

ECONOMIC
AND
SOCIAL COUNCILCONSEIL
ECONOMIQUE
ET SOCIALE/CN.4/Sub.2/SR/12
2 December 1947

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

FIRST SESSION

SUMMARY RECORD OF TWELFTH MEETING

held at the Palais des Nations, Geneva, on Tuesday,
2 December 1947 at 9.30 a.m.Present:

Chairman:	Mr. E.E.Ekstrand (Sweden)
Vice-Chairman:	Mr. Herard Roy (Haiti)
Rapporteur:	Mr. Nisot (Belgium)
Members:	Mr. W.M.J. McNamara (Australia)
	Dr. C.H. Wu (China)
	Mr. Arturo Meneses (Ecuador)
	Mr. Samuel Spanien (France)
	Mr. M.R. Masani (India)
	Mr. Rezazada Shafaq (Iran)
	Mr. A.P. Borisov (Union of Soviet Socialist Republics)
	Miss Elizabeth Monroe (United Kingdom)
	Mr. Jonathan Daniels (United States of America)

Representative of
the Commission on the
Status of Women:

Mme. Lefauchaux

Non-governmental
Organizations:

Mr. Bienenfeld)	World Jewish
Mr. Riegner)	Congress
Mr. A.G. Brotman	Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council

Secretariat:

Mr. Emile Giraud

Mr. A.H. Hekimi

RECEIVED

JAN 27 1948

1. Discussion on the drafting of the Report.

Mr. NISOT (Belgium) asked whether Members wished the Report to be long or short.

The CHAIRMAN replied that the Report should include the decisions taken and the voting, the reservations made and any of the discussions which would help in the interpretation of the texts adopted.

Mr. NISOT (Belgium) said that in accordance with a decision taken earlier by the Sub-Commission, no individual opinions or reservations would figure in the Report unless they were handed in in writing.

Mr. MENESES (Ecuador) thought that the Report should be as detailed as possible.

Mr. BORISOV (Union of Soviet Socialist Republics) thought it important that directives should be given to the Rapporteur. The Report should include decisions, voting and the opinions of Members.

2. Discussion of the order in which to consider the Proposals before the Sub-Commission.

Miss MONROE (United Kingdom) thought that the proposals submitted by Members should be discussed in the following order:

- (1) those directly connected with the proposed Declaration or the proposed Convention;
- (2) those connected with definition of principles;
- (3) those connected with the machinery for implementation.

Mr. DANIELS (United States of America) thought that the proposals should be studied in the order in which they had been submitted.

69

Mr. BORISOV (Union of Soviet Socialist Republics) said that, as the Articles of the draft Declaration had already been studied, no proposals relating to those Articles should be discussed. He felt that his proposal (Document E/CN.4/Sub.2/24) should be considered first, since it came under item 9 of the Agenda and dealt with urgent problems.

The CHAIRMAN ruled that the discussion should be opened on the first proposal which had been submitted; any other proposals dealing with the same subject could be discussed at the same time.

3. Handling of Petitions on Discrimination and Minorities.
(Documents E/CN.4/Sub.2/11, 12, 24, 27.)

Mr. DANIELS (United States of America) said that Documents E/CN.4/Sub.2/11 and E/CN.4/Sub.2/12 dealt with the same subject and should be discussed together. He thought that petitions sent to the United Nations should be studied by the Secretariat and, on the basis of urgent problems, be brought forward to the Sub-Commission. The Sub-Commission might set up small sub-committees to examine these petitions, and they should be composed of nationals of States not directly interested in the subjects raised in the petitions. He had adopted the idea of this machinery from that set up by the League of Nations for dealing with petitions. If the matter of State sovereignty should arise, the sub-committees would be unable to act themselves, but they could report to the Sub-Commission which could, through the Commission and the Economic and Social Council, bring a question to the attention of the General Assembly.

It had been suggested to him that Non-Governmental Organizations having consultative status with the United Nations should be added to the list of those permitted to submit communications to the Sub-Commission as suggested in paragraph 1

of Document E/CN.4/Sub.2/12. He wished to draw the attention of the Sub-Commission to this fact, but did not move it as a formal amendment.

