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

Second Session

SUMMARY RECORD OF THE TWENTY-NINTH MEETING

Held at Lake Success, New York,  
on Monday, 20 June 1949, at 11 a.m.

**CONTENTS:** Consideration of Part C of Resolution 217 (III) of  
the General Assembly, on the Fate of Minorities  
(discussion continued) (E/CN.4/Sub.2/50)

<u>Chairman:</u>	Mr. EKSTRAND	Sweden
<u>Rapporteur:</u>	Miss MONROE	United Kingdom
	Mr. BORISOV	Union of Soviet Socialist Republics
	Mr. CHANG	China
	Mr. DANIELS	United States of America
	Mr. McNAMARA	Australia
	Mr. MASANI	India
	Mr. MENESES PALLARES	Ecuador
	Mr. NISOT	Belgium
	Mr. RAY	Haiti
	Mr. SPANLEN	France
	Mr. SHAFAG	Iran

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Also present: Miss ZUNG

Commission on the Status  
of Women

Representative of a specialized agency:

Mr. STOLZ

American Federation of Labor  
(AF of L)

Secretariat: Mr. LAWSON

Secretary of the Sub-Commission

CONSIDERATION OF PART C OF RESOLUTION 217 (III) OF THE GENERAL ASSEMBLY  
ON THE FATE OF MINORITIES (discussion continued) (E/CN.4/Sub.2/50)

Mr. BORISOV pointed out that the English translation of his proposal (E/CN.4/Sub.2/50) did not in some respects render the exact meaning of the original Russian text. In the heading to the proposal, the word "national" should have been inserted before the word "minorities". In sub-paragraph 1, the word "class" was not a good rendering of the Russian text; and finally, the words "with secret ballot" should be inserted after the words "direct suffrage".

He felt that the Sub-Commission's main task should be to make effective recommendations against discrimination. Minorities did not expect the Sub-Commission to define minority rights, but rather to protect those rights. If the Sub-Commission therefore confined itself to making definitions, it would fail to accomplish its task. His proposal insisted on equal rights for every person, and considered all possible means for the prevention of discrimination.

After listing the rights mentioned in paragraph A of his proposal, Mr. Borisov went on to emphasize that such a comprehensive statement of the rights of minorities would be insufficient unless it was clearly stated, as in paragraph B of the proposal, that all racial and fascist-nazi theories were to be prohibited by law. Any incitement to such racial hatred was punished by law in the Soviet Union. At its first session the Sub-Commission had discussed that question, but had not come to a decision on it.

If the Sub-Commission agreed to grant the fundamental rights set forth in his proposal, it would succeed in fulfilling its task. If it adopted his view that the principle of equality of rights was essential and accepted his proposal based on that principle, it could then proceed at its next session to consider matters of secondary importance.

/Mr. SPANIEN

Mr. SPANIEN felt that Mr. Borisov's proposal, in its present form, would create discrimination rather than prevent it. At its first session the Sub-Commission had voted on the text of article 6 (E/CN.4/52), which mentioned, in addition to the fundamental rights contained in Mr. Borisov's proposal, the right to hold any political opinion. Article 2 of the Universal Declaration of Human Rights also included, in its enumeration of fundamental rights, the right to hold any political opinion. Mr. Borisov's text, however, omitted any mention of political opinion. Such an omission would result in discrimination against minorities on the basis of their political opinion, and would be in opposition to the principles stated in the Universal Declaration of Human Rights and to the Sub-Commission's terms of reference.

He therefore suggested that the words "political or other opinion" should be inserted after the words "religion or sex" in sub-paragraph 1 of Mr. Borisov's proposal, and that the words "religious, political or other opinion" should be inserted in sub-paragraph 3.

Mr. MASANI felt that Mr. Borisov's proposal constituted a duplication of certain articles in the Universal Declaration of Human Rights. Sub-paragraph 1 of his proposal was covered by article 21 of the Declaration, sub-paragraph 3 by article 26, sub-paragraph 4 by article 23 and sub-paragraph 5 by article 24. Since the Declaration stated that equality of rights was to be granted to all human beings without distinction, minority groups should be included in the granting of those rights. He suggested that sub-paragraphs 1, 3, 4 and 5 of that proposal should be ruled out of order because they were repetitious.

