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4 December 1947

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

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

FIRST SESSION

SUMMARY RECORD OF THE SIXTEENTH MEETING

held at the Palais des Nations, Geneva,
on Thursday, 4 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)
	Mr. W. M. J. McNamara (Australia)
	Dr. C. H. Wu (China)
	Mr. Arturo Meneses P. (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. J. Daniels (United States of America)
International Non- Governmental Organizations:	Mr. Bienenfeld (World Jewish Congress)
Secretariat:	Mr. Emile Giraud
	Mr. A. H. Hekimi

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Mr. NISOT (Belgium), referring to document 2/23, said that approximately 15 treaties and declarations already contained wide measures to protect minorities than had been adopted by the Sub-Commission. He considered that it would be of importance to obtain a decision of the International Court of Justice on their validity.

The CHAIRMAN, Miss MONROE (United Kingdom), Mr. DANIELS (United States of America), and Mr. SPANIEN (France), supported Mr. NISOT's proposal.

Mr. BORISOV (Union of Soviet Socialist Republics) said that he considered such a decision to be premature, as it was not on the agenda of the Sub-Commission to study documents of the League of Nations, as referred to in document E/CN.4/Sub.2/23.

The CHAIRMAN put document E/CN.4/Sub.2/23 to the vote. There were eight votes in favour, one against, and three absences.

The CHAIRMAN then referred the Sub-Commission to document E/CN.4/Sub.2/13.

Mr. DANIELS (United States of America) made two amendments in the text; first, to delete four uses of the word "possible" in paragraphs 1, 2 and 3; secondly, to replace the word "directs" in line 9 of the Preamble by the word "requests".

Mr. McNAMARA (Australia) suggested two amendments; first, in paragraph 1, line 1, to replace the words "which he may" by the words "in which he is hereby"; secondly in paragraph 2, line 6, to add the words "and effectivisation" after the word "formulation".

Mr. DANIELS (United States of America) pointed out the word "effective", in paragraph 1, line 4. He also referred the Sub-Commission to Mr. MASANI's proposal, adopted on the previous day.

Mr. BORISOV (Union of Soviet Socialist Republics) said that, in his opinion, Mr. DANIELS' proposal would give to UNESCO

considerable duties which belong to the Sub-Commission. Referring to paragraph 3, he felt that it would be dangerous to investigate racial differences, because the results might be allowed to prove an inferiority of the coloured races.

Mr. McNAMARA (Australia) suggested adding a footnote at the end of document E/CN.4/Sub.2/32 to link paragraph 2 with document E/CN.4/Sub.2/13.

Mr. DANIELS (United States of America) said that the object of his proposal was a propaganda of scientific facts to demonstrate that there were no basic differences between races.

Mr. BORISOV (Union of Soviet Socialist Republics) said that various scientific resources were possible, including reactionary resources. He referred the Sub-Commission to the book "Take your Choice", by Senator Bilbow, which shows that political and social distinctions existed between white and coloured races.

Mr. McNAMARA (Australia) proposed an amendment to paragraph 3 by adding after the word "disseminating" the words "those scientific facts with regard to race which will tend to remove racial antagonisms and discriminatory practices".

The CHAIRMAN said that Mr. DANIELS' proposal was wider and would be voted upon first.

Mr. BORISOV (Union of Soviet Socialist Republics) said that Mr. McNAMARA's amendment gave precision to the meaning of paragraph 3, and, being an original proposal, should be voted upon first.

The CHAIRMAN put to the vote Mr. McNAMARA's amendment. There were three votes in favour, six votes against, and three abstentions.

The CHAIRMAN put to the vote document E/CN.4/Sub.2/13. There were ten votes in favour, one against, and one abstention.

The CHAIRMAN referred the Sub-Commission to document E/CN.4/Sub.2/17.

Mr. SHAFaq (Iran), introducing his proposal, said that, in his opinion, Mr. DANIELS' proposal was limited to racial discrimination as a basis for a programme of education, but that his proposal was to formulate a plan based upon general educational principles.