Mr. MASANI (India) drew the attention of the Sub-Commission to his proposal (Document E/CN.4/Sub.2/27) which also dealt with the handling of petitions. He agreed with Mr. DANIELS' proposals, but considered that they did not go far enough. If the sub-committees were unable to solve a problem raised, no other machinery had been suggested. He thought that, in such an event, the Committee in question might forward the petition with its Report to the Secretary-General of the United Nations for transmission to the International Court of Justice. A special chamber of the International Court of Justice might be set up which would arrive at findings on matters of fact, and the General Assembly of the United Nations might then decide what action should be taken. He proposed that the Sub-Commission should recommend to the Commission on Human Rights the procedure outlined by Mr. DANIELS in documents E/CN.4/Sub.2/11 and 12 to be put into effect immediately, and the procedure he had suggested in document E/CN.4/Sub.2/27 for the future.

Dr. WU (China) supported Mr. DANIELS' proposals, but did not agree to amalgamating them with Mr. MASANI's proposal. He thought that Non-Governmental Organizations should have the right to submit petitions.

Mr. BORISOV (Union of Soviet Socialist Republics) thought that the procedure recommended by Mr. DANIELS for handling the

urgent problem of petitions would involve much delay and, like that set up by the League of Nations, would lead to discussion only, and not to action.

In document E/CN.4/Sub.2/12, it was recommended that the petitions should be discussed by small Committees. This he thought would lead to problems being buried. The countries accused of practising discrimination would assert that the matter was not within the competence of the Sub-Committees, just as the South African Government had complained that the problem of the Indian minority in South Africa was not within the competence of the United Nations. He objected to the list of bodies competent to submit petitions as presented in paragraph 1 of the document and he did not consider that Specialized Agencies should be given the same rights in that field as Members of the United Nations. Referring to document E/CN.4/Sub.2/11, he alleged that the procedure recommended there would also kill or freeze petitions. That procedure left it to the discretion of the Secretary-General to decide which petitions should be discussed, and he felt that that task should be carried out by the Sub-Commission itself. Mr. DANIELS' intention, he alleged, was to bury the petitions made by National groups, such as the 15 million Negroes in the United States of America.

In his own proposal (document E/CN.4/Sub.2/24) a different method was outlined. He felt that the Sub-Commission itself should examine each individual case and decide what steps should be taken.

Mr. SHAFQA (Iran) supported Mr. DANIELS' proposals and thought that Non-Governmental Organizations should have the right to submit petitions.

Mr. DANIELS (United States of America) said that political propaganda should not enter into a discussion among experts. He admitted the existence of discrimination in the United States of America as well as in practically every other country. It was for that reason that the Sub-Commission had been set up.

He agreed with Mr. MASANI that further machinery was necessary than he had proposed, and he thought that when an International Bill of Human Rights was established, the Sub-Commission would report cases of violations to the Commission on Human Rights, which would bring them to the attention of the Economic and Social Council which could then refer the matter to the appropriate agency.

Miss MONROE (United Kingdom) agreed with the principles behind the proposals made by Mr. DANIELS and Mr. MASANI but she felt that they were a little premature. She referred to the words - "formulated in the Declaration and the Convention of Human Rights" in Mr. MASANI's proposal and pointed out that the Declaration and the Convention had not yet been completed. If those words were deleted, she would be prepared to accept the first paragraph of Mr. MASANI's proposal, but she considered that the rest of that proposal should be left until the Convention had been finally drawn up. She approved of the last paragraph of document E/CN.4/Sub.2/11, where Mr. DANIELS proposed to request the Economic and Social Council to enlarge its Resolution of 5 August 1947, to give the Members of the Sub-Commission the same powers as the Members of the Commission itself in the matter of petitions.

Mr. MENESES (Ecuador) supported the principles of Mr. DANIELS' proposal, but he felt that it was incomplete since it only provided for setting up a fact-finding body and did not

deal with the problem of enforcement. He agreed with the idea of setting up small sub-committees but considered the procedure was incomplete, since there was no provision for any further action after the sub-committees had made a report to the Sub-Commission.

He supported Mr. MASANI's proposal for its long-range view, but pointed out that in paragraph 3 of that proposal it was recommended that petitions be referred to the Division of Human Rights which would set up a suitable Committee or Commission to scrutinize them. He considered that petitions connected with discrimination should be referred direct to the Sub-Commission, which would set up any sub-committees it thought fit.

He agreed with the idea of sending questions to the International Court of Justice, but since that might involve redrafting the Statute of the Court it would not be practicable at the present time.

He suggested that Mr. DANIELS and Mr. MASANI should consult together to arrive at a joint proposal.

Mr. McNAMARA (Australia) thought that all international non-governmental bodies with consultative status should be allowed to submit petitions. He thought that delay might be involved in the procedure suggested by Mr. DANIELS, since no continuous machinery had been provided for, and the Sub-Commission itself was only supposed to meet once a year.

He referred to an informal meeting of some Members of the Sub-Commission which had been held in New York. It had there been agreed that petitions which had been with the Secretariat for a year or more without any action being taken should be dealt with as soon as possible. It had been suggested that the Secretariat

should transmit to governments a summary of the petitions without mentioning the names of the petitioners so that governments could send comments or take steps to remedy the matter. It had also been proposed that the Secretariat should prepare a document containing the statistics of existing racial or religious groups and that the appropriate United Nations body should recommend that special clauses be inserted in peace treaties to protect minority rights.

He thought that Mr. DANIELS, Mr. MASANI and Mr. BORISOV should consult together about their proposals. As far as Mr. BORISOV's proposal was concerned, he did not think it possible to deal with specific problems at that session and he felt that the procedure recommended by Mr. BORISOV would not have any quicker results than that recommended by Mr. MASANI.

Mr. MASANI (India) referring to Miss MONROE's proposal to amend paragraph 1 of his document, suggested adding the word "proposed" before "Declaration". He would not object if it were decided to adopt Mr. DANIELS' proposal, together with the first paragraph of his own proposal, leaving the remainder of his proposal until a later date.

Mr. SPANIEN (France) pointed out that the Sub-Commission had abandoned logical order in its discussions, in an attempt to be constructive. In his opinion, the question of implementing principles could not be discussed before those principles were formulated. He felt that Mr. DANIELS had recommended giving permanent work to a body which was not permanent. Mr. DANIELS had proposed that the Secretariat should sort out the petitions for discussion, but this would prove a very difficult task since the Secretariat would have no documents or definitions on which to base its decisions. In the days of the League of Nations the Secretariat had had precise texts to refer to, such as the

Treaties on Minorities. He thought that a preliminary list should be drawn up defining real minorities as opposed to false minorities built up for political purposes. He agreed with Mr. MASANI that a Section of the International Court of Justice should be asked to define minorities from the legal point of view.

The CHAIRMAN said that since the Declaration of Human Rights had not yet been adopted, it would be premature to attempt to set up an instrument of implementation.

Mr. DANIELS (United States of America) said that there need not be any delay if the procedure he had proposed was adopted. It would not be necessary for people to wait until the Sub-Commission was in session before submitting their petitions, since they could submit them direct to the General Assembly, the Economic and Social Council or the Commission on Human Rights. He said that he did not intend the sub-committees to be simply fact-finding bodies but he felt that they should seek a solution by conciliatory methods without bringing in political points. The procedure he had recommended would not end when the sub-committees made their report to the Sub-Commission, but the Sub-Commission would pass on that report.

Mr. BORISOV (Union of Soviet Socialist Republics) said that Mr. DANIELS had not proved that his proposal would not deprive the Sub-Commission of its powers, and prevent any action being taken in the matter of petitions. He referred to the case of the petition made by 15 million Negroes residing in the United States of America which had been left aside for two years without being discussed. Liberty in the United States of America was, he alleged, the privilege of a small group as had been proved during the debate on the Freedom of the Press at the General Assembly.

He said that the Soviet Union Constitution contained unique provisions against discrimination which was punishable by law.

He asked when the Soviet Union citizens at present in camps in the British and American Zones of Germany would be allowed to return to their own country, and maintained that the majority of them wished to return to their home country. He did not think that too much attention should be paid to the isolated individuals who did not wish to return since, in his opinion, they might well have been inspired by political forces.

He asserted that the procedure proposed by Mr. DANIELS would conserve such practices as lynching. His earlier speech had not been political propaganda, but an attempt to fight against discrimination.

Miss MONROE (United Kingdom) agreed with the CHAIRMAN that the principles underlying the proposals were right but that the proposals themselves were premature.

The CHAIRMAN proposed that Mr. DANIELS, Mr. MASANI and Miss MONROE should meet and discuss the matter before the afternoon session.

The meeting rose at 1.15 p.m.