

COMMISSION ON HUMAN RIGHTS

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

Second Session

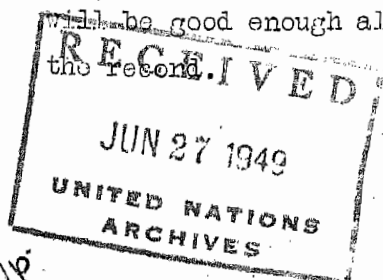
SUMMARY RECORD OF THE THIRTY-FOURTH MEETING

Held at Lake Success, New York,
on Wednesday, 22 June 1949, at 11 a.m.

CONTENTS: Consideration of Part C of Resolution 217 (III) of the
General Assembly, on the Fate of Minorities (E/CN.4/Sub.2/69)
(discussion continued)

<u>Chairman:</u>	Mr. EKSTRAND	Sweden
<u>Rapporteur:</u>	Miss MONROE	United Kingdom
<u>Members:</u>	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. ROY	Haiti
	Mr. SPANIEN	France
	Mr. SHAFAGH	Iran

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Also present:

Miss ZUNG

Commission on the Status of Women

Representative of a specialized agency:

Mr. ARNALDO

United Nations Educational, Scientific
and Cultural Organization (UNESCO)

Consultants from non-governmental organizations:

Category A:

Mr. STOLZ

American Federation of Labor (AF of L)

Mrs. MEAGHER

World Federation of Trade Unions
(WFTU)

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 (E/CN.4/Sub.2/69) (discussion continued)

Miss MONROE presented document E/CN.4/Sub.2/69, which she had prepared jointly with Mr. Spanien, and explained that although Mr. Meneses Pallares and Mr. Shafagh had been unable to participate in the drafting, their views had been kept in mind in the hope that the joint paper would be acceptable to them.

Mr. SPANIEN indicated that the joint document was regarded by its authors as a draft resolution to which they would welcome amendments and additions by other members of the Sub-Commission.

He reserved the right to make drafting changes in the French text and pointed out that the English expression "group rights" had not been accurately translated into French.

Mr. DANIELS expressed appreciation of the helpful paper submitted by Mr. Spanien and Miss Monroe and indicated that his principal criticism was that, although drafted in broad terms, the document failed to provide a long-range programme or to suggest an immediate programme of work for the Sub-Commission.

Referring to the Sub-Commission's terms of reference, Mr. Daniels expressed the view that the two primary tasks of the Sub-Commission were to establish procedure for the handling of information and to elaborate a programme for studies and recommendations. Some progress had been made in the first of those two fields. Various concrete resolutions had been prepared which, if adopted, would be transmitted in turn to the Commission on Human Rights, to the Economic and Social Council for consideration in

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the summer of 1950 and to the General Assembly for final approval later that year. But it was obvious that even under the most favourable conditions a considerable period of time would elapse before those resolutions could be implemented. The Sub-Commission should therefore devote the remainder of the second session to completing its work on the establishment of procedures. Mr. Daniels felt that paragraph 6 of the joint paper was not specific enough, although he expressed general agreement with most of the rest of the document.

Since little progress had been made on the second main task of the Sub-Commission, he would support a resolution requesting that the third session of the Sub-Commission be held in June 1950 to deal with the elaboration of a programme for making studies and recommendations.

Mr. MASANI stated that the proposals of Mr. Spanien and Miss Monroe provided a clear and logical basis for discussion and were in harmony with many of the separate proposals before the Sub-Commission.

While Mr. Nisot had submitted an alternative text for paragraph 2A, Mr. Masani saw no incompatibility between the two proposals since each emphasized a different aspect of the same question. He noted that paragraphs 2C and 3 reflected ideas which he himself had expressed, and recalled that at an earlier meeting exception had been taken to certain of his remarks. Mr. Masani indicated that the people of Asia had reached a stage of freedom at which they could no longer be expected to welcome a patronizing attitude on the part of self-appointed champions of their rights, although, of course, they appreciated genuine disinterested support from any quarter.

He reserved comment on the classification of minorities contained in the annex to the paper before the Sub-Commission and stated that the matter should be considered at the following session, after the members had had adequate time for study.

Paragraph 5, on language, was compatible with Mr. Daniels' proposal (E/CN.4/Sub.2/43), and Mr. Masani was prepared to accept both.

Referring to Mr. Daniels' objection to paragraph 3 as inadequate and ambiguous, Mr. Masani stated that that paragraph was not inconsistent with Mr. Daniels' proposal (E/CN.4/Sub.2/66) and was not intended to replace that proposal.

Paragraph 7, as well as paragraph 4, required further study before discussion by the Sub-Commission.