The VICE-CHAIRMAN agreed with the particular studies suggested by Mr. DANIELS' proposal. He pointed out that the General Assembly had already spent some time in debating the general proposals suggested by Mr. SHAFaq (Iran).

Mr. SHAFaq (Iran) agreed with the VICE-CHAIRMAN but suggested that his proposal should still be voted upon.

Mr. MENESES (Ecuador) said that he considered that paragraph 1 was misplaced, as it referred to the field of work of UNESCO.

Miss MONROE (United Kingdom) said that the Sub-Commission should hesitate to recommend new Committees, because of the expense involved and of their duplication by UNESCO.

Mr. McNAMARA (Australia) suggested, as an amendment to paragraph 1, the words "that UNESCO be asked to consider the creation of a Committee of world leaders in educational theory and practice, which should make it its business to study and select the most common and basic principles of a democratic and universal education, in order to combat any spirit of intolerance or hostility as between nations and groups".

The VICE-CHAIRMAN said that he did not consider it to be the duty of the Sub-Commission to recommend general resolutions already passed by the General Assembly.

Mr. SHAFaq (Iran) accepted Mr. McNAMARA's amendment. He considered that his proposal was concerned, in particular, with problems of minorities and discrimination.

Mr. MENESES (Ecuador) said that, in his opinion, the Sub-Commission should carry out its duties and not transfer them to specialist bodies, as UNESCO.

Miss MONROE (United Kingdom) pointed out that both proposals would set up committees, which already existed in UNESCO.

The CHAIRMAN put to the vote document E/CN.4/Sub.2/17, paragraph 1, including Mr. McNAMARA's amendment. There were five votes in favour, three votes against, and four abstentions.

The CHAIRMAN referred the Sub-Commission to paragraph 2 of document E/CN.4/Sub.2/17.

Mr. MASANI (India) pointed out that the substance of this paragraph was contained in a resolution of his, which had been passed by the Sub-Commission on the previous day.

The CHAIRMAN accepted and referred the Sub-Commission to document E/CN.4/Sub.2/17, paragraph 3.

Mr. SHAFaq (Iran) proposed, as an amendment, that the words "the above mentioned plan should" be replaced by the words "the plan should be worked out to".

Mr. McNAMARA (Australia) said that, as a point of order, this had been covered by paragraph 3 of document E/CN.4/Sub.2/31.

Mr. SHAFaq (Iran) said that, in his opinion, Mr. McNAMARA's proposal did not cover artificial minorities created as a political weapon.

Mr. MENESES (Ecuador) proposed, as an amendment, that the words "genuine and legitimate" be replaced by the words "various types of".

Miss MONROE (United Kingdom) said that she considered paragraph 3 was misplaced, as it was not concerned with the work of UNESCO.

The VICE-CHAIRMAN suggested that paragraph 3 should be recommended to the Commission of Human Rights for inclusion in their definition of Human Rights.

Mr. SPANIEN (France) proposed the following amendment:

"The Sub-Commission considers that, in order satisfactorily to fulfil its task and effectively to protect minorities, it must have at its disposal, for purposes of its future work, all information that it may require in order to distinguish between genuine minorities and minorities artificially created for propaganda purposes. It therefore recommends to the Commission of Human Rights to secure the adoption by the Economic and Social Council of such measures as are necessary to this end."

The CHAIRMAN put Mr. SPANIEN's amendment to the vote. There were eight votes in favour, one against, two abstentions, and one absence.

The CHAIRMAN referred the Sub-Commission to document E/CN.4/Sub.2/29.

Mr. McNAMARA (Australia) suggested that documents E/CN.4/Sub.2/29 and E/CN.4/Sub.2/30 were combined in document E/CN.4/Sub.2/34, which set out two proposals with the same object. He suggested, as an amendment, to add the words to the end of the document E/CN.4/Sub.2/34 "unless the context makes the phrase, or part of it, logically or grammatically inapplicable."

