally would be agreeable to the deletion of the word "inherited".

76. Mr. SHAFaq (Iran) preferred the retention of that word in the text, for it must be pointed out, among other things, that it was intended that the past history of the minorities concerned should be taken into account.

77. Mr. SPANLEN (France) supported the Chairman's point of view. He pointed out that if the word "inherited" was retained in the text the scope of that definition would be limited to minorities with inherited characteristics, thus disregarding the minorities ~~which might~~ be formed by consent or by adherence. In any case, the idea of heredity was implicit without being expressly mentioned. The term "inherited" might, moreover, give rise to confusion and it would be regrettable if agreement among the members of the Commission was reached at the price of such confusion. In his opinion, the important feature of the question was the stability of the characteristics, whether those characteristics were inherited or acquired. He cited in that connection a theoretical example of conversion to Christianity: from the moment an individual joined an established system he acquired stable characteristics by virtue of that fact.

It was decided that the word "inherited" should be deleted.

78. The CHAIRMAN put to the vote sub-paragraph (a) as amended.
Sub-paragraph (a) was adopted by 8 votes to none, with 1 abstention.

Sub-paragraph (b) (amendment proposed by Mr. Shafaq)

79. Mr. SHAFaq (Iran) read his amendment as follows:

"Such a minority should properly include a number of persons sufficient by themselves to develop their own particular traits."

Mr. Shafaq's amendment was adopted as sub-paragraph (b).

/Sub-paragraph (c)

Sub-paragraph (c) (formerly sub-paragraph (b))

80. Mr. NISOT (Belgium) thought that sub-paragraph (c) should be amended to read: "The members of such minorities must be loyal to the State of which they are nationals." He explained that in the period between the two wars it had been considered that minorities did not have the same legal personality as the individuals composing them.

Sub-paragraph (c), as amended, was adopted.

81. Mr. SPANIEN (France) pointed out that it would have been preferable to say "with a view to" instead of "for purposes of" at the beginning of the paragraph, since the Sub-Commission should not prejudge any future decisions, particularly in view of the fact that the draft resolution referred solely to the definition and classification of minorities. Moreover, since the resolution had not yet been finally adopted and there was still a paragraph to be drafted and inserted, he wondered whether there should not be a paragraph mentioning minorities composed of foreign elements. As a result of certain treaties, some groups of foreigners had in fact acquired a collective character and their status was governed by the treaty. That was the case with the Polish workmen employed in the mines in the north of France and the Italian workmen employed in the south of France. It was understood that the Sub-Commission was not called upon to ensure the protection of such minorities, but some reference might be made to their existence by the insertion of some such phrase as: "without affecting the status of minorities which, in some countries, are covered by certain treaties."

82. Mr. NISOT (Belgium) pointed out that it would be preferable to insert a sentence to that effect in the report of the Sub-Commission.

It was so decided.

83. The CHAIRMAN said that a vote would be taken on the revised draft resolution as a whole as soon as Mr. Spanien and Miss Monroe had agreed on the text of the paragraph which they were to draft together.

The meeting rose at 1 p.m.