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

SUMMARY RECORD OF THE FIFTIETH MEETING

Held at Lake Success, New York,  
on Tuesday, 17 January 1950, at 2.30 p.m.

CONTENTS:

Definition and Classification of Minorities (E/CN.4/Sub.2/85 and E/CN.4/Sub.2/103) (continued)  
Further consideration of Part C of resolution 217 (III) of the General Assembly, on the fate of minorities (E/CN.4/Sub.2/89, E/CN.4/Sub.2/91, E/CN.4/Sub.2/92)

<u>Chairman:</u>	Mr. MASANI	(India)
<u>Rapporteur:</u>	Mr. MENESES PALLARES	(Ecuador)
<u>Members:</u>	Mr. BLACK	(United States of America)
	Mr. CHANG	(China)
	Miss MONROE	(United Kingdom of Great Britain and Northern Ireland)
	Mr. NISOT	(Belgium)
	Mr. ROY	(Haiti)
	Mr. SHAFAG	(Iran)
	Mr. SPANLEN	(France)

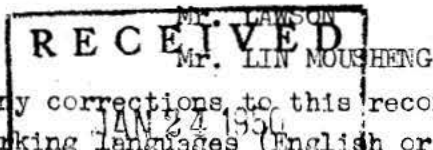
Consultants from non-governmental organizations (category B):

Mr. BERNSTEIN	Co-ordinating Board of Jewish Organizations
Miss CARTLAN	International Union of Catholic Women's League
Mr. LEWIN	Agudas Israel World Organization
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mrs. PARSONS	International Council of Women
Mr. STEINER	Commission of the Churches on International Affairs

Secretariat:

Secretary of the Sub-Commission  
Division of Human Rights

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DEFINITION AND CLASSIFICATION OF MINORITIES (E/CN.4/Sub.2/85 and E/CN.4/Sub.2/103)  
(continued)

1. The CHAIRMAN stated that the Sub-Commission would resume its discussion of the draft resolution submitted by Miss Monroe (E/CN.4/Sub.2/103). At the previous meeting Miss Monroe and Mr. Spanien had agreed to redraft the final paragraph of the preamble with a view to its incorporation in the fourth paragraph

2. He announced that Mr. Lewin of the Agudas Israel World Organization had requested permission to address the Sub-Commission on the subject of the draft resolution submitted by Miss Monroe.

3. Mr. LEWIN (Agudas Israel World Organization) said that the draft resolution submitted by Miss Monroe would, if adopted, become the basic document on which the protection of minority rights would in future depend. He therefore felt that the views of a group, such as the Jews, who had suffered so much from discrimination, might be useful to the Sub-Commission.

4. He considered that the reference to "complete identity of treatment" in the third paragraph of the preamble might give rise to misunderstanding, as the grant of minority rights was essentially the grant of "complete identity of treatment" with the rest of the population. Taking Switzerland as an example, he said that complete identity of treatment in regard, say, to article 18 of the Declaration of Human Rights, which granted the individual the right to "manifest his religion or belief<sup>in teaching,</sup> practice, worship and observance" would mean that a citizen belonging to the French ethnic group would be entitled to complete identity of treatment with a citizen belonging to the Italian ethnic group and that a citizen of Jewish religion would not receive different treatment from the citizen of Catholic faith. That principle was, however, being violated in many countries because the majority, and sometimes even a section of the minority, interpreted "identity of treatment" to mean the acceptance of standards set by the majority. Such an erroneous conception should not be included in the draft resolution adopted by the Sub-Commission.

5. The draft resolution submitted by Miss Monroe further established the principle that the term "minority" should apply only to groups "which...wish to preserve stable ethnic, religious or linguistic traditions or characteristics".

/The adoption

The adoption of such a principle would, however, give rise to almost insuperable difficulties. In view of the existence of minority groups within the minority itself, an expression of the will of the minority as a whole was rarely obtained, while the existence of such groups within a minority was frequently exploited by the majority in accordance with the policy of divide et impera.

6. The rights of a minority could only be safeguarded by acceptance of the fact of its existence and of the principle that it must be granted "complete identity of treatment" with the majority. There was no danger that acceptance of such a principle might result in preventing a member of a minority from exercising his right to assimilation in the majority.

