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REPORT OF THE SECOND SESSION OF THE SUB-COMMISSION  
ON THE PREVENTION OF DISCRIMINATION AND THE  
PROTECTION OF MINORITIES

Lake Success, N. Y., 13 June to 27 June 1949

Rapporteur: Miss Elizabeth Monroe

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CHAPTER I

ORGANIZATION OF THE SECOND SESSION OF THE SUB-COMMISSION

1. The second session of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities opened on Monday, 13 June 1949, at the Interim Headquarters of the United Nations, Lake Success, N. Y. The Commission held twenty-one meetings and terminated its work on 27 June 1949.

2. The following members of the Sub-Commission attended:

<u>Chairman:</u>	<u>Mr. Eric Einar Ekstrand</u>	(Sweden)
<u>Vice-Chairman:</u>	<u>Mr. H. Roy</u>	(Haiti)
<u>Rapporteur:</u>	<u>Miss Elizabeth Monroe</u>	(United Kingdom)
<u>Members:</u>	Mr. A. P. Borisov	(Union of Soviet Socialist Republics)
	Mr. C. F. Chang	(China)
	Mr. Jonathan Daniels	(United States of America)
	Mr. W. M. J. McNamara	(Australia)
	Mr. M. R. Masani	(India)
	Mr. A. Meneses Pallares	(Ecuador)
	Mr. Joseph Nisot	(Belgium)
	Dr. Rezazade Shafagh	(Iran)
	Mr. S. Spanien	(France)

3. The following representative of a specialized agency was present at the session:

Dr. Solomon Arnaldo	United Nations Educational, Scientific and Cultural Organization
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4. The following consultants from non-governmental organizations were also present:

Category (a)

Mrs. Emma Louise Meagher	World Federation of Trade Unions
Mr. George Stolz	American Federation of Labor

Category (b)

Mr. Moses Moskowitz	Consultative Council of Jewish Organizations
Mr. D. Avram	International Bureau for the Unification of Penal Law
Mr. M. Scott	International League for the Rights of Man
Mrs. A. I. Zizzamia	International Union of Catholic Women's Leagues

/5. The

5. The Sub-Commission at its nineteenth meeting re-elected Mr. Eric Einar Ekstrand as Chairman, and Mr. H. Roy as Vice-Chairman.

Mr. Joseph Nisot declined nomination as Rapporteur owing to pressure of business, and Miss Elizabeth Monroe was elected Rapporteur.

6. Mr. John P. Humphrey, Director of the Division of Human Rights, represented the Secretary-General. Mr. Edward Lawson acted as Secretary of the Sub-Commission.

7. The expression of the views of the members of the Sub-Commission is embodied in the summary records of its plenary meetings (documents E/CN.4/Sub.2/SR.19 to E/CN.4/Sub.2/SR.39).

8. The Sub-Commission deeply regretted the fact that no session had been summoned in 1948. It expressed its view that this occurrence should on no account become a precedent for future years.

## CHAPTER II

### AGENDA

9. At its nineteenth and twentieth meetings, the Sub-Commission considered the provisional agenda prepared by the Secretary-General in consultation with the Chairman (E/CN.4/Sub.2/39/Rev.1). It rejected, by 9 votes to 1 with 1 abstention, a proposal by Mr. Borisov that item 8 of the provisional agenda be deleted. It upheld, by 7 votes to 1 with 2 abstentions, a ruling by the Chairman that item 8 was not automatically eliminated from the agenda because of the request of the Commission on Human Rights that the Sub-Commission "postpone consideration, until its third session, of questions of implementation of human rights". It decided, by 8 votes to 1 with 2 abstentions, to postpone consideration of item 8 in accordance with the request made by the Commission on Human Rights. The agenda as amended above was then adopted by the Sub-Commission, by 9 votes to none with 1 abstention, with the addition of two items: (a) invitation to the Commission on the Status of Women; and (b) additional items. The agenda as adopted was as follows:

1. Opening of the session
2. Election of officers
3. Adoption of the agenda
4. Invitation to the Commission on the Status of Women
5. Business arising out of the new terms of reference of the Sub-Commission
6. Consideration of Part C of resolution 217 (III) of the General Assembly, on the fate of minorities
7. Communications relating to the prevention of discrimination and the protection of minorities
8. Proposals of Mr. McNamara (postponed from the first session of the Sub-Commission, see E/CN.4/Sub.2/SR.16, page 10):
  - (a) That the Economic and Social Council be requested to grant the Sub-Commission the status of a full commission; or
  - (b) 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.
9. Additional items
10. Adoption of the report of the Sub-Commission to the Commission on Human Rights

CHAPTER III

INVITATION TO THE COMMISSION ON THE STATUS OF WOMEN

10. At its twentieth meeting the Sub-Commission decided to extend an invitation to the Commission on the Status of Women to send a representative to participate in its deliberations when items relating to discrimination based on sex were to be discussed, in accordance with Part A (5) of resolution 48 (IV) of the Economic and Social Council. Subsequently Miss Cecilia Zung (China) attended and participated in various meetings of the Sub-Commission.