Mr. DANIELS (United States of America) said that, in his opinion, the words proposed by Mr. McNAMARA (Australia) limited, and in no way increased, the meaning of the word "all".

Miss MONROE (United Kingdom) and Dr. WU (China) agreed with the opinion of Mr. DANIELS (United States of America).

Mr. BORISOV (Union of Soviet Socialist Republics) said that he considered Mr. McNAMARA's proposal to be premature, but that it might be necessary when the Commission of Human Rights was considering drafts.

Mr. McNAMARA (Australia) said that, in his opinion, the words of his proposal were not restrictive, and he referred the Commission to the similar wording of Article 6.

The CHAIRMAN put document E/CN.4/Sub.2/34 to the vote. There was one vote in favour, six against, four abstentions and one absence.

Discussion of Paragraphs 1 and 3 of Mr. McNAMARA's amendment.
(Document E/CN.4/Sub.2/31).

Mr. MASANI (India) considered that the subject of paragraph 1 had already been dealt with in the discussion on petitions and should not therefore be raised again.

Mr. McNAMARA (Australia) explained that he was bringing forward a new idea which he thought should be discussed. A proposal had been rejected in which the Secretary-General had been requested to transmit petitions to the Sub-Commission, but he proposed requesting the Secretariat to send the gist of the petitions to the Governments affected. That procedure would not involve a violation of State sovereignty and the comments of Governments might help in the solution of the problems. He felt that in some cases such procedure might result in an immediate improvement in the conditions of the minority concerned.

Mr. MASANI (India) considered that his point of order was still valid.

The CHAIRMAN requested Members not to waste time in discussing points of order and called for a discussion of the amendment.

The VICE-CHAIRMAN agreed with Mr. MASANI that the question of petitions had already been dealt with. He thought that the Sub-Commission had decided to make no recommendations concerning petitions except that in which the Economic and Social Council was asked to extend its Resolution of 5 August 1947.

Dr. WU (China) thought that although some proposals concerning petitions had been rejected it had never been decided that the discussion on the subject was closed. He supported Mr. McNAMARA's proposal since he thought that Governments ought to be informed of petitions. He did not consider that the procedure would enlarge the powers of the Secretariat to any great extent and he felt that the proposal was practical and should be adopted.

Miss MONROE (United Kingdom) said that the powers of the Secretariat had been fully discussed on the previous day. She considered that Mr. McNAMARA's proposal gave the Secretariat powers which it could not accept.

Mr. BORISOV (Union of Soviet Socialist Republics) stated that the Sub-Commission could not delegate its functions to the Secretary-General by giving him the power to decide which petitions were valid. He pointed out that the problem of which petitions should be studied by the Sub-Commission had not yet been solved. In his opinion only those coming from democratic organizations should be studied and not those from individuals or anonymous petitions.

Mr. SPANIEN (France) said that he was opposed to the amendment for the reasons expressed by Miss MONROE and Mr. BORISOV.

The VICE-CHAIRMAN pointed out that the Resolution of the Economic and Social Council already requested the Secretariat to transmit communications concerning petitions to all the Governments concerned.

Mr. McNAMARA was pleased to see that part of his proposal had already been adopted by the Economic and Social Council and he wished to add an amendment asking the Economic and Social Council to include the rest of his proposal in its Resolution.

The VICE-CHAIRMAN raised a point of order saying that the amendment could not be discussed since the proposal to which it applied had already been adopted.

After some discussion the VICE-CHAIRMAN withdrew his point of order since it seemed to be entailing loss of time.

The CHAIRMAN put Mr. McNAMARA's proposal to the vote; "that the Sub-Commission ask the Economic and Social Council through the Human Rights Commission to extend its decision in its Resolution of 5 August 1947 concerning communications so as to include the following words, 'that the Secretary-General tactfully request, by official letter, the Governments affected to give any comment or information they desire on the petitions'."