7. In sub-paragraph (c) of the operative part it was stipulated that the members of minorities "must be loyal to the State of which they are nationals". No reference was, however, made to the rights of minorities. It was worthy of note that the Motta Report, adopted by the League of Nations in 1920, stated that "Majorities must be just and generous and minorities must be loyal", thus stressing the duties both of majorities and minorities.

8. In view of the inclusion of so many qualifying clauses it was doubtful whether the draft resolution, if adopted, would permit the grant of any minority rights whatsoever. The history of minority rights between the two World Wars served to show how the protection of minorities was rendered null and void by reference to similar "undesirabilities" and "risks".

9. In conclusion, Mr. Lewin submitted, for the Sub-Commission's consideration, a draft resolution in the following terms:

"The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recognizing that there exist in many States distinctive population groups possessing ethnic, religious, or linguistic characteristics different from those of the rest of the population, usually known as minorities;

Recognizing, however, that nobody should be, against his will, considered as belonging to a minority although he possesses the distinctive characteristics described above,

Resolves that for purposes of such protection as the United Nations may wish to afford:

(a) the term minority includes only those non-dominant groups in a population which possess stable ethnic, religious, or linguistic characteristics markedly different from those of the rest of the population;

(b) nobody can be, against his free will, considered as belonging to a minority although he possesses the distinctive characteristics of a minority described above;

(c) the rights and duties of the minorities should be based on the principle of complete identity of treatment of all groups of the population of the State."

10. The CHAIRMAN proposed that the draft resolution submitted by Mr. Lewin should be discussed when the Sub-Commission had been given an opportunity of studying its text.

It was so decided.

After further discussion of the draft resolution submitted by Miss Monroe, it was decided to delete the final paragraph of the preamble and to redraft the fourth paragraph to read as follows:

"Recognizing that any protection of minorities entails risks which should not be overlooked but which must be run whenever the need for the satisfaction of a legitimate claim to protection arises, and that it is therefore necessary to take account of complex situations such as:..."

11. Miss MONROE (United Kingdom) proposed that the words "traditions or" should be inserted before the word "characteristics" in line 2 of the second paragraph of the preamble and in line 3 of sub-paragraph (a) of the operative part.

It was so decided.

12. In response to a suggestion by Mr. SHAFAG (Iran), the CHAIRMAN announced that the draft resolution would be circulated in its revised form before a vote was taken by the Sub-Commission. The general discussion of the proposal was, however, closed.

/FURTHER CONSIDERATION

FURTHER CONSIDERATION OF PART C OF RESOLUTION 217 (III) OF THE GENERAL ASSEMBLY,  
ON THE FATE OF MINORITIES (E/CN.4/SUB.2/89, E/CN.4/SUB.2/91 and E/CN.4/SUB.2/92)

13. The CHAIRMAN proposed that the Sub-Commission should proceed to the next item on its agenda, the further consideration of Part C of General Assembly resolution 217(III). In addition to the memorandum by the Secretary-General (E/CN.4/Sub.2/89), the Sub-Commission had before it two proposals submitted by Mr. Shafaq (E/CN.4/Sub.2/91 and E/CN.4/Sub.2/92).

14. He pointed out that the Sub-Commission's specific action had so far been confined to the adoption at the previous session of the draft resolution on the linguistic rights of minorities submitted by Mr. Daniels, and the adoption at the current session of the draft resolution requesting information from Governments, also submitted by Mr. Daniels (E/CN.4/Sub.2/95). A wide field therefore remained to be covered and he accordingly suggested that it would be useful for the Sub-Commission to proceed to a general discussion of the scope of the action to be taken in regard to minorities.

15. In reply to Miss MONROE (United Kingdom) he stated that the draft resolution submitted by Mr. Daniels on the linguistic rights of minorities had superseded the three texts contained in the document A/C.3/307/Rev.2.

16. Mr. SHAFQAQ (Iran) pointed out that the Sub-Commission had not yet laid down the machinery by which minority rights should be claimed.