Mr. SHAFAGH stressed the fact that the second session must not end without making a definite plan for the third session. In that connexion, the paper of Miss Monroe and Mr. Spanien would be very helpful, although it made no suggestions regarding a specific plan of work.

Mr. Shafagh proposed that the Sub-Commission designate a committee of three members to prepare such a plan on the basis of all the proposals before the Sub-Commission. The formation of such a committee would expedite the preparation of that plan and would not prevent all members of the Sub-Commission from expressing their views fully.

Mr. BORISOV felt that the document submitted by Miss Monroe and Mr. Spanien was not based on the essential task of the Sub-Commission and, in fact, had other aims in view, namely the codification and the consideration of certain questions, which could not result in concrete measures for the protection of minorities and the prevention of discrimination.

He agreed with Mr. Shafagh that the classification of different types of minorities, recommended in Part I of that proposal, would require long study. He wondered, therefore, when the members of the Sub-Commission would, as experts, take up the actual problem of minorities.

Mr. Borisov pointed out that the proposal he had submitted gave priority to the granting of rights to minorities in the economic and social fields, and aimed at obtaining, during the Sub-Commission's session, a recognition of those rights, so that minorities would receive them as soon as possible. The paper submitted by Miss Monroe and Mr. Spanien, on the other hand, did not propose such effective measures.

Mr. Daniels had pointed out that the Sub-Commission had not elaborated any concrete measures for the protection of minorities. After three years, the Sub-Commission was advised to restrict such measures and to proceed with theoretical questions. It was, however, quite clear that discrimination signified that certain peoples did not enjoy equal rights with other peoples. Minorities expected concrete measures from the Sub-Commission.

He considered that the present proposal undermined the authority of the Sub-Commission by implying that it did not wish to satisfy the concrete interests of those minorities. He therefore proposed that it should be rejected.

/Mr. McNAMARA

Mr. McNAMARA felt that Mr. Borisov was justified in certain criticisms which he had made of the present proposal, but that he had overlooked certain elements of value in that document. He felt, however, that much of the material it contained was elementary in nature. For instance, the first sentence of sub-paragraph A of paragraph 2 was incorrect, since a "differential" approach with regard to minorities was wrong. Minorities were entitled to equal treatment with the rest of the population. In sub-paragraph A the word "equivalent" would be correct without the words preceding it. Finally, with regard to sub-paragraph A, the differential treatment resulting from the protection of minorities was not always exceptional, since there could, in some cases, be similar treatment of minorities. He hoped, therefore, that the proposal would not be adopted as a whole. The proposal could, however, be of use if certain changes were made. He disagreed with the phrase in paragraph 7: "the procedure for the admission of groups to the status of a minority", since it was clear that minorities were actually suffering from a particular status, and therefore did not require admission to such a status. The substance of paragraph 7 on the other hand, could be agreed to by the Sub-Commission.

He agreed that the classification of minorities was necessary, and suggested that since the Sub-Commission had not drawn up a classification of minorities at the present session, it should be indicated in Part III that members should be requested or instructed to forward their classifications of minorities to the Secretariat. He therefore proposed that the word "instructs" should be substituted for the word "invites", in the conclusion. It was, however, important that the Sub-Commission should deal with specific minorities concretely..

With regard to the last sentence of paragraph 6, he suggested that the following words should be added: "and records its wholehearted support of the decision of the Commission on Human Rights in the same matter." Thus the suggestion contained in paragraph 6 would be more likely to receive endorsement at a higher level.

With the exception of the proposal contained in paragraph 5, with regard to language, the document had weakened Mr. Daniels' proposals. He suggested that the concrete proposals referred to

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should be considered, and that the relevant proposals by Mr. Daniels, Mr. Pallares and other members of the Sub-Commission on petitions and minorities should be examined together with those proposals.

With regard to the question of education, the document contained unnecessary statements. In sub-paragraph A (i), the words "not in" were superfluous, since Mr. Daniels' proposal had clearly specified the teaching of the language in question, and had not mentioned any study in that language. With regard to sub-paragraph A (v), he felt that there was no necessity to mention the laicity of a State, since that question could not affect the minority, if it had the right to use its language. It appeared to him that the questions of religion and of language were at that point confused.

Nevertheless, provided that the procedure he had indicated was adopted, and that the other relevant proposals by members were considered at the same time, he felt that the document offered some useful material.

