

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

SUMMARY RECORD OF THE NINETEENTH MEETING

Held at Lake Success, New York,
on Monday, 13 June 1949, at 11 a. m.

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- Opening of the second session.
- Election of officers.
- Adoption of the agenda (E/C.4/18, E/CN.4/Sub.2/39/Rev.1).

<u>Chairman:</u>	Mr. EKSTRAND	Sweden
<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
	Miss MONROE	United Kingdom
	Mr. NISOT	Belgium
	Mr. ROY	Haiti
	Mr. SPANIEN	France
	Mr. SHAFaq	Iran

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<u>Secretariat:</u> Mr. HUMPHREY	Representative of the Secretary-General
Mr. LAWSON	Secretary of the Sub-Commission
Mr. RICASSENS SICHES	
Mr. SEWARD	Department of Conference and General Services

OPENING OF THE SECOND SESSION

The CHAIRMAN declared open the second session of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

He announced that, owing to the large number of Commissions meeting at Lake Success, simultaneous interpretation would not be available to the Sub-Commission straight away. The Secretariat had made arrangements, however, for that service to be provided within a few days.

He pointed out that the report of the Secretary-General on the prevention of discrimination (E/CN.4/Sub.2/40) had been distributed in English only; It was being translated into French and Russian and copies in those languages would be distributed to the members of the Sub-Commission as soon as they were ready.

Mr. BORISOV was sorry to note that the Sub-Commission would be prevented from carrying on its work normally from the very outset, owing to the lack of simultaneous interpretation. He recalled that in such cases it was usual to suspend work until the Secretariat had remedied the situation.

He asked for discussion of the report of the Secretary-General to be deferred until the French and Russian translations had been distributed to the members of the Sub-Commission.

The CHAIRMAN pointed out that the document did not refer to any specific point on the agenda; it had been distributed to the members of the Sub-Commission for information only, and would not be discussed in detail.

Mr. SEWARD (Secretariat) explained that it had not been possible to provide the Sub-Commission with simultaneous interpretation because of a shortage of staff. The sum allocated by the General Assembly for that service could provide four teams only. Two of those were in Havana with the Economic Commission for Latin America; in

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addition, several interpreters had been assigned to the Council of Foreign Ministers which was meeting in Paris, while others had been sent to Geneva. With the staff available at the moment, the Secretariat could only service two meetings at a time. He hoped that the Sub-Commission would be able to have simultaneous interpretation regularly as from the following week, and probably even for one or two meetings during the current week.

Mr. McNAMARA wished to place on record that the Sub-Commission deplored the fact that its work was to be held up owing to budgetary reasons. The Sub-Commission could perhaps recommend to the appropriate organ of the General Assembly that special priority should be given to simultaneous interpretation services in the budget allocations.

Mr. BORISOV was by no means satisfied with the explanations furnished by the Secretariat. The opening date of the second session of the Sub-Commission was well known in advance and the Sub-Commission had met on that exact date. The Secretariat should have made arrangements to enable the Sub-Commission to carry on its work without delay. He for his part felt that the attitude of the Secretariat placed the Sub-Commission in an unfavourable position compared with other United Nations organs.

Mr. HUMPHREY (Secretariat) stressed the fact that the Secretariat could not exceed the sum allotted by the General Assembly. Mr. Seward, the representative of the Department of Conference and General Services, had explained why it had not been possible to provide the Sub-Commission with simultaneous interpreters. Mr. Humphrey assured the Sub-Commission that the Secretariat would spare no effort to remedy the situation as soon as possible.

Mr. MENESES PALLARES joined with Mr. Borisov in protesting against the situation in which the Sub-Commission had been placed at the beginning of its session. He realized, however, that it was only a temporary state of affairs and was a case of force majeure. That being so, he wondered whether it would be better for the Sub-Commission to suspend its meetings until simultaneous interpretation could be provided.

Mr. BORISOV explained that he was not formally proposing that the Sub-Commission should suspend its meetings; he had merely
/wished to

wished to draw attention to the procedure usually adopted by other United Nations organs.

The CHAIRMAN, on behalf of all the members, deplored the delay which the absence of simultaneous interpretation would occasion in the work of the Sub-Commission. He hoped that the Sub-Commission would soon be in a position to carry on its work at a more rapid rate.

ELECTION OF OFFICERS

Mr. NISOT proposed that the Sub-Commission should ask Mr. Ekstrand to continue as Chairman.

Mr. DANIELS, Mr. MASANI, Mr. SPANIEN and Mr. SHAFaq supported Mr. Nisot's proposal.