17. The CHAIRMAN held the view that any discussion of the machinery of protection would be premature until it had first been decided what rights a minority should be allowed to claim. The question facing the Sub-Commission was whether it was prepared, during the current session, to recommend to the Commission on Human Rights and the General Assembly the guaranteeing of any further rights beyond that of language, which it had recommended at its second session through Mr. Daniels' resolution (document E/CN.4/351). If such rights were decided upon, the substance of Mr. Daniels' proposal might be incorporated in any new resolution to be adopted and that resolution would then supersede the more limited proposal.

/18. The Chairman



18. The Chairman thought it probable that the Sub-Commission would eventually wish to recommend the granting of such additional rights; it might even desire to propose a covenant on the rights of minorities, which would supplement the draft Covenant on Human Rights. He drew attention to the study prepared by the Secretariat (E/CN.4/Sub.2/5) on the international protection of minorities under the League of Nations. Eventually the United Nations might wish to expand the system of protection in use between the two world wars, by drawing up a covenant under which States would agree to submit to a certain amount of international supervision as regards the treatment of minorities. The preparation of such a covenant, however, would be a very ambitious undertaking, entailing considerable further study; he did not think the Sub-Commission was equipped to embark upon such a task during the current session.

19. In the Chairman's opinion, the new resolution on the definition of minorities showed too cautious an attitude on the part of the Sub-Commission, which must not allow itself to be diverted from its primary function, the protection of minorities, by its fear of the dangers involved. The General Assembly had admitted the need for protection of minority groups; the Sub-Commission, while recognizing the dangers, should adopt a positive attitude and endeavour to take as much practical action as possible on the question.

20. The Chairman invited the Sub-Commission to consider the desirability of asking the Secretariat, during the months intervening between the third and fourth sessions, to start work on the preparation of a draft convention embodying the minimum minority rights recognized at the end of World War I and extending them to cover minorities in all countries.

21. Mr. SHAFAG (Iran) supported in general the views of the Chairman. With regard to the granting of further rights, he thought the Sub-Commission should limit its recommendations for the time being to the preservation of language; it might, however, formulate basic principles to govern future decisions concerning additional rights, including such special rights and services as might be requested by minority groups. He reserved his right to submit a proposal at a later moment, stating that any claim on the part of a minority to special rights and services beyond those laid down by the Sub-Commission must be examined, by the United Nations or the States concerned,

/on its own

on its own merits, and in the light of past and existing circumstances as well as of the general principles of the United Nations Charter.

22. Mr. SPANLEN (France) observed that little progress had been made after World War I, towards the solution of the problem of protection of minorities, owing to chaotic conditions throughout the world. The General Assembly had passed the problem, through various stages, to the Sub-Commission, a group of experts. The Sub-Commission must do its utmost to fulfil the task laid upon it by the General Assembly and by the minority groups themselves.

23. A definition of minorities had been agreed upon. The Sub-Commission must now proceed to the classification and listing of minority groups, and, further, to decisions regarding the additional minority rights which should be protected.

24. The work done so far was only a small part of the Sub-Commission's task. Many practical problems remained to be solved; for example, the establishment of an authority to represent the interests of the minority groups, and the setting up of machinery for the registering and judgment of claims for protection.

25. As regards the rights to be protected, he agreed that the Sub-Commission should limit itself for the moment to Mr. Daniels' resolution on the preservation of language. Its next task, he felt, was to begin work on the classification of minority groups and the listing of such groups, region by region, on the basis of principles which it must lay down. Beyond that, the Sub-Commission should, if possible, attempt to establish a basis for the creation of an organ which would receive and handle claims for protection.

26. Miss MONROE (United Kingdom) stressed that the draft resolution of which she was the author and which had just been considered by the Sub-Commission (E/CN.4/Sub.2/103) did not deal with the classification of minorities, and hoped that the title of the text would be altered accordingly.

27. It was highly important that a classification of minorities should be carried out; however, before proceeding to that task, the Sub-Commission must decide whether minorities should be listed as such on their own initiative or by the Sub-Commission itself. As an example, Miss Monroe pointed out that the

Welsh population of the United Kingdom, which already enjoyed such protection of its language as the Sub-Commission was contemplating, might be unwilling to label itself as a minority for the purposes of protection. Other minorities, too, might feel that minority status offered no practical advantages for them and might entail certain moral disadvantages. On the other hand, if it was decided that the list of minorities should be drawn up on the basis of applications by the minorities themselves, minorities wishing to present their claims should be given every opportunity to do so.