On the other hand, sub-paragraph 2 deserved attention. Article 27 of the Declaration, dealing with the right of every person to participate in the cultural life of the community, partly covered the subject of sub-paragraph 2, but did not mention the question of language. However, Mr. Daniels' proposal (E/CN.4/Sub.2/43), dealt with the question of language in relation to minority groups. He therefore suggested drawing up a resolution incorporating the useful elements in the proposals of Mr. Daniels and Mr. Borisov.

With regard to paragraph B of Mr. Borisov's proposal, he noted that the Sub-Commission had rejected such a proposal the preceding

year at Geneva. He agreed that such propaganda should be discouraged, but did not feel that the specific terms used by Mr. Borisov in describing such propaganda were sufficiently comprehensive. With regard to Mr. Borisov's condemnation of national exclusiveness, he quoted from two Soviet publications, Literaturnaya Gazeta and Pravda, statements which in his opinion indicated an attitude of definite national exclusiveness and opposition to cosmopolitanism on the part of the Soviet Union. He felt therefore that it would be preferable to omit paragraph B, since it was impossible to determine the extent of such propaganda in various countries.

It would be sufficient to retain sub-paragraph 2 of Mr. Borisov's proposal, concerning the question of language.

Miss MONROE stated that she supported Mr. Spanien's proposal to include in Mr. Borisov's proposal a statement concerning political opinions, and that she agreed with Mr. Masani concerning the repetitious nature of sub-paragraphs 1, 3, 4 and 5 of that proposal. To adopt texts duplicating articles of the Declaration and of the Convention would merely result in weakening the latter documents.

With regard to sub-paragraph 2, she wished to ask Mr. Borisov whether his text left it open to national minorities to receive teaching in the language of the dominant group, if they so wished. In the United Kingdom, there were national minorities, such as the Scottish and the Irish, who preferred English. Some of the Welsh preferred to receive teaching in their own language, but there were also many who preferred to learn the language of the governing group, and they were entitled to ask for teaching in English. If Mr. Borisov's proposal did not grant that freedom of choice, many Welsh people would infer that the United Kingdom Government did not wish them to learn English and was therefore discriminating against them. If such were the meaning of Mr. Borisov's text, Miss Monroe would be unable to accept it.

Mr. SHAFaq said, with reference to some of Mr. Borisov's remarks, that in his own opinion the task of the Sub-Commission was threefold. It was called upon, first, to study the social status and conditions of the various minorities throughout the world, and it was indeed largely for that purpose that its existence had been prolonged. Only if it had the

requisite data before it could the Sub-Commission formulate valid principles. The second part of its task consisted in preparing precise definitions of certain terms, such as "minority" and "discrimination", which recurred constantly in its work, and in classifying various minority groups and various kinds of discrimination. Its third and final task was to make practical recommendations on the basis of that preparatory work.

The Universal Declaration of Human Rights already contained a statement of goals common to all mankind. Rather than indulge in further generalizations, the Sub-Commission should study the various minorities, discover the differences between them, and formulate recommendations applying specifically to each particular kind of minority, based on its actual social and economic conditions. It was clear, therefore, that the preliminary work of study, definition and classification had to be completed before useful recommendations could be made.

Mr. MENESES PALLARES remarked that Mr. Borisov's proposal illustrated the need to take into account the specific characteristics of each minority and to make recommendations befitting each particular case. Only thus could the Sub-Commission extend to minorities the protection they needed and at the same time obey the instructions of the General Assembly, which had stated in resolution 217 (III) that "it is difficult to adopt a uniform solution of this complex and delicate question, which has special aspects in each State in which it arises".

To deal with the particular task before it, the Sub-Commission might adopt either of the following two methods: it might draw up a list of rights applicable to all minorities, a list which would constitute a bill of minimum minority rights, or it might classify the various minorities according to their salient characteristics and establish a set of rights applicable to each group.