CHAPTER IV

BUSINESS ARISING OUT OF THE NEW TERMS OF REFERENCE  
OF THE SUB-COMMISSION

11. The Sub-Commission took note of its new terms of reference as adopted by the Commission on Human Rights on 16 May 1949 (Part A, E/CN.4/209). It welcomed these as being less restrictive than its former mandate. It decided that the exact scope of these new terms of reference could only be clarified in the course of subsequent discussion by the Sub-Commission of specific proposals arising from the agenda. It therefore proceeded to an examination of the proposals which had been put before it by members.

CHAPTER V

THE FATE OF MINORITIES

12. In accordance with the request made in Part C of resolution 217 (III) of the General Assembly and Part C of the resolution on the Prevention of Discrimination and the Protection of Minorities adopted by the Commission on Human Rights at its eighty-seventh meeting, the Sub-Commission considered a number of proposals relating to the fate of minorities, among them the following:

<u>Mr. Borisov:</u>	Document E/CN.4/Sub.2/50.
<u>Mr. Cheng:</u>	E/CN.4/Sub.2/54.
<u>Mr. Daniels:</u>	E/CN.4/Sub.2/42, E/CN.4/Sub.2/43.
<u>Mr. McNamara:</u>	E/CN.4/Sub.2/62, E/CN.4/Sub.2/63, E/CN.4/Sub.2/64.
<u>Miss Monroe:</u>	E/CN.4/Sub.2/46.
<u>Mr. Pallares:</u>	E/CN.4/Sub.2/47, E/CN.4/Sub.2/52.
<u>Mr. Shafagh:</u>	E/CN.4/Sub.2/44, E/CN.4/Sub.2/45, E/CN.4/Sub.2/48, E/CN.4/Sub.2/49.
<u>Mr. Spanien and</u>	
<u>Miss Monroe:</u>	E/CN.4/Sub.2/69.

13. After a general debate on the fate of minorities, the Sub-Commission examined and discussed these proposals, one by one, in the order in which they had been submitted, without voting on them.

14. At its thirty-first meeting the first proposal of Mr. McNamara (E/CN.4/Sub.2/62) was adopted by 11 votes for, none against and 1 abstention, after the author had accepted amendments which made it read as follows:

A.

CO-OPERATION OF NON-GOVERNMENTAL ORGANIZATIONS<sup>1/</sup>

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

Recognizing the valuable co-operation already given by various non-governmental organizations which have been brought into consultative status with the United Nations,

<sup>1/</sup> A draft resolution for the Commission on Human Rights, on this subject, appears in the Annex to this report.

/Recognizing

Recognizing the special and important role that such organizations can play in the development of the tasks of the Sub-Commission,

Recommends that the Commission on Human Rights request the Secretary-General:

(a) to invite all such organizations as he deems appropriate to furnish annually, and at any other time desired by them, factual information relevant to the Sub-Commission's terms of reference; in particular such factual and statistical information as may assist the Sub-Commission to determine whether, to what extent, and why, any particular group is being discriminated against on the basis of the categories referred to in Article 2 of the Declaration of Human Rights, i.e., "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

(b) to furnish to the members of the Sub-Commission information received from such non-governmental organizations, prior to each session of the Sub-Commission, such information to be accompanied, if available, by any relevant commentaries or other data obtained by the Secretariat from (a) Governments, or (b) experts or correspondents working in collaboration with the Secretariat.

15. At the same meeting the Sub-Commission adopted a second proposal put forward by Mr. McNamara on the furnishing by the Secretariat of documentation arising from the work and findings of the Trusteeship Council (E/CN.4/Sub.2/63), by 10 votes for, none against and 2 abstentions, in the following amended form:

B.

DOCUMENTATION

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

Recognizing the value to the Sub-Commission of that part of the work and findings of various organs of the United Nations which is relevant to the prevention of discrimination and the protection of minorities,

Requests the Secretary-General to furnish the members of the Sub-Commission with relevant data on the activities of all organs of the United Nations and its specialized agencies in the field of the prevention of discrimination and the protection of minorities, as and when it becomes available.

/16. At the

16. At the thirty-first meeting the Sub-Commission also considered a proposal by Dr. Shafagh (E/CN.4/Sub.2/45), relating to the publication of a Yearbook on Minorities; and a report prepared by the Secretary-General on the financial implications of the proposal (E/CN.4/Sub.2/68). It decided by 10 votes for, none against and 1 abstention, to defer detailed consideration of this proposal until its third session.

17. At its thirty-third meeting the Sub-Commission considered a proposal by Mr. McNamara on national co-ordinating committees (E/CN.4/Sub.2/64). After the author had agreed to omit certain portions of this proposal which met with objections on the part of one or more members of the Sub-Commission, the Sub-Commission adopted by a vote of 8 for, 1 against and 3 abstentions, the revised proposal in the following form:

C.