Mr. BORISOV felt that, as the Sub-Commission had held only one session so far, there was no point in changing its officers. He therefore supported Mr. Nisot's proposal, and further suggested that the other officers should also be re-elected.

Mr. SHAFaq, Mr. DANIELS, Mr. MENESES PALLARES, Mr. SPANIEN and Miss MONROE supported Mr. Borisov's proposal.

Mr. NISOT was sorry he would not be able to continue as rapporteur, owing to the heavy work which devolved upon him in other fields.

Mr. SHAFaq proposed that Miss MONROE should be elected in place of Mr. Nisot.

Mr. MASANI, Mr. McNAMARA and Mr. NISOT supported Mr. Shafaq's proposal.

Miss MONROE stated that, despite her lack of experience in that regard, she would accept the post of rapporteur in a spirit of co-operation.

It was decided that the officers would be the following:

Chairman: Mr. EKSTRAND
Vice-Chairman: Mr. ROY
Rapporteur: Miss MONROE

/The CHAIRMAN,

The CHAIRMAN, Miss MONROE and Mr. ROY thanked the members of the Commission for the confidence they had shown in them and expressed their regrets that an excess of work prevented Mr. Nisot from continuing to give the Sub-Commission the benefit of his great ability.

Mr. SHAFIQ thanked Mr. Nisot for the excellent report which he had drafted on behalf of the Sub-Commission and congratulated the Secretariat on the part it had played in presenting the recommendations of the Sub-Commission to the various competent organs, particularly the Commission on Human Rights, in so correct a manner.

ADOPTION OF THE AGENDA (E/C.4/18, E/CN.4/Sub.2/39/Rev.1)

Mr. BORISOV wished to make a few remarks before the Sub-Commission undertook the examination of the agenda. He recalled that the Sub-Commission had been created by the United Nations for the purpose of continuing the struggle for the prevention of discrimination and for the protection of minorities.

The Sub-Commission had met only once in two years, in 1947. Another session had been contemplated for 1948, in view of the fact that the Sub-Commission should normally meet once a year. He regretted that the 1948 session had been postponed for reasons which were incomprehensible or at any rate inadequate. In his opinion, it had been a case of discrimination against the Sub-Commission, whose specific duty it was to concern itself with the prevention of discrimination.

He did not think there had been anything to prevent the 1948 meeting from taking place. The necessary budgetary provision had been made and the Economic and Social Council had adopted a number of decisions which would have served as a basis for discussion in the Sub-Commission. It was obvious, therefore, that the 1948 session could only have been postponed on some pretext or other.

Mr. Borisov pointed out that the Sub-Commission had the same rights as other organs of the United Nations; those others, however, received more favourable treatment, as, for example, in the case of simultaneous interpretation and the distribution of documents.

Mr. McNAMARA, like Mr. Borisov, was sorry that the Sub-Commission

had not met in 1948. While he had no wish to hunt for obscure reasons which might have given rise to the postponement of that session, he did consider that it had been a grave error, particularly in view of the very important work which had been assigned to the Sub-Commission.

One of the reasons given for the postponement of the 1948 session had been that the Sub-Commission's terms of reference had to be referred back to the Commission on Human Rights for an exact interpretation.

He recalled that he had opposed that action, on the grounds that the Sub-Commission's terms of reference were sufficiently clear and that any request for a specific interpretation would result in a considerable delay before the Sub-Commission could meet, since the Commission on Human Rights would first have to examine the question. The Sub-Commission could perfectly well have met in 1948, remaining within the limits of its terms of reference and awaiting clarification from the Commission on Human Rights.

He recalled, moreover, that in December 1947, at the end of its first session, the Sub-Commission had adopted a resolution expressing its desire to meet again as early as possible in 1948.

For all those reasons, Mr. McNamara asked the Secretariat to state whether there had been any reasons for the postponement of the 1948 session other than the need for a more precise interpretation of the terms of reference of the Sub-Commission.

Mr. HUMPHREY (Secretariat) read a memorandum (E/C.4/18) from the Secretary-General to the Interim Committee on Programme of Meetings of the Economic and Social Council, which had met in Paris during the first part of the third session of the General Assembly.

It would be seen from that memorandum that the Secretary-General had taken ^{all} necessary measures for the Sub-Commission to meet in 1948.

Furthermore, Mr. Humphrey stressed the fact that the Secretary-General could not be held responsible for decisions taken by the Interim Committee on Programme of Meetings.

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The CHAIRMAN recalled that he had voiced a strong protest against the postponement of the 1948 session in his correspondence with the Secretariat; the postponement had really amounted to suppression.

Further, he recalled that he had written to Mr. Borisov thanking him for the efficient way in which he had defended the interests of the Sub-Commission in that respect.