While the first method had much in its favour, it suffered from one great disadvantage. A list of generally applicable rights would be based on the Universal Declaration of Human Rights and the draft Covenant on Human Rights, but would cover less ground than those two documents. There might then be a certain amount of confusion regarding which of the provisions of the Declaration and <sup>the</sup> Covenant applied to the minorities and which did not; the interpretation might, in fact, arise, that the provisions of those two documents not reproduced in the bill of minority rights did not apply to minorities at all. Thus, two mutually exclusive categories of human beings might be created and the net results might actually be prejudicial to the minorities.

/Furthermore

Furthermore, the Sub-Commission was greatly hampered in its efforts by the fact that it had not agreed on precisely what it wanted to accomplish at the existing stage. The result was that it was faced with proposals which were far too general. Mr. Daniels' proposal (E/CN.4/Sub.2/43) contained a number of recitals drafted in very broad terms and referring to the freedoms of religion, speech, assembly and association, but its operative part dealt exclusively with the question of language, with the further qualification that the minorities to which the proposal applied must represent a considerable proportion of the population. Mr. Borisov in his proposal went to the opposite extreme; he had made a truly herculean effort to assemble all the rights that might possibly apply to minorities, but he had failed completely to differentiate between the various kinds of minorities extant. It might be mentioned in passing that, long as his list was, he had omitted one of the most important rights of modern times, the right to social security.

The suggestions made by Mr. Daniels and further developed by Mr. Borisov were, unfortunately, so generalized that it would be most unrealistic on the part of the Sub-Commission to adopt them. It was not enough to draw up a list of rights; those rights should either be adapted to the specific needs of various minorities or should not be generalized beyond the point necessary for inclusion in a bill of minimum minority rights. He was prepared to agree to every principle stated by Mr. Borisov if it were adjusted to fit the particular characteristics of each minority; he could not accept generalizations which had no practical application.

A number of other proposals, such as those of Mr. Daniels and Mr. Chang, contained points worth retaining; it was to be regretted that the Sub-Commission had not decided what it intended to achieve and was therefore scattering its efforts. To put an end to that state of affairs, he suggested forming a committee of five, which would study all the proposals on the subject with a view to using them in a bill of minimum minority rights, while the Sub-Commission itself established a classification of the various minorities. The Sub-Commission would then be in a position to adjust the guarantees of rights to the precise needs of those minorities.

Mr. CHANG observed that the subject under consideration plainly came under paragraph (a) of the new terms of reference of the Sub-Commission. The Sub-Commission's task was twofold: supplying data and devising measures. It was certainly not called upon to cope with the whole question of protection of minorities and prevention of discrimination, which was the province of the Commission on Human Rights and with which that Commission had already dealt in the Declaration of Human Rights. /He therefore

He therefore felt that the Sub-Commission was not competent to consider Mr. Borisov's proposal save for sub-paragraph 2 and the part of sub-paragraph 3 which concerned a system of scholarships and a network of schools, and was in fact an implementation of article 26 of the Declaration.

Mr. McNAMARA inquired whether Mr. Borisov's proposal was intended as a preamble to a charter of minority rights. If so, it would be acceptable, with certain reservations. The Declaration of Human Rights applied to individuals; if a new charter, applying to minority groups, were to be drawn up, there was no reason not to repeat some of the provisions of the Declaration. Reference to previously adopted important documents was a common practice in the United Nations. He did not think, however, that Mr. Borisov's proposal could stand as a separate resolution.

To meet the point of Mr. Meneses Pallares, he suggested the insertion in the opening paragraph of Mr. Borisov's proposal of some such phrase as: "and without in any way diminishing all the rights set out in the Universal Declaration of Human Rights". None of the rights contained in the Declaration would then be excluded by the fact that some of them were singled out for repetition.