NATIONAL CO-ORDINATING COMMITTEES<sup>1/</sup>

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

Realizing the need for speedy effectualization of the principles and rights enunciated in the Universal Declaration of Human Rights,

Recommends that the Commission on Human Rights request the Secretary-General:

- (a) to take whatever steps may be most practicable to achieve in each State the establishment of a national co-ordinating committee of national sections of non-governmental organizations holding consultative status with the United Nations;
  - (b) to request such national co-ordinating committees, when established, to form a Human Rights Standing Committee;
  - (c) to obtain annually from such above committees as may be established, a report as to the result of their activities; and to furnish a summary of such report to the members of the Sub-Commission prior to each session.
18. At the thirty-third meeting the Sub-Commission also considered a proposal by Dr. Chang on a provision regarding access to businesses and professions to be added to the Draft Covenant on Human Rights (E/CN.4/Sub.2/67). It rejected, by 8 votes to 2, with 2 abstentions, an amendment moved by Mr. McNamara to substitute the words "any person" for the words "a citizen". After Dr. Chang had accepted the suggestion made by Mr. Spanien that his list of grounds for discrimination be enlarged to include all those contained in paragraph 1 of article 2 of the Universal Declaration of Human Rights, the proposal was adopted by 7 votes for, none against and 5 abstentions in the following form:

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<sup>1/</sup> A draft resolution for the Commission on Human Rights, on this subject, appears in the Annex to this report.

D.

PROVISION TO BE ADDED TO THE DRAFT INTERNATIONAL  
COVENANT ON HUMAN RIGHTS<sup>1/</sup>

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

Considering that the Commission on Human Rights is preparing a  
Draft International Covenant on Human Rights,

Recommends that the Commission include in the Draft Covenant a  
provision pledging the contracting States not to use governmental  
licensing arrangements, or to permit restrictions, prohibiting the entry  
into any business, profession, vocation or employment of a citizen by  
reason of his race, colour, sex, language, religion, political or other  
opinion, national or social origin, property, birth or other status.

19. At its thirty-fourth meeting the Sub-Commission considered the  
following proposal of Mr. Borisov (E/CN.4/Sub.2/50/Rev.1):

MR. BORISOV'S PROPOSAL

Mr. A.P. Borisov, Member of the Sub-Commission on the  
Prevention of Discrimination and the Protection  
of Minorities, proposed, for discussion and  
inclusion in the resolution of the Sub-  
Commission on the question of national  
minorities, the following text:

The Sub-Commission on the Prevention of Discrimination and the  
Protection of Minorities

Recommends that the Commission on Human Rights forward the following  
draft resolution to the General Assembly:

The General Assembly

Recommends to the Member States of the United Nations

A. To ensure to every person, regardless of whether he belongs to  
the population of a mother country, trust territory or non-self-  
governing territory, and also regardless of whether he belongs to a  
racial, national or religious minority:

1. The possibility, regardless of race or colour, nationality,  
social status, property position, social origin, language,  
religion or sex, of participating in the government of the State,  
of electing and being elected to all organs of authority on the  
basis of universal, equal and direct suffrage with secret  
ballot, the possibility of occupying any state or civic  
position, together with the abolition of property and

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<sup>1/</sup> A draft resolution for the Commission on Human Rights, on this subject,  
appears in the Annex to this report.

educational qualifications restricting the participation of citizens in the voting, at elections to the representative body;

2. The right to his ethnical or national culture and the right to establish his own schools, libraries, museums and other cultural and educational institutions and to receive instruction in his native language, and also to use that language in the press, public meetings, law courts and other public places;

3. The right of access to education without any distinction of race, sex, language, financial position, or social origin, together with the establishment of free primary education, a system of scholarships and the necessary network of schools;

4. The right to work and to choose his own profession so as to create conditions precluding the threat of starvation or exhaustion for national minorities;

5. The right to rest and leisure for every member of a national minority working as a hired worker in undertakings and institutions, together with the establishment of this right either in legislation or in the form of collective agreements providing in particular for a reasonable restriction of working hours, as well as periodical holidays with pay.

B. To prohibit by law any propaganda of Fascist-Nazi views in any form, as well as the propaganda of racial and national exclusiveness, hatred and contempt.

20. The Sub-Commission decided first, by 9 votes to none with 2 abstentions, to amend the paragraph numbered 1 of this proposal by the addition of the words "political or other opinion" after the phrase "religion or sex" in order to bring it into conformity with article 2 paragraph 1 of the Universal Declaration of Human Rights. For the same reason, it then amended the paragraph numbered 3, by 10 votes to none with 2 abstentions, adding the words "religion, political or other opinion" after the word "language". Dr. Chang, Mr. Daniels, Mr. Masani, Mr. Meneses Pallares, Miss Monroe, Mr. Nisot, Mr. Roy and Mr. Spanien criticized paragraphs 1, 3, 4 and 5 on the ground that these principles were already adequately covered by existing provisions of the Universal Declaration of Human Rights. Mr. Borisov was supported at certain points by Mr. McNamara and Mr. Shafagh.

