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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PREVENTION OF DISCRIMINATION
AND THE PROTECTION OF MINORITIES

FIRST SESSION

SUMMARY RECORD OF THE FOURTEENTH MEETING

held at the Palais des Nations, Geneva, on
3 December 1947 at 9.30 a.m.

Present:

Chairman: Mr. E. E. Ekstrand (Sweden)

Vice-Chairman: Mr. Herard Roy (Haiti)

Rapporteur: Mr. Joseph Nisot (Belgium)

Members: Mr. W. M. J. McNamara (Australia)

Dr. C. H. Wu (China)

Mr. Arturo Meneses (Ecuador)

Dr. Samuel Spanien (France)

Mr. M. R. Masani (India)

Mr. Resasada Shafaq (Iran)

Mr. A. P. Borisov (Union of Soviet Socialist
Republics)

Miss Elizabeth Monroe (United Kingdom)

Mr. J. Daniels (United States of America)

Representative of
the Commission on
the Status of
Women:

Mme Lefauchaux

Specialized
Agencies:

Mr. J. Havet (UNESCO)

Non-Governmental
Organizations
Category A:Mr. A. Robinet de Clery (Inter-parliament-
ary Union)Mr. A. Vanistendael (International
Federation of Christian Trade
Unions)

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UNITED NATIONS

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Non-Governmental
Organizations
Category B:

Mr. Bienenfeld)
Mr. Riegner) (World Jewish Congress)

Mr. A. G. Brotman (Co-ordinating Board
of Jewish Organ-
izations)

Miss L. van Eeghen (International
Council of Women)

Secretariat:

Mr. Emile Giraud

Mr. A. H. Hekimi

1. Continuation of the Discussion on Mr. Borisov's Proposal
(Document E/CN.4/Sub.2/24).

Mr. BORISOV (Union of Soviet Socialist Republics) replied to remarks in connexion with his proposal made by members on the previous day. With regard to the first paragraph, he maintained that there had been official petitions by the Negroes in the United States of America and by the International Democratic Federation of Women. These documents were not unknown and official reference numbers could be given. He regretted that such documents had not been distributed by the Secretariat. He would be prepared to accept Mr. MASANI's amendment to the first paragraph of his proposal, if the reference to discrimination against women were not omitted. In reply to Miss MONROE's point that there might be many other petitions which could be inserted in paragraph (1) of his proposal, he said that he had chosen two urgent cases for practical action. The petition from the Negroes in the United States of America had been in the hands of the Secretariat of the United Nations for two years.

He did not agree with Mr. MASANI's amendment to the second paragraph of his proposal, since the substance of that amendment was entirely different from that of the original proposal. He agreed with Mr. MENESES that there were coloured people all over

the world in need of protection against discrimination but he placed especial emphasis on those in the Colonies. He agreed that it was impossible to tackle all the problems at once and said that he had mentioned in his proposal the two he considered most urgent.

Mme. LEFAUCHEUX (Representative of the Commission on the Status of Women) suggested that the Sub-Commission should recommend that the document from the International Democratic Federation of Women be sent to the Commission on the Status of Women. She mentioned the questionnaire which had been circulated by her Commission on the subject of married women and suggested that the Sub-Commission might wish to hear the results of her Commission's discussions on the subject. Her Commission would be pleased to keep up a close liaison with the Sub-Commission.

Mr. MASANI (India) agreed with Mme. LEFAUCHEUX's suggestion. He felt that since he had not seen the text of the petition he could not add it to his own amendment.

Mr. BORISOV (Union of Soviet Socialist Republics) referred to Article 13 which had been withdrawn from discussion by the Sub-Commission because Mme LEFAUCHEUX had said that her Commission had not yet studied the problem. He asked whether Mme. LEFAUCHEUX had been given instructions by her Commission or whether she had made her proposal on her own responsibility. He said that the document in question had already been handled by the Committee on Non-Governmental Organizations and he felt that there was no reason to delay discussion of the matter.

Mme. LEFAUCHEUX (Commission on the Status of Women) thought that the Sub-Commission had decided not to discuss any petition connected with women and she had therefore asked for the petition from the International Democratic Federation of Women to be passed on to her Commission. As far as the question of marriage was

concerned, she said that her Commission had not yet studied the question, but that it had been placed on the agenda for its session in January.

Miss MONROE (United Kingdom) agreed with Mme. LEFAUCHEUX's suggestion and said that it was in keeping with the Drafting Committee's recommendation in the note to Article 15.

Dr. WU (China) and Mr. McNAMARA (Australia) proposed the adoption of the suggestion.

The CHAIRMAN said that it was not within the Sub-Commission's power to refer the matter to another Commission. It could only recommend to the Commission on Human Rights that such action be taken.

Mr. BORISOV (Union of Soviet Socialist Republics) said that the document in question concerning discrimination against women had been addressed to the Sub-Commission. He wished that fact to be noted in the report and said that he was opposed to the proposal.

The CHAIRMAN read the proposal made by Mme LEFAUCHEUX:

"The Sub-Commission on Prevention of Discrimination and Protection of Minorities proposes that the study of the petition formulated by the International Democratic Federation of Women be submitted to the Commission on the Status of Women, and desires that the Commission on the Status of Women communicate its decisions as soon as it has concluded its discussions on discriminatory measures in the field of marriage."

Mr. BORISOV (Union of Soviet Socialist Republics) said that Mme LEFAUCHEUX had not the right to make a proposal but that her proposal would have to be made by one of the members of the Sub-Commission. He considered that they should not confuse the petition with discussions on the marriage question. The Sub-Commission was dealing with discrimination which would include marriage as well as other questions. He proposed the following text to replace that

suggested by Mme LEFAUCHEUX: "The Sub-Commission on Prevention of Discrimination and Protection of Minorities proposes that the document submitted by the International Democratic Federation of Women be studied by the Commission on the Status of Women and that the results of that study be communicated to the Sub-Commission at its next session."

Miss MONROE (United Kingdom) preferred the suggestion submitted by Mme LEFAUCHEUX. Mr. BORISOV had given priority to one petition and she felt that the order of priority to be given to that petition should be left to the Commission on the Status of Women.

Dr. WU (China) said that he would take over Mme LEFAUCHEUX's proposal and make it in his own name.

Mr. McNAMARA (Australia) proposed an amendment to Mr. MASANI's amendment to Mr. BORISOV's proposal. He suggested adding the words "and from other similar or comparable groups" after the words "Coloured People" in document E/CN.4/Sub.2/32.

Mr. MASANI (India) said that he could not accept such a proposal since it opened the door to unknown possibilities.

Mr. DANIELS (United States of America) pointed out that the Sub-Commission had rejected his proposal on the previous day where he had suggested setting up machinery to deal with all petitions. The question before the Sub-Committee was whether it should adopt the broad wording suggested by Mr. McNAMARA which was comparable to his proposal which had already been rejected or whether it should adopt Mr. MASANI's proposal where only one petition was mentioned. He said that members had never even seen the petition referred to in Mr. MASANI's proposal.

Mr. BORISOV (Union of Soviet Socialist Republics) said that the petition referred to was well known and produced a document dated 6 June 1946.

The CHAIRMAN put to the vote the first paragraph of Mr. MASANI's proposal as amended by Mr. McNAMARA: "to the Human Rights Commission that the Economic and Social Council be moved to instruct that petitions received from the National Association for the Advancement of Coloured People and from other similar or comparable groups be circulated to Members of this Sub-Commission and resolves that their consideration be placed on the agenda of the next meeting of this Sub-Commission."

The proposal was rejected by 5 votes to 1 with 5 abstentions.

Mr. SPANIEN (France) explained that he had abstained from voting because he had only been given the English text of the proposal.

Mr. ROY (Haiti) said that he had abstained because he objected to the whole amendment and not to Mr. McNAMARA's addition.

The CHAIRMAN put paragraph (a) of Mr. MASANI's amendment (document E/CN.4/Sub.2/32) to the vote.

The proposal was rejected by 5 votes to 3 with 4 abstentions.

The CHAIRMAN passed to the discussion of paragraph (2) of Mr. MASANI's proposal and the amendment suggested by Mr. DANIELS and Mr. SHAFaq.

Mr. BORISOV (Union of Soviet Socialist Republics) said that the amendment suggested by Mr. DANIELS and Mr. SHAFaq embodied ideas which had already been rejected on the previous day. He maintained that the ideas expressed in Mr. MASANI's amendment were quite different from those in his own proposal and that therefore it should not have been called an amendment.

Mr. MASANI (India) agreed with the addition suggested by Mr. DANIELS and Mr. SHAFaq to his own amendment.

Mr. BORISOV (Union of Soviet Socialist Republics) said that since Mr. MASANI's amendment contained new ideas it should be considered as a new proposal to be discussed after the completion of the discussion on his own proposal.

The CHAIRMAN agreed to consider Mr. BORISOV's proposal first. He called for a vote on the first half of paragraph 1 of document E/CN.4/Sub.2/24: "to consider at its meetings the petition presented to the United Nations twice since 1946 by 15 million Negroes residing in the United States of America, who are subjected to discrimination on racial grounds.

The proposal was rejected by 4 votes to 1 with 7 abstentions.

Miss MONROE (United Kingdom) explained that she had abstained from voting because she felt that it was unjust to emphasize a petition from one particular group of coloured people.

The other Members of the Sub-Commission who had voted against the Motion or abstained from voting said that they had done so for the reason given by Miss MONROE.

Mr. NISOT (Belgium) said that he had abstained from voting because he did not consider that the Sub-Commission had reached the stage for discussing specific petitions.

The CHAIRMAN put to the vote the second part of paragraph 1 of Mr. BORISOV's resolution: "and the Document of the International Democratic Federation of Women concerning the discrimination of women on the ground of their sex".

The proposal was rejected by 3 votes to 1 with 8 abstentions.

The CHAIRMAN read Dr. WU's proposal which was based on the suggestion made by Mme LEFAUCHEUX.

"The Sub-Committee on Prevention of Discrimination and Protection of Minorities:

Proposes that the study of the petition formulated by the International Democratic Federation of Women be submitted to the Commission on the Status of Women.

Requests the Commission on the Status of Women to communicate its conclusions to the Sub-Commission when it concludes its study of discriminatory measures in the field of marriage".

Miss MONROE (United Kingdom) pointed out that in accordance with the regulation laid down by the Economic and Social Council the petition could not be examined at that time unless it related to a question of principle. She therefore proposed that it should be discussed later.

Mr. MASANI (India) suggested with Dr. WU's agreement that the proposal should read as follows:

"that the petition from the International Democratic Federation of Women be considered by this Sub-Commission after it had been studied by the Commission on the Status of Women".

Mr. BORISOV (Union of Soviet Socialist Republics) wished to replace the words "by this Sub-Commission" with the words "at the next session of this Sub-Commission".

The CHAIRMAN said that no time limit should be imposed since the Commission on the Status of Women might not have been able to study the question before the next session of the Sub-Commission. He proposed adding the words "if possible" to Mr. BORISOV's suggestions.

Miss MONROE (United Kingdom) said that it would be invidious for the Sub-Commission to single out one particular petition. She said that it was not within the competence of the Sub-Commission to refer the petition to the Commission on the Status of Women but that the Federation itself should submit the petition to the Commission on the Status of Women.

Mr. SPANIEN (France) said that the text proposed implied that the Sub-Commission would be competent to study the substance of the petition. In view of the limits to the competence of the Sub-Commission which had been decided upon on the previous day he did not think it would be legal for the Sub-Commission to guarantee to study the petition.

Mr. BORISOV (Union of Soviet Socialist Republics) said that if the Sub-Commission wished to study the Document it should be clearly stated that it would do so at its next session.

Dr. WJ finally said that since it was a question of discrimination it was within the competence of the Sub-Commission.

The CHAIRMAN called for a vote on the text submitted by Mr. MASANI and amended by Mr. BORISOV "that the petition from the International Democratic Federation of Women be considered at the next session of this Sub-Commission after it has been studied by the Commission on the Status of Women".

The proposal was rejected by 7 votes to 4 with 1 abstention.

The CHAIRMAN put Mr. MASANI's text to the vote; that the petition from the International Democratic Federation of Women be considered by this Sub-Commission after it has been studied by the Commission on the Status of Women.

The proposal was adopted by 6 votes to 2 with 4 abstentions.

Mr. NISOT (Belgium) reminded the Sub-Commission of the Resolution of the Economic and Social Council that there could be no entry of any territory of a Member State for the purpose of investigation without the permission of the State who owned that territory.

Dr. WU (China) pointed out that all Resolutions of the Sub-Commission were subject to that Resolution of the Economic and Social Council.

The CHAIRMAN put to the vote Paragraph 2 of Document 2/24, as amended by Mr. MENESES (Ecuador).

There were five votes in favour, six against and one abstention.

The CHAIRMAN put to the vote Paragraph 2 of Document 2/24, without amendments.

There was one vote in favour, six against and five abstentions.

The Chairman referred the Sub-Commission to Document 2/23.

Mr. BORISOV (Union of Soviet Socialist Republics) said that the preamble in his proposal was contradictory to Mr. MASANI's proposal. He said that he withdrew his preamble and he suggested that Mr. MASANI should draft a new preamble.

Mr. MASANI (India) proposed adding, as a preamble at the beginning of his draft, the words "This Sub-Commission recommends".

Mr. McNAMARA (Australia) proposed that Mr. BORISOV's preamble should be kept as it demonstrated that no action had yet been taken.

Dr. WU (China) seconded this proposal.

The CHAIRMAN put to the vote Document 2/32, paragraph (a), including Mr. MASANI's amendment.

There were nine votes in favour and three abstentions.

Mr. BORISOV (Union of Soviet Socialist Republics) said that he accepted Paragraph 2 if after the word "organise" in line 3, the following words were added, " the collection on the spot of factual documents concerning racial discrimination in colonial territories and other countries where such discrimination exists, and to present a report on that subject to the Economic and Social Council at its next Ordinary Session in 1949."

Mr. MASANI (India) said that he could not accept a proposal similar to his own, which had already been rejected by the Sub-Commission.

The CHAIRMAN put to the vote the motion that the discussion should not be continued.

There were ten votes in favour, one against and one abstention.

The CHAIRMAN put to the vote Mr. BORISOV's proposal as amended.

There was one vote in favour, five against and six abstentions.

The VICE CHAIRMAN said that he had abstained from voting because he did not think it was possible to vote on the amendment of a text already accepted.

The CHAIRMAN said that the amendment contained new ideas. He suggested that the Sub-Commission should discuss the proposals of Mr. DANIELS (United States of America) and Mr. SHAFaq (Iran).

Mr. SHAFaq (Iran) said that in his opinion, it was important to distinguish between real minorities and political and artificial minorities.

Mr. NISOT (Belgium) pointed out the legal factor of this amendment which would give the Secretary-General the power to distinguish between such minorities. He considered also that such a distinction would not be possible until a definition of such minorities had been laid down in a Declaration and Convention.

Mr. McNAMARA (Australia) said that the onus placed on the Secretary-General to distinguish between minorities would prejudice the existence of the United Nations. He referred to Document 2/31, paragraph 2, line 6. He suggested deleting the paragraph up to the word "whether" and adding before the word "whether" the words "He shall consider". He said that, in his opinion, this offered to the Secretary-General a criterion which was similar and which did not make a direct distinction between minorities necessary.

Mr. SHAFaq (Iran) said that he could not accept Mr. McNAMARA's proposal, which omitted the essential words "genuine and artificial minorities".

Miss MONROE (United Kingdom) proposed adding the words "in the course of such studies the Secretary-General would also be instructed to bear in mind"

Mr. SHAFaq (Iran), Mr. MASANI (India) and Mr. DANIELS (United States of America) supported this proposal.

Mr. SPANIEN (France) agreed that a distinction should be made between genuine and artificial minorities. He suggested that it was the duty of the Sub-Commission to define principles as a

basis for the Secretary-General to make such distinction.

Mr. MENESES (Ecuador) and the VICE CHAIRMAN said that they agreed with Mr. SPANIEN (France).

The CHAIRMAN put to the vote Document 2/31 paragraph 2, as amended by Mr. McNAMARA (Australia) in line 6.

There were seven votes in favour, two against and three abstentions.

Mr. BORISOV (Union of Soviet Socialist Republics) considered that the Sub-Commission could not vote on his text which he had withdrawn.

The CHAIRMAN put to the vote Mr. McNAMARA's motion to restore the preamble proposed by Mr. BORISOV.

There were four votes in favour, seven votes against and one abstention.

The meeting rose at 1.20 p.m.