Miss ZUNG (Commission on the Status of Women) did not wish to criticize the proposal, but to call attention to the phrasing of paragraph 2, sub-paragraph D, with which she could not agree. She felt that the first sentence of that sub-paragraph, which read as follows: "Rights must be counterbalanced by duties", required rephrasing. In the first place, although sub-paragraph D (2) was satisfactory, there was no indication that the duties indicated in (1) and (3) of sub-paragraph D were counterbalanced by rights. Secondly, some States might resent the present phrasing as they might consider such reference to duties to be an infringement of their domestic jurisdiction. It might be preferable to convey the idea that no duty was being imposed on any nation, but that Member States were merely called upon to fulfil the promises they had made in signing the Charter, or in adhering to the Covenant.

Mr. SHAFAGH agreed with Mr. Borisov that the Sub-Commission should make practical recommendations, and thought that Mr. Borisov's proposal would be most useful in that respect. He felt, however, that

the scientific studies which he himself advocated should be carried out at the same time. The current discussion had shown, for example, that there was disagreement among the members of the Sub-Commission as regards the meaning of the term "differential treatment". It was essential to arrive at a clear definition of such basic concepts.

In view of the fact that the Sub-Commission was pressed for time, he proposed that all speeches should be limited to a maximum of ten minutes.

Mr. MASANI supported that proposal.

The proposal to limit the time of speakers to ten minutes was adopted by 11 votes to none, with one abstention.

Mr. MENESES PALLARES remarked that the proposal submitted by Mr. Spanien and Miss Monroe embodied many ideas which he had fought for, such as the need to give a definite direction to the Sub-Commission's efforts, to unite the views expressed by various members into a coherent whole, and to ensure that the rights granted to minorities corresponded to the specific characteristics of those minorities.

He pointed out that the proposal could be amended on the lines the Sub-Commission desired, and that the restricted scope mentioned by Mr. Borisov was largely due to the Sub-Commission's new terms of reference.

Eager as the Sub-Commission was to take effective measures towards the protection of minorities, it must not proceed with undue haste. At the same time, Mr. Borisov's and Mr. McNamara's plea for rapid and effective action should be borne in mind and the Sub-Commission should exert to the utmost such powers as it had to take real measures towards the protection of minorities and the prevention of discrimination.

Mr. NISOT said that, save for a few objections of a purely formal character, he found the proposal quite satisfactory. It clarified certain basic concepts and provided a basis for further work on the part of the Sub-Commission.

Mr. SPANIEN was gratified to note that the majority of his colleagues had appreciated the good intentions which had prompted the proposal submitted by Miss Monroe and himself. That proposal was not an original contribution; as noted by Mr. Meneses Pallares, it
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contained a compilation of the various ideas expressed in previous discussions, and was intended to make it easier for the Sub-Commission to present a well organized report to the Commission on Human Rights.

He wished to reply briefly to the comments on that proposal. He agreed with Mr. Daniels that it was necessary to establish a long-term programme of work; that could not, however, be done at the current session in view of the Sub-Commission's decision that all questions of implementation should be reserved for the next session. That decision was a wise one, as the following year the Sub-Commission would have before it the recently completed Covenant on Human Rights as well as the Universal Declaration of Human Rights. He added that he was firmly opposed to the view that, because it was not legally binding, the Declaration was no better than a scrap of paper; no State Member of the United Nations could escape the moral obligation incurred by the adoption of that most important document, which would not become a dead letter even when the Covenant came into force. He fully agreed with Mr. Masani that the classification of minorities annexed to the proposal was tentative and was open to amendment by all members of the Sub-Commission, including the authors of that classification.

As regards petitions, it would be unwise to set up screening committees until the Sub-Commission knew precisely what terms of reference could be assigned to them. The proposal consequently contained only a general statement to the effect that resolution 75 (V) of the Economic and Social Council should be amended.

While he agreed with Mr. Shafagh that a plan of work for the next session should be prepared, he felt that the plan should not contain scientific studies alone.

He was somewhat surprised that Mr. Borisov, who had taken a rather restrictive view of the protection of minorities in that he refused to recognize political minorities and indeed appeared to be interested almost exclusively in the minorities in trust territories and non-self-governing territories, had found the proposal under discussion too limited in scope. That attitude did not appear entirely logical. While the sponsors of the proposal felt that it was necessary to classify minorities before effective protection could be extended to them, they did not think that repeating rights contained in the Declaration, with certain omissions, and limiting them to certain minorities, constituted such protection.

Mr. Spanien could not agree with Mr. McNamara that some of the material contained in the proposal was elementary. He wished that Mr. McNamara, who had frequently made useful observations, would present his views as a whole in a document of his own.

Finally, in reply to Miss Zung, he said that, while members of the Sub-Commission, in their capacity as experts were more free than governmental representatives to express their views, every effort would be made to draft the recommendations in acceptable language.

The CHAIRMAN announced that, the general discussion being closed, all the proposals discussed would be put to the vote at the following meeting in the order of their submission.

The meeting rose at 12.40 p.m.