21. The Sub-Commission then voted, by roll call, on each part of Mr. Borisov's text, as amended, except the Preamble. It rejected the paragraph numbered 1 by 6 votes to 1 with 4 abstentions; the paragraph numbered 2 by 5 votes to 2 with 5 abstentions; the paragraph numbered 3 by 5 votes to 2 with 5 abstentions; the paragraph numbered 4 by 6 votes to 3 with 3 abstentions; the paragraph numbered 5 by 6 votes to 3 with 3 abstentions; and the paragraph numbered B by 9 votes to 1 with 2 abstentions. It then considered it unnecessary to take a vote on the preamble contained in the paragraph numbered A.

22. The Sub-Commission proceeded to consider a joint proposal (E/CN.4/Sub.2/59) presented by Mr. Meneses Pallares, Mr. Roy and Dr. Shafagh on means of obtaining information on the status of minorities. After rejecting, by 9 votes to 1 with 2 abstentions, an amendment by Mr. McNamara which would have replaced the word "minority" with the phrase "racial, national, linguistic or religious groups," it adopted, by 8 votes to none with 4 abstentions, the joint proposal in the following redrafted form suggested by the Chairman:

E.

INFORMATION ON THE STATUS OF MINORITIES<sup>1/</sup>

The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities

Recommends that the Commission on Human Rights adopt the following draft resolution:

The Commission on Human Rights

Considering the need for thorough and precise information regarding minorities,

Calls upon the Secretary-General to request the various Governments to furnish him with full information regarding legislative measures for the protection of any minority within their jurisdiction, and regarding the status of such minorities in the light of the provisions of the Universal Declaration of Human Rights;

Decides to include in the Draft International Covenant on Human Rights a provision pledging each contracting State to conform with this request.

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<sup>1/</sup> The draft resolution for the Commission on Human Rights, contained in this resolution, is reproduced in the Annex to this report.

23. The Sub-Commission agreed to permit Mr. Nisot to explain his vote on the above resolution in the report, as follows:

"It would not be admissible to request States to make official statements on the status of their minorities before the meaning and scope of the concept of minority have been determined. Since no criterion has even been proposed to the Governments, those who wish to evade the request will be able simply to reply, whatever may be the situation of fact, that they have no minorities in their territory. Hence the Sub-Commission's text seems to be premature and futile. Before taking this course, the Sub-Commission should have waited till it had established a definition of minorities. This it proposes to tackle at its third session. Consequently, I was unable to vote for its text."

24. At its thirty-fifth meeting the Sub-Commission considered a draft resolution proposed by Mr. Daniels with regard to facilities to be provided for minorities in the use of their language (E/CN.4/Sub.2/60). This draft resolution represented a revision of Mr. Daniels original proposal on this subject (E/CN.4/Sub.2/43) in the light of amendments which had been suggested by members of the Sub-Commission in the course of the earlier general debate. After Mr. Daniels had agreed to certain drafting changes in his revised text, it was adopted as a whole by 9 votes to 1, with 2 abstentions, in the following form:

F.

FACILITIES TO BE PROVIDED FOR MINORITIES<sup>1/</sup>

The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities

Requests the Commission on Human Rights to take the necessary steps to forward the following draft resolution to the General Assembly:

The General Assembly,

Considering that the discriminatory treatment of minorities has been and could be a major cause of international tension leading to war;

Considering at the same time that rights accorded minorities entail a corresponding obligation on their part towards the larger society in which they live and must not, therefore, be used to threaten or undermine the unity and security of States;

Considering that provision has been made in the Universal Declaration of Human Rights and in the Draft International Covenant on Human Rights for the recognition of such traditional minority rights as freedom of religion, speech, assembly and association;

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<sup>1/</sup> The draft resolution for the Commission on Human Rights, contained in this resolution, is reproduced in the Annex to this report.

Recommends that, in the interest of enabling recognized minority groups to maintain their cultural heritage when they desire to do so, Member Governments should provide adequate facilities, in districts, regions and territories where they represent a considerable proportion of the population, for:

- (1) The use in judicial procedure of languages of such groups;
- (2) The teaching in state-supported schools of languages of such groups, provided that such groups request it and that the request in reality expresses the spontaneous desire of such groups;

Affirms that such groups shall possess these or other rights so long as they are not used for the purpose of threatening or undermining the unity or security of States.

25. The Sub-Commission agreed to permit Mr. Nisot to explain his vote in the Report, as follows:

"The determination of the languages which may be used in their law courts and taught in their schools lies essentially within the domestic jurisdiction of States, a domain in which paragraph 7 of Article 2 of the Charter prohibits intervention. At the present stage, there is still no treaty, or covenant, enabling the Assembly to exercise in that domain, in regard to contracting States, a right to make recommendations in derogation of the aforesaid paragraph. In the absence of such a treaty, the prohibition of intervention remains unchanged, and the Assembly cannot make recommendations; it can only express a wish. Hence, it was because the resolution provided that the Assembly should make a recommendation (and not a simple wish) that I was unable to vote for it."

CHAPTER VI  
COMMUNICATIONS

26. At its twenty-fifth meeting, held in private session, the Sub-Commission was furnished with a confidential list of communications dealing with discrimination and minorities received by the United Nations from 1 January 1948 to 25 May 1949 (restricted document E/CN.4/Sub.2/CR.1). It referred this confidential list to a committee on communications composed of Mr. Borisov, Dr. Chang, Mr. Daniels, Miss Mounce, and Mr. Meneses Pallares.

27. The Report of the committee on communications (E/CN.4/Sub.2/61) was considered at the Sub-Commission's thirtieth meeting, which was also held in private session. During the discussion, Mr. A. P. Borisov proposed that only communications received from Non-Self-Governing Territories and Trust Territories should be considered, but this proposal was rejected. The Sub-Commission decided, without a recorded vote, to take note of this report. Mr. Borisov abstained in regard to the decision of the Sub-Commission to take note of the confidential list of communications. Mr. McNamara stated that he abstained on the ground that the Sub-Commission, under its terms of reference, had the power to do much more than "simply take note," and should have proceeded to deal with matters arising out of specific communications summarized in the confidential list.

28. In the course of the discussion of the handling of communications, the members of the Sub-Commission frequently expressed dissatisfaction with the present terms of resolution 75 (V) of the Economic and Social Council as amended, on the ground that it did not take sufficient account of the moral obligations of States Members in the light of the Universal Declaration of Human Rights. Many members referred to the report by the Secretary-General on the present situation in regard to communications concerning Human Rights (E/CN.4/165) and expressed their agreement with various suggestions contained therein.

29. The Sub-Commission considered, in open session, Mr. Daniels' revised proposal with regard to the handling of petitions (E/CN.4/Sub.2/66), a redrafting of his original proposal on this subject (E/CN.4/Sub.2/42) in the light of amendments suggested by members of the Sub-Commission in the course of the general debate. The Sub-Commission adopted, by 7 votes to 4 with 1 abstention, the proposal as redrafted by Mr. Daniels in the following form:

G.  
THE HANDLING OF PETITIONS<sup>1/</sup>

The Sub-Commission on the Prevention of Discrimination and the  
Protection of Minorities

Recommends that the Commission on Human Rights request the Economic and Social Council to amend resolution 75 (V) with a view to granting to the Sub-Commission the right to make reports and to submit recommendations on matters brought to its attention in the course of examining communications relative to human rights;

Recommends that the Commission on Human Rights request the Economic and Social Council to make more specific provisions concerning the exercise of this right;

Recommends that the following procedure be approved by the Economic and Social Council for the handling of urgent problems in the field of discrimination pending the establishment of measures for the implementation of the Covenant on Human Rights:

1. Communications alleging the existence of urgent problems in the field of discrimination which may be brought to the attention of the Sub-Commission by any Member of the United Nations, or by any principal organ, or by any specialized agency brought into relationship with the United Nations under Article 63 of the Charter, or by any non-governmental organization having consultative status with the Economic and Social Council under Article 71 of the Charter, shall be examined by the Sub-Commission. The Secretary-General should also be requested to examine petitions received on the subject of discrimination, and to communicate to the Sub-Commission those which he considers to indicate the existence of urgent problems. He should also be authorized, at his discretion, to circulate such petitions to members of the Sub-Commission in advance of its sessions.

2. The Sub-Commission should decide whether any case warrants further study. In such a case a committee on petitions composed of three members should be appointed by the Sub-Commission with authorization to request further information from the persons and States concerned, with a view to obtaining the fullest possible documentation with regard to the case. The Committee on Petitions should work in collaboration with the Secretariat and should be

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<sup>1/</sup> A draft resolution for the Commission on Human Rights, on this subject, appears in the Annex to this report.

authorized to delegate such part of its work as may be appropriate to the Secretariat. Proceedings of the Sub-Commission pursuant to the present paragraph should be conducted without publicity unless otherwise specially decided.

3. The Committee on Petitions should report to the Sub-Commission, but should be required to report the particulars of its activities only if it decides that further consideration of the case by the United Nations is desirable.

4. If the State concerned in the alleged discrimination advises the Committee on Petitions that it regards the matter as one essentially within its domestic jurisdiction, the Committee should report this fact to, and await further guidance from, the Sub-Commission.

30. The Sub-Commission agreed to permit Mr. Borisov and Mr. Nisot to explain their votes in the Report, as follows:

Mr. Borisov:

"I voted against the above-mentioned procedure for examining petitions on the ground that the procedure proposed by Mr. Daniels opens the door to arbitrary methods in selecting petitions for examination and thus is incompatible with the tasks and aims of the Sub-Commission in regard to the prevention of discrimination and the protection of minorities."

Mr. Nisot:

"The proposal adopted by the Sub-Commission aims at setting up a Committee for the purpose of examining petitions and calling upon the States concerned to furnish supplementary information and explanations. Thus there would be established a machinery of inquiry and investigation which could, in principle, operate against any State. It would be for the Sub-Commission to set that machinery working as a consequence of the initiative taken by the petitioner. In that case, States would in fact be called upon to justify themselves and to render account to the extent deemed advisable by the Committee acting on the basis of the data, whether true or false, supplied by the petitioner himself, who becomes a real accuser, in good or bad faith. Even if the States put into the dock in this way should allege that the question was one which, under paragraph 7 of Article 2 of the Charter, was essentially within their domestic jurisdiction, that allegation would not suffice; its justification would be subject to appraisal by the Sub-Commission in view of the directives it would have to give to the Committee on Petitions so that it might carry on its investigation.

I will not attempt to show today how incompatible with the Charter is a proposal which aims at subjecting to such a system States which have not agreed beforehand by treaty to undergo its rigours.

/I will merely

I will merely state that in adopting its proposal the Sub-Commission has exceeded its powers. On the one hand, it has provided for the implementation of the protection of human rights, which the Commission on Human Rights expressly requested it not to do. On the other hand, it has infringed resolutions 75 (V) and 116 (VI) of the Economic and Social Council, from which it appears that the Sub-Commission is not, at the present stage, empowered to take any measures concerning petitions relating to human rights.

For these reasons, I have been obliged to vote against the proposal."

31. At its thirty-fifth meeting the Sub-Commission considered what action it could take with respect to the joint draft resolution submitted by Miss Monroe and Mr. Spanien (E/CN.4/Sub.2/69). The two authors were requested to submit concrete proposals relating to certain of the suggestions made in this document, but later withdrew these in favour of an alternative proposal by Mr. Daniels (E/CN.4/Sub.2/76), which was adopted in the following form by 11 votes to 1:

#### H.

##### DEFINITION AND CLASSIFICATION OF MINORITIES

##### The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities

A. Decides to place the following item on the provisional agenda of its next session:

"Definition and classification of minorities";

B. Decides to consider document E/CN.4/Sub.2/69 in connexion with the item on the agenda referred to in paragraph A above;

C. Invites its members to forward to the Secretariat, for circulation before its next session, further proposals and suggestions on the subject referred to in paragraph A above.

32. The Sub-Commission agreed to permit Mr. Borisov to explain his vote in the report, as follows:

"I observed that a number of members did not agree with the proposals put forward by Miss Monroe and Mr. Spanien. I criticized and opposed the proposals contained in E/CN.4/Sub.2/69 and E/CN.4/Sub.2/76, and voted against them on the ground that such proposals divert the Sub-Commission from solving its fundamental problems: the prevention of discrimination and the protection of minorities."

## CHAPTER VII

### RIGHTS OF THE SUB-COMMISSION

33. At its thirty-sixth meeting the Sub-Commission considered a proposal by Mr. McNamara concerning its status and its right to make recommendations (E/CN.4/Sub.2/71). Mr. McNamara withdrew the parts of this proposal which related to the suggestion he had made at the first session of the Sub-Commission, that the Sub-Commission might be given the status of a full commission. His proposal was thereupon adopted by the Sub-Commission in the following form, by 6 votes to 3, with 3 abstentions:

#### I.

#### RIGHT OF THE SUB-COMMISSION TO FORWARD PROPOSALS TO THE ECONOMIC AND SOCIAL COUNCIL<sup>1/</sup>

The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities

Considering that consideration and possible effectualization of the Sub-Commission's studies and recommendations by the Economic and Social Council should be facilitated and expedited;

Recommends that the Commission on Human Rights request the Economic and Social Council to grant the Sub-Commission the right to forward proposals, which the Sub-Commission specifies as being urgent proposals direct to the Economic and Social Council.

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<sup>1/</sup> A draft resolution for the Commission on Human Rights, on this subject, appears in the Annex to this report.

CHAPTER VIII

ADDITIONAL ITEMS

34. Under the agenda item "Additional items" the Sub-Commission considered a number of proposals relating to its programme of future work. It first examined a joint proposal by Mr. Masani, Miss Monroe, Mr. Pallares and Mr. Shafagh (E/CN.4/Sub.2/72) on the Secretary-General's study of the types and causes of discrimination (E/CN.4/Sub.2/40). The joint proposal, after amendment, was adopted by eleven votes to one in the following form:

J.

STUDY BY THE SECRETARY-GENERAL OF THE MAIN TYPES  
AND CAUSES OF DISCRIMINATION

The Sub-Commission on the Prevention of Discrimination and the  
Protection of Minorities

Welcomes the comprehensive and efficient study on types and causes of discrimination (E/CN.4/Sub.2/40) prepared for it by the Secretary-General;

Decides to use this as a working paper;

Resolves to place on the provisional agenda for its next session the item:

"Prevention of discrimination: recommendations thereon, including any which may arise out of consideration of chapter VI (Legal Measures) and chapter VII (Educational Measures) of E/CN.4/Sub.2/40;"

Decides to consider at the same session Part II of Mr. Pallares' paper (E/CN.4/Sub.2/47) on the same subject.

35. The Sub-Commission agreed to permit Mr. Borisov to explain his vote in the report as follows:

"I not only opposed references to document E/CN.4/Sub.2/40 being accepted as a working paper, and to chapters VI and VII of this document being accepted as a basis of discussion, but was also opposed in principle to any useless, quasi-scientific researches which divert the Sub-Commission into the diametrically opposite direction away from its fundamental tasks."

36. The Sub-Commission then considered a draft resolution proposed by Mr. Shafagh (E/CN.4/Sub.2/75) on arrangements for its third session. Mr. Shafagh withdrew all but the final paragraph of his proposal, since the substance of the earlier paragraphs had already been covered by resolutions adopted by the Sub-Commission. The final paragraph was adopted by the Sub-Commission by 7 votes to 4 in the following form:

K.

THIRD SESSION OF THE SUB-COMMISSION

The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities

Requests the Secretary-General to make arrangements for a session of the Sub-Commission of from three to four weeks in January 1950 in order that it may have sufficient time to complete the contemplated studies and recommendations.

Importance was attached to the mention of January, as only by meeting prior to the session of the Commission on Human Rights scheduled for March 1950, would the Sub-Commission have any opportunity of recommending provisions for inclusion in the Draft International Covenant on Human Rights.

37. The Sub-Commission, at its final meeting, adopted by 11 votes to none a proposal by Mr. Masani that the following item be added to the provisional agenda for its third session:

"Consideration of provisions to be included in the Draft International Covenant on Human Rights relating to the prevention of discrimination and the protection of minorities."

Mr. Borisev did not vote because he reserved his right to express his opinion at the next session.

38. The Sub-Commission also adopted unanimously the following proposal made by Miss Monroe:

L.

ARRANGEMENT OF PROGRAMME OF MEETINGS

The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities

Recommends that in order to expedite the implementation of its recommendations, it shall if possible be scheduled to hold its annual session to end shortly before that of the Commission on Human Rights.

39. The Sub-Commission decided to request, by 8 votes for and 4 abstentions, that arrangements be made for it to hold its third session in Geneva, shortly before the session of the Commission on Human Rights, should the latter's next session be held there.

40. At its thirty-seventh meeting, the Sub-Commission heard a verbal statement from the representative of UNESCO. Several members of the Sub-Commission expressed their satisfaction with the progress made, as indicated in UNESCO's progress report (E/CN.4/173), and its proposed programme of future work in the field of the prevention of discrimination.

41. For the convenience of members of the Sub-Commission, the items adopted for inclusion in the provisional agenda for its third session are listed below, in the order in which they were voted:

1. Yearbook on Minorities
2. Definition and classification of minorities
3. Prevention of discrimination: recommendations thereon, including any which may arise out of consideration of chapter VI (Legal Measures) and chapter VII (Educational Measures) of document E/CN.4/Sub.2/40;
4. Consideration of provisions to be included in the Draft International Covenant on Human Rights relating to the prevention of discrimination and the protection of minorities.

CHAPTER IX

ADOPTION OF THE REPORT OF THE SUB-COMMISSION TO  
THE COMMISSION ON HUMAN RIGHTS

42. At its thirty-ninth meeting the Sub-Commission adopted the Report of its Second Session to the Commission on Human Rights by 11 votes for to 1 against.

43. In adopting this report, the members of the Sub-Commission extended their thanks to Miss Elizabeth Monroe for her devoted and efficient service as Rapporteur.

ANNEX

DRAFT RESOLUTIONS FOR THE COMMISSION ON HUMAN RIGHTS

I.

CO-OPERATION OF NON-GOVERNMENTAL ORGANIZATIONS

The Commission on Human Rights,

Recognizing the valuable co-operation already given by various non-governmental organizations which have been brought into consultative status with the United Nations;

Recognizing the special and important role that such organizations can play in the development of the tasks of the Sub-Commission;

Requests the Secretary-General:

- (a) to invite all such organizations as he deems appropriate to furnish annually, and at any other time desired by them, factual information relevant to the Sub-Commission's terms of reference; in particular such factual and statistical information as may assist the Sub-Commission to determine whether, to what extent, and why, any particular group is being discriminated against on the basis of the categories referred to in article 2 of the Declaration of Human Rights, i.e., "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".
- (b) to furnish to the members of the Sub-Commission information received from such non-governmental organizations, prior to each session of the Sub-Commission, such information to be accompanied, if available, by any relevant commentaries or other data obtained by the Secretariat from (a) Governments, or (b) experts or correspondents working in collaboration with the Secretariat.

II.

