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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 TWENTY-FIRST MEETING

Held at Lake Success, New York,
on Tuesday, 14 June 1949, at 11 a.m.

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<u>Chairman:</u>	Mr. EKSTRAND	Sweden
<u>Rapporteur:</u>	Miss MONROE	United Kingdom
<u>Members:</u>	Mr. BORISOV	Union of Soviet Socialist Republics
	Mr. CHANG	China
	Mr. DANIELS	United States of America
	Mr. McNAMARA	Australia
	Mr. MASANI	India
	Mