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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 THIRTY-EIGHTH MEETING

Held at Lake Success, New York,
on Monday, 27 June 1949, at 11 a. m.

CONTENTS:

Adoption of the report of the second session of the Sub-Commission
on the Prevention of Discrimination and the Protection of
Minorities (E/CN.4/Sub.2/74)

<u>Chairman:</u>	Mr. EKSTRAID	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 PALIARES	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:

Mrs. MEAGHER

World Federation of Trade Unions (WFTU)

Secretariat:

Mr. HUMPHREY

Representative of the Secretary-General

Mr. LAWSON

Secretary of the Sub-Commission

ADOPTION OF THE REPORT OF THE SECOND SESSION OF THE SUB-COMMISSION
ON THE PREVENTION OF DISCRIMINATION AND THE PROTECTION OF MINORITIES
(E/CN.4/Sub.2/74)

Miss MONROE, Rapporteur, submitting the report, stated that the Economic and Social Council had laid down the form which the reports of its Commissions and Sub-Commissions should take. There was not, therefore, much latitude for the Rapporteur in the matter of presentation.

With regard to the dissenting opinions, she said that she had included Mr. Nisot's opinion verbatim as he had requested.

The CHAIRMAN said that he would not read out the report since members had had the opportunity to study it.

He therefore asked members to state whether they had any comments to make on the various paragraphs as they came up for discussion.

Paragraph 1

Miss MONROE, Rapporteur, said that the Secretariat would fill in the blank spaces where the final number of meetings held by the Sub-Commission and the date when it concluded its work were to appear.

Paragraph 1 was adopted.

Paragraphs 2 to 6

Paragraphs 2 to 6 were adopted.

Paragraph 7

At the request of Mr. BORISOV, Miss MONROE, Rapporteur, agreed to alter paragraph 7, so as to state that the Sub-Commission had deeply regretted the General Assembly's decision to cancel the second session it should have held in 1948 and had expressed the hope that such a decision would not be repeated.

/Paragraph 8

Paragraph 8

Miss MONROE, Rapporteur, said that the word "provisional" before "agenda" should be deleted in the second, fifth and seventh lines.

Mr. McNAMARA did not agree. He contended that the agenda had only been provisional up to the moment when the Sub-Commission had taken a decision with regard to item 8. The word "provisional" should therefore be retained in the lines mentioned, but the words "the provisional agenda as amended above" should be used in the twelfth line.

He also pointed out that it would be better in the ninth line, to quote, in inverted commas, the actual words of the request sent to the Sub-Commission by the Commission on Human Rights.

Mr. NISOT agreed and added that, in the French text, the words "mesures d'application" should be replaced by the words "mesures de mise en oeuvre".

Miss MONROE, Rapporteur, accepted those alterations.
Paragraph 8 was adopted, with the above alterations.

Paragraph 9

Paragraph 9 was adopted without change.

Paragraph 10

Mr. McNAMARA did not think that the meaning of the third sentence was clear. He proposed that it should read:

"It decided that the exact scope of these new terms of reference could only be clarified in the course of the discussion by the Sub-Commission of specific proposals arising from the agenda."

Miss MONROE, Rapporteur, accepted that alteration.
Paragraph 10, as amended, was adopted.

Paragraph 11

Miss MONROE, Rapporteur, pointed out that document E/CN.4/Sub.2/79, which Mr. Spanien and she had originated, had been omitted from the list by a mistake. It should therefore be included.

Paragraph 11 was adopted with that alteration.

/Paragraph 12

Paragraph 12

Mr. DANIELS thought it would be better to delete the second sentence of paragraph 12, because the Chairman's proposal, which it mentioned, had not been made at a meeting.

Mr. BORISOV also requested the deletion of that sentence from paragraph 12. In his opinion, it would be more logical to include it further on in a paragraph which dealt with the same subject.

Miss MONROE, Rapporteur, agreed to make the deletion requested.
Paragraph 12, as amended, was adopted.

Paragraph 13

Mr. BORISOV requested the deletion of the first sentence of paragraph 13 for the same reasons as those which had led him to request the deletion of the last sentence of paragraph 12.

Miss MONROE, Rapporteur, agreed to the request. She stated that, as a result of the deletion the first sentence of paragraph 13 would read: "At the thirty-first meeting, the proposal of Mr. McNamara (E/CN.4/Sub.2/62) was adopted by...".

Paragraph 13, as amended, was adopted.

Paragraph 14

Mr. McNAMARA wished it to be specified that document E/CN.4/Sub.2/63 had taken into account the amendments to his proposal.

Miss MONROE, Rapporteur, agreed to that request.
Paragraph 14 was adopted, subject to that alteration.

Paragraphs 15 and 16

Paragraphs 15 and 16 were adopted without discussion.

Paragraph 17

Miss MONROE, Rapporteur, pointed out that the word "China" which appeared in the paragraph should be deleted, since the members sat on the Sub-Commission in a personal capacity.

Paragraph 17 was adopted, with that alteration.

Paragraph 18

Mr. BORISOV requested that his proposal should be included in the report in its original form. The amendments to the proposal were covered by the first part of paragraph 18. He also wished the report to contain the results of the roll-call vote on his proposal.

The sentence in the first part beginning with the words: "A majority of members criticized paragraphs 1, 3, 4 and 5..." did not give a correct picture of the discussion.

He requested the inclusion of a sentence stating that Miss Monroe, Mr. Spanien and Mr. Masani had opposed his arguments, and that they had pointed out that the contents of paragraphs 1, 3, 4 and 5 already appeared in various articles of the Universal Declaration of Human Rights. The numbers of those articles should also be specified.

He emphasized, moreover, that some members, such as Mr. Shafagh and Mr. McNamara, had shared his opinion and had not agreed with Miss Monroe, Mr. Spanien and Mr. Masani.

Mr. Borisov considered finally that the report should state that its aim was to guarantee the rights of minorities. The Universal Declaration of Human Rights did not contain such a guarantee. The report should summarize the arguments he had presented in support of his proposal. The motives advanced by the majority had served as a pretext for taking a stand against the rights of minorities.

Mr. SPANIEN thought that it was quite permissible for Mr. Borisov to explain his views in the report, but he had not the right to interpret the opinion of the majority. Mr. Spanien thought that the report contained a very good summary of the criticisms of

of paragraphs 1, 3, 4 and 5 made by members of the majority. Finally he stated that, since Mr. Borisov asked for the inclusion of the result of the roll-call votes on his proposal, he himself would ask that the result of the roll-call vote on the amendment he had submitted to Mr. Borisov's proposal should be mentioned.

Miss MONROE, Rapporteur, emphasized that she had included the full text of Mr. Borisov's proposal in the report because of the importance he had attached to it. Further, she had spoken of "the majority of members", because the criticisms of paragraphs 1, 3, 4 and 5 had been made not only by herself, Mr. Spanien and Mr. Masani but also by Mr. Chang, Mr. Nisot, Mr. Meneses Pallares and Mr. Roy. She willingly agreed to include the original text of Mr. Borisov's proposal as well as the remarks which he wished to have appear in the report.

Mr. McNAMARA appreciated that Miss Monroe had given considerable space in the report to Mr. Borisov's proposal, which had been rejected by the majority of the Sub-Commission. If, later, anyone wished to know the criticisms which had been made of certain paragraphs of that proposal, it would suffice to refer to the summary records of the meeting.

Mr. BORISOV stressed the fact that two members, Mr. Shafagh and Mr. McNamara, had supported paragraphs 1, 3, 4 and 5 of his proposal. He asked that, with the approval of those concerned, that fact should appear in the report.

Mr. SHAFAGH and Mr. McNAMARA concurred.

Mr. BORISOV said that at the beginning of the following meeting he would give the Rapporteur the text of the remarks which he had previously outlined.

Subject to Mr. Borisov's objections, paragraph 18 was adopted.

Paragraph 19

Mr. McNAMARA made some objections to the insertion of Mr. Nisot's explanations of his votes.

/Miss MONROE,

Miss MONROE, Rapporteur, supported by Mr. SPANLEN, emphasized that that was a right granted to every member of the Sub-Commission under the rules of procedure.

Mr. CHANG stated that he would have preferred not to see the minority opinion in the report, for the summary records gave an adequate account of it. As an example, he recalled, with reference to paragraph 25, that he had asked for certain explanations of Mr. Daniels' text. Mr. Daniels had explained his interpretation of that text, and that interpretation should certainly appear in the report rather than explanations of the votes of members of the Sub-Commission.

Miss MONROE, Rapporteur, recalled that Mr. Daniels had not explained his interpretation at a plenary meeting of the Sub-Commission. On the other hand, Mr. Nisot had always requested in plenary that the explanations of his votes should be included in the report.

Mr. MENESES PALLARES said the report did not seem to give an exact idea of the spirit of the debate in the Sub-Commission. He would have liked to see in it a fairly complete account of the different opinions on the principal points studied by the Sub-Commission, such as its new terms of reference or the petitions of minority groups.

Paragraph 19 was adopted.

Paragraph 20

Mr. McNAMARA remarked that the word "notwithstanding" in the seventh line of Mr. Nisot's explanation of his vote, did not seem very happy.

Mr. NISOT said that it would be preferable to use an expression such as "in derogation to".

Miss MONROE, Rapporteur, said that she would redraft the final form of the English text of that phrase.

Paragraph 20 was adopted.

Paragraph 21

Miss MONROE, Rapporteur, remarked that the indication of the country after the names of members in that paragraph should be deleted.

Paragraph 21 was adopted.

/Paragraph 22

Paragraph 22

Mr. BORISOV said that the last two lines of that paragraph did not correctly set out the reasons for which he had abstained. He wished to have the following text inserted: "Mr. Borisov abstained when the Sub-Commission decided to note the confidential list of communications."