Mr. DANIELS requested the Secretariat to give him the following information:

- (1) how far advanced was the study of the validity of minority treaties which contained obligations to combat discrimination and to protect minorities?
- (2) why had document E/CN.4/Sub.2/40 only just been distributed?
- (3) what reasons had led the Secretariat to refrain from publishing the fundamental studies on minorities which the Sub-Commission had requested?

Mr. HUMPHREY (Secretariat) explained that the Secretariat had been faced with a most difficult and delicate task.

(1) With regard to the question of the validity of treaties, he pointed out that resolution 116 (VI) C requested the Secretariat to present its views to the Commission on Human Rights, and not to the Sub-Commission. It was to be expected however, that the Commission would refer the question back to the Sub-Commission. The Secretariat had set to work on the problem immediately. Although the subject was extremely complicated, the document would have been ready in time if the official responsible for the study had not been prevented by illness from finishing it; hence the delay in the consultations with the Legal Department. It appeared from those consultations that the Human Rights Division would have to assemble still more information on the subject.

(2) The belated distribution of document E/CN.4/Sub.2/40 was due to the fact that there was no official in the Division capable of dealing with the question of the prevention of discrimination. It had been necessary to assign that study to a specialist outside the Secretariat, who, after a lapse of several months, had produced a paper which had not been considered satisfactory. It was only then that the Division had been able to engage an official, who was both jurist and sociologist, who had worked on the report and had just completed it.

/(3) With regard

(3) With regard to the recommendation of the Sub-Commission which requested the Secretariat to assemble information which would enable a distinction to be made between genuine and spurious minorities and to examine whether the minorities were of recent or long-historic origin and whether or not in the past they had conducted themselves as active protesting minorities, he pointed out that whereas that recommendation had been adopted by the Commission on Human Rights, the Council had rejected it.

In that connexion, he quoted the summary record of the thirty-third meeting of the Social Committee of the Economic and Social Council (E/AC.7/SR 33) to the effect that the Social Committee had adopted, by 12 votes to one, with 4 abstentions, a proposal of the French delegation against the undertaking of that study. Two reasons had been given: in the first place, the Secretariat did not possess the necessary ways and means to carry out such long and complex studies. Secondly, the study in question was of a political nature, and the Secretariat, essentially a technical organ, could not undertake it without the risk of losing the authority universally ascribed to it.

Mr. Humphrey would see that the documents to which he had referred and which had already been sent to the members of the Commission, were distributed to them.

Mr. ROY wished to thank the Secretariat, in the name of all the members of the Sub-Commission, for its work and its efforts, which deserved the greatest praise.

Mr. SHAFaq shared the view expressed by Mr. Roy, as did the Chairman and the other members of the Sub-Commission. He was very pleased with the report (E/CN.4/Sub.2/40) but pointed out that the Sub-Commission had recommended that the Secretariat should assemble information and communications of a general and practical nature, apart from the theoretical analysis. It would be very useful to have such information and communications.

Mr. HUMPHREY (Secretariat) pointed out that the communications to which Mr. Shafaq had referred were the subject of item 6 of the agenda. The recommendation of the Sub-Commission having been approved by the Commission on Human Rights and by the Economic and Social Council, the Secretariat had prepared a confidential list of communications, which it would distribute to the members of the Sub-Commission during a private meeting, in accordance with established procedure.

/Mr. McNAMARA

Mr. McNAMARA stated that it was not exactly accurate to say that studies for the establishment of a distinction between genuine and spurious minorities were of political character. In point of fact, the studies which the Sub-Commission wished to entrust to the Secretariat were fundamentally historical in character. It was a matter of determining whether minorities were of recent or long historic origin and whether in the past they had conducted themselves as active protesting minorities. In view of the fact that such studies were of undeniable value to the Sub-Commission, it should press for them to be undertaken by the Secretariat.

Mr. HUMPHREY (Secretariat) explained that the reason the Economic and Social Council had decided to reject the recommendation of the Sub-Commission on those studies was undoubtedly that the Council had deemed it unwise to entrust the Secretariat of the United Nations with a task of such delicacy, which consisted in stating whether, in given countries, certain groups had conducted themselves as active protesting minorities.

On the other hand, the Council had doubtless taken into consideration the fact that the Human Rights Division had not sufficient staff to undertake such studies.

Mr. DANIELS wished to make it clear that he was not blaming the Secretariat in any way. He had only asked for an explanation because he wanted to know how far advanced were the studies which the Sub-Commission had requested the Secretariat to carry out. That explanation would enable him to decide how much additional study could be entrusted to the Secretariat during the current session.

The meeting rose at 1.15 p.m.