Mr. McNamara's reservations were that Mr. Borisov's proposal must be used as a preamble, to be followed by specific suggestions, and that it should incorporate the right to social security as suggested by Mr. Meneses Pallares, the guarantee against discrimination on the grounds of political or other opinions, as suggested by Mr. Spanien, and the specification made by Miss Monroe that members of minorities should not be forced to be educated in their native tongue if they had other preferences. Furthermore, he could see no need for paragraph B, which was much narrower in scope than article 30 of the Declaration, and would therefore constitute a backward step.

Mr. BORISOV stated that Mr. Spanien was free to present an amendment incorporating the idea of political opinions if he considered the remainder of his proposal acceptable.

In answer to the point raised by Miss Monroe, he indicated that his proposal referred to the right of minorities to study in their own language, but would not require them to do so. He pointed out, however, that usually the right to study in a minority language was denied and that therefore it was important to set it forth clearly.

/He would

He would leave it to the Sub-Commission to decide exactly how his proposal should be used and where it should be placed.

Referring to the hostile attitude expressed by Mr. Masani, he stated that he was grieved at any example of failure to oppose discrimination, particularly by members of a minority group which had suffered discrimination for centuries.

Mr. Borisov could not agree with the statements that his proposals were covered by the Universal Declaration of Human Rights. He pointed out that his text was broader than articles 21, 24 and 26 and that the Declaration merely proclaimed certain rights without imposing any obligation whatsoever on governments to grant those rights. Moreover, it should be noted that the draft Covenant completely excluded social and economic rights, which were among the most vital of all. Mr. Borisov had no objection to including social services in his text and stressed the fact that as many rights as possible should be mentioned on condition of serious intent to grant those rights.

Mr. Borisov cited voting restrictions imposed in various countries, particularly property qualifications in the United States of America, which deprived individuals of the right to vote.

He pointed out that the proposal of Mr. Daniels covered articles 16, 18 and 19 only of the Declaration of Human Rights and was therefore much narrower in scope than his own proposal, which listed all rights. Before embarking on theoretical studies, it was important for the Sub-Commission to accept certain rights in principle and to take measures for the implementation of those rights, as they were not covered by the Covenant.

Mr. Borisov indicated that he was prepared to accept amendments in writing and was confident that agreement could be reached on the form of his proposal.

Miss MONROE, Rapporteur, stated that it would be difficult for the Sub-Commission to assume responsibility for deciding what form Mr. Borisov's proposal should take without a more definite statement on his part.

She challenged his statement to the effect that most people were denied the right to study in their own language.

The CHAIRMAN agreed that it would be difficult to judge the substance of Mr. Borisov's proposal without a definite statement from the author as to how it should be used. He indicated that the



Sub-Commission would follow its usual procedure of not voting on any proposal at the current stage.

Mr. MENESES PALLARES recalled his proposal that a committee of five members be established to draft a bill of minimum minority rights.

Mr. McNAMARA supported the procedure suggested by Mr. Meneses Pallares and expressed the view that a committee of five could decide where Mr. Borisov's proposals might most appropriately be placed.

Mr. SHATAQ recalled that a committee of three had been established to consider earlier proposals on the question and suggested that it might be wise to have that report before deciding to establish another committee.

Mr. SPANIEN expressed the view that the Sub-Commission was making progress in clarifying important questions in spite of the apparent disorganized nature of its discussions.

He indicated that three members of the Sub-Commission, Miss Monroe, Mr. Shafaq and himself, intended to present a joint draft resolution the following morning for consideration by the Sub-Commission.

Mr. Spanien expressed interest in Mr. Masani's statement, stressing the importance of avoiding duplication of what had already been included in the Declaration of Human Rights.

While he was not unmindful of the fact that the Declaration was not a convention, he indicated that progress must be made in orderly stages and recalled the Sub-Commission's decision to defer consideration of measures of implementation until the following session pending completion of the drafting of the Covenant.

Mr. Spanien indicated that he would not fail at the appropriate time to exercise his right to present amendments, but expressed surprise at the fact that Mr. Borisov, the champion of complete protection of minorities, had failed to accept a suggestion to rectify an important omission from his text and had merely stated that members were free to submit amendments if they so desired.

The meeting rose at 12.55 p.m.