28. In conclusion, Miss Monroe said that the Sub-Commission's work on classification would be facilitated if carried out on the basis of a draft. She therefore urged that such a draft should be prepared regardless of the difficulties involved.

29. Mr. SPANIER (France) pointed out that, under the terms of the definition evolved by Miss Monroe, no protection would be given to minorities unless a legitimate desire for such protection was expressed by the minorities themselves. Accordingly, he suggested that the Sub-Commission should proceed to the classification of minorities on the basis of that definition, subsequently recommending the creation of an organ which would receive and screen claims. Minorities should have the assurance that, while they need not apply for minority status if they did not so desire, any legitimate applications for protection they sent in would meet with a proper response on the part of the United Nations.

30. Mr. SHAFAG (Iran) remarked that, before attempting to classify minorities, the Sub-Commission should complete its study of the rights of minorities and the major types of discrimination.

31. The CHAIRMAN, while inclined to agree that the Sub-Commission should attempt the work of classification, drew attention to the technical difficulties involved. In the Secretariat document on suggested studies of the problem of minorities (E/CN.4/Sub.2/SR.89), <sup>two</sup> alternative methods were suggested: the Sub-Commission might either draw up a list of existing minorities itself, or it might pass the task to non-official organizations or learned societies in the



field. The Chairman doubted whether minorities should be invited to pronounce themselves on their status; it would be more advisable if the Sub-Commission drew up a preliminary comprehensive list on the basis of the definition evolved by Miss Mczroe, and determined at a later stage which of the groups listed constituted a minority for the purposes of protection.

32. Mr. SPANIEN (France) observed that if the Sub-Commission left it open to minorities to apply for protection, it was fairly certain that none of these minorities which really needed protection would apply; under any form of tyranny, the most dangerous step to take was to ask for freedom. Another difficulty was that minorities were, as a rule, not well-organized; it was impossible to tell who should act as the authoritative spokesman of a given minority, or how the consensus of opinion of its members should be determined.

33. Mr. BLACK (United States of America) felt that the problem of making a survey of existing minorities, as outlined in paragraph 6 of the Secretariat memorandum (E/CN.4/Sub.2/89), was a very serious and important matter. As to the question of who should be responsible for making the survey, he pointed out that the Sub-Commission could not list groups of nationals of any State as minorities because such action would represent interference in the domestic affairs of that State. Consequently, relevant information must be requested from States possessing minorities, until such time as the United Nations' rights in respect of minorities might be laid down in a convention. When such information was obtained, it should be processed by the Secretariat before being submitted to the Sub-Commission. Mr. Black stressed that even if the Sub-Commission decided to ask for the assistance of learned societies, in his opinion, the final decision as to the minority status of any particular group must rest with the Sub-Commission itself.

34. Mr. LIN MOUSHENG (Secretariat) in reply to a question by the Chairman, said that the Secretariat was aware of the existence of several private learned societies dealing with the subject of minorities. In addition, a few new societies had recently been formed under the auspices of UNESCO, or were in process of formation. In particular, he mentioned the International Political Science Association, the International Sociological Association,  
/the International

the International Economic Association and the Association on International Comparative Law. Some of the bodies in question were of a semi-public rather than <sup>of</sup> a strictly private character.

35. Mr. Lin Mousheng said that he would be able to present additional information on the subject within a few days, if required. He stressed that the assistance of learned societies would undoubtedly be of great value in carrying out certain studies.

36. Miss MONROE (United Kingdom) shared Mr. Black's view that, while the Sub-Commission might profitably ask the learned societies for advice and assistance, it should not relegate to them the power to make decisions. She remarked that the Sub-Commission might also consider asking for the help of private experts in the field, and asked whether the Secretariat was in a position to inform the Sub-Commission on the financial implications of obtaining such help.

37. Mr. LAWSON (Secretary of the Sub-Commission) explained that a statement on financial implications could be made only on the basis of concrete proposals. Funds would have to be appropriated by the General Assembly or, if required before the following session of the General Assembly, might be requested from the Advisory Committee on Administrative and Budgetary Questions on recommendation of the Economic and Social Council.

The meeting rose at 4.35 p.m.