NATIONAL CO-ORDINATING COMMITTEES

The Commission on Human Rights,

Recognizing the need for speedy effectualization of the principles enunciated in the Universal Declaration of Human Rights,

Requests the Secretary-General:

- (a) to take whatever steps may be most practicable to achieve in each State the establishment of a national co-ordinating committee of national sections of non-governmental organizations holding consultative status with the United Nations.
- (b) to request such national co-ordinating committees, when established, to form a Human Rights Standing Committee;

(c) to obtain

(c) to obtain annually from such above committees as may be established, a report as to the result of their activities; and to furnish a summary of such report to the members of the Sub-Commission prior to each session.

III.

PROVISION TO BE ADDED TO THE DRAFT INTERNATIONAL COVENANT  
ON HUMAN RIGHTS

The Commission on Human Rights

Decides to include in the Draft International Covenant on Human Rights a provision pledging the contracting States not to use governmental licensing arrangements, or to permit restrictions, prohibiting the entry into any business, profession, vocation, or employment of a citizen by reason of his race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

IV.

INFORMATION ON THE STATUS OF MINORITIES

The Commission on Human Rights,

Considering the need for thorough and precise information regarding minorities,

Calls upon the Secretary-General to request the various Governments to furnish him with full information regarding legislative measures for the protection of any minority within their jurisdiction, and regarding the status of such minorities in the light of the provisions of the Universal Declaration of Human Rights;

Decides to include in the Draft International Covenant on Human Rights a provision pledging each contracting State to conform with this request.

V.

FACILITIES TO BE PROVIDED FOR MINORITIES

The Commission on Human Rights,

Recommends that the Economic and Social Council forward the following draft resolution to the General Assembly:

The General Assembly,

Considering that the discriminatory treatment of minorities has been and could be a major cause of international tension leading to war;

Considering at the same time that *rights accorded minorities* entail a corresponding obligation on their part towards the larger society in which they live and must not, therefore, be used to threaten or undermine the unity and security of States;

/Considering

Considering that provision has been made in the Universal Declaration of Human Rights and in the Draft International Covenant on Human Rights for the recognition of such traditional minority rights as freedom of religion, speech, assembly and association;

Recommends that, in the interest of enabling recognized minority groups to maintain their cultural heritage when they desire to do so, Member Governments should provide adequate facilities, in districts, regions and territories where they represent a considerable proportion of the population, for:

- (1) the use in judicial procedure of languages of such groups;
- (2) the teaching in state-supported schools of languages of such groups, provided that such groups request it and that the request in reality expresses the spontaneous desire of such groups;

Affirms that such groups shall possess these or other rights so long as they are not used for the purpose of threatening or undermining the unity or security of States.

## VI.

### THE HANDLING OF PETITIONS

#### The Commission on Human Rights

Recommends that the Economic and Social Council amend its resolution 75 (V) with a view to granting the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities the right to make reports on matters brought to its attention in the course of examining communications relative to the prevention of discrimination and the protection of minorities;

Recommends also that the Economic and Social Council make more specific provisions concerning the exercise of this right, that it approve the following procedure for the handling of urgent problems in the field of discrimination pending the establishment of measures for the implementation of the International Covenant on Human Rights;

- (1) Communications alleging the existence of urgent problems in the field of discrimination which may be brought to the attention of the Sub-Commission by any Member of the United Nations, or by any principal organ, or by any specialized agency brought into relationship with the United Nations under Article 63 of the Charter, or by any non-governmental organization having consultative status with the Economic and Social Council under Article 71 of the Charter, shall be examined by the Sub-Commission. The Secretary-General

/should also

should also be requested to examine petitions received on the subject of discrimination, and to communicate to the Sub-Commission those which he considers to indicate the existence of urgent problems. He should also be authorized, at his discretion, to circulate such petitions to members of the Sub-Commission in advance of its sessions.

(2) The Sub-Commission should decide whether any case warrants further study. In such a case a committee on petitions composed of three members should be appointed by the Sub-Commission with authorization to request further information from the persons and States concerned, with a view to obtaining the fullest possible documentation with regard to the case. The committee on petitions should work in collaboration with the Secretariat and should be authorized to delegate such part of its work as may be appropriate to the Secretariat. Proceedings of the Sub-Commission pursuant to the present paragraph should be conducted without publicity unless otherwise specially decided.

(3) The Committee on Petitions should report to the Sub-Commission, but should be required to report the particulars of its activities only if it decides that further consideration of the case by the United Nations is desirable.

(4) If the State concerned in the alleged discrimination advises the Committee on Petitions that it regards the matter as one essentially within its domestic jurisdiction, the Committee should report this fact to, and await further guidance from, the Sub-Commission.

## VII.

### RIGHT OF THE SUB-COMMISSION TO FORWARD PROPOSALS TO THE ECONOMIC AND SOCIAL COUNCIL

The Commission on Human Rights,

Considering that consideration and possible effectualization by the Economic and Social Council of the studies and recommendations of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities should be facilitated and expedited;

Recommends that the Council grant the Sub-Commission the right to forward proposals, which the Sub-Commission specifies as being urgent proposals, direct to the Economic and Social Council.

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