Mr. McNAMARA said that he would submit a text at the beginning of the following meeting giving the reasons for his abstention.

Subject to the alterations of Mr. Borisov and Mr. McNamara , paragraph 22 was adopted.

Paragraph 23

Mr. McNAMARA said that the words "as amended" should be added after the words "resolution 75 (V)" and the word "grounds" in the English text should be in the singular.

Miss MONROE, Rapporteur, accepted those alterations.

Paragraph 23, as amended, was adopted.

Paragraph 24

Mr. BORISOV proposed that, after the text of the resolution and before Mr. Nisot's explanation of his vote, the reasons for which he had voted against the procedure laid down in the resolution should be indicated. He would submit a written text for inclusion at the beginning of the following meeting.

Subject to Mr. Borisov's objections, paragraph 24 was adopted.

Paragraph 25

Mr. CHANG said that he would not press for the inclusion in the report of the interpretation Mr. Daniels had given of his draft resolution since it already appeared in the summary records.

Mr. BORISOV pointed out that the paragraph did not make it clear that the majority of members of the Sub-Commission had opposed the provisions of the joint draft resolution submitted by Miss Monroe and Mr. Spanien (E/CN.4/Sub.2/69) and that the question had been deferred to the following session. The facts should be presented in their true light.

He asked that it be stated that he had voted against that proposal because it tended to deflect the Sub-Commission from its main duty which was the prevention of discrimination and protection of minorities. During the following meeting he would submit a written text for inclusion.

Miss MONROE, Rapporteur, emphasized that the fact that eleven members had voted in favour of mentioning document E/CN.4/Sub.2/69 in the draft resolution submitted by Mr. Daniels showed the importance the Sub-Commission had attached to the proposals in it.

Mr. BORISOV recalled that Mr. Daniels' proposal had been adopted after a long debate in the course of which Miss Monroe had submitted several proposals which she had later withdrawn.

Mr. SPANIEN considered, as one of the originators of the draft resolution in document E/CN.4/Sub.2/69, that the report gave an exact picture of what had taken place. If the Sub-Commission had strongly opposed the draft resolution, it would not have decided by a majority of eleven votes to take it up at the following session.

Miss MONROE, Rapporteur, said that she had submitted several proposals on the same subject because she was unprejudiced and was always ready to support opinions which she considered valid.

Paragraph 25 was adopted.

Paragraph 26

Miss MONROE, Rapporteur, proposed that the word "status" should be replaced by the word "rights".

It was so agreed.

Paragraph 26, as amended, was adopted.

Paragraph 27

Mr. BORISOV said that, in order to make the resolution clearer, it should be indicated, after the second sentence in the paragraph, that the Secretary-General's study of the types and causes of discrimination (E/CN.4/Sub.2/40) had given rise to objections by some members of the Sub-Commission, who had indicated that they were not in a position to support certain provisions appearing in the document without previous study. He would present the written text of his objections for insertion.

Miss MONROE, Rapporteur, declared herself ready to include Mr. Borisov's objections.

With regard to Mr. Daniels' objections, since he had voted for the resolution, she presumed that he had changed his mind during the debate.

Mr. DANIELS confirmed that he had withdrawn his first objections as a result of the alterations made to the original text of the resolution.

Paragraph 27 was adopted, subject to the inclusion of Mr. Borisov's objections.

Paragraph 28

Mr. BORISOV proposed that the explanatory paragraph after the resolution concerning the Sub-Commission's third session should be deleted, since it did not reflect the opinion of the majority, as Mr. Masani's proposal (paragraph 29), to which that paragraph related, had been adopted hastily and without discussion.

Miss MONROE, Rapporteur, said that several members had clearly shown their desire to have the Sub-Commission hold its third session in January 1950 so that it could recommend the inclusion of provisions in the draft international covenant on human rights. The paragraph in question should therefore be retained.

The CHAIRMAN and several members corroborated that statement.

Paragraph 28 was adopted without alteration.

Paragraph 29

Mr. BORISOV proposed the deletion of the words "to none" and the insertion of a sentence indicating that he had reserved the right to express his views on the question at the following session. It could not be anticipated whether he would vote for or against the proposal in question.

Mr. MASANI, supported by Miss MONROE, Rapporteur, stated that when that proposal had been put to the vote no member had voted against it. That was therefore a fact which should be recorded.

The words "to none" were retained.

Paragraph 29, subject to the insertion proposed by Mr. Borisov, was adopted.

Paragraph 30

Mr. MENESES PALLARES proposed that the words "a report" should be replaced by the words "a declaration".

It was so agreed.

Mr. CHANG said that he had not taken a stand on the question not because he did not appreciate the importance of the work accomplished by UNESCO in that field. Indeed, the problem of discrimination originated in the prejudices and spirit of intolerance prevalent in certain parts of the world. UNESCO had therefore attacked the real problem. He considered that, in the absence of any report, the Sub-Commission was not in a position to take any particular stand on the matter.

The meeting rose at 1.10 p.m.