There were 2 votes in favour, 1 against and 8 abstentions.

Mr. MASANI (India) supported paragraph 3 of document E/CN.4/Sub.2/31.

Mr. DANIELS (United States of America) pointed out that the foreign ministers had decided to consider each treaty individually and not to accept a general clause for inclusion in all treaties as had been done after the last war.

Mr. McNAMARA (Australia) said that he had not proposed a general clause but specific clauses dealing with the particular minorities in each country.

The CHAIRMAN pointed out that such a provision might not be applicable to every peace treaty since there might in the future be a war between two states which had no minorities.

Mr. MASANI (India) proposed adding the words "wherever appropriate" after the word "included".

The CHAIRMAN called for a vote on paragraph 3 of Mr. McNAMARA's proposal as amended by Mr. MASANI: "That the Commission on Human Rights be asked to declare that in any peace treaties still to be ratified there be included, wherever appropriate, specific clauses seeking to protect minority rights".

There were 6 votes in favour, 4 against and 2 abstentions.

ITEM 9 OF THE AGENDA. Urgent Problems in these Fields.

Mr. DANIELS (United States of America) said that urgent problems had already been discussed since two of his papers had been on that subject.

ITEM 10 OF THE AGENDA. Other Items.

Mr. McNAMARA (Australia) proposed that in order to avoid the delay caused by passing all the Sub-Commission's proposals through the Commission on Human Rights, the Economic and Social Council be requested to grant the Sub-Commission the status of a full Commission, as had been done for the Commission on the Status of Women. He proposed alternatively that the Sub-Commission be given the right to forward proposals on certain matters connected with discrimination and minorities, direct to the Economic and Social Council.

Mr. MASANI (India) considered that it would be undignified for the Sub-Commission to make such a request.

Mr. SHAFaq (Iran), Mr. DANIELS (United States of America) and Miss MONROE (United Kingdom) agreed with Mr. MASANI.

Mr. BORISOV (Union of Soviet Socialist Republics) suggested placing Mr. McNAMARA's proposal on the agenda of the next session when Members would have had time to study it.

Mr. McNAMARA (Australia) wished a decision to be taken at that meeting, in order to avoid the delays which would be involved by a postponement.

The CHAIRMAN put Mr. McNAMARA's proposal to the vote.

There was 1 vote in favour and 11 against.

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

There were 10 votes in favour and 2 abstentions.

Mr. DANIELS (United States of America) said that he had abstained because he did not think the proposal should be formally placed on the agenda for the next session.

Miss MONROE (United Kingdom) stated that she had abstained because she considered that the Commission on Human Rights itself should decide whether the Sub-Commission should become a full Commission.

ITEM 6 OF THE AGENDA. Examination of Terms of Reference.

The VICE-CHAIRMAN proposed that the Commission on Human Rights be asked to reconsider the Sub-Commission's Terms of Reference, in order to clarify and extend them.

The CHAIRMAN put the proposal to the vote. There were 9 votes in favour and 3 abstentions.

Discussion on the Drafting of the Report.

Mr. BORISOV (Union of Soviet Socialist Republics) wished the Report to include decisions, the results of voting and brief expressions of opinion, including reservations.

Mr. NISOT (Belgium) said that opinions would only be included in the Report if they were handed in in writing. He asked whether Members wished to have all the proposals mentioned whether they had been adopted or not.

The VICE-CHAIRMAN pointed out that it had been agreed to include in the Report those proposals which were rejected because there were an equal number of votes in favour and against. The other proposals which had been rejected would appear in the Summary Records so there was no need for them to be included in the Report.

Mr. BORISOV (Union of Soviet Socialist Republics) stated that the Summary Records did not always give the amendments correctly, or in enough detail. He wished to revise and correct the Summary Records at the same time as the Report was being discussed.

The CHAIRMAN said that all corrections to the Summary Records should be sent in writing to the Secretariat.

The meeting rose at 1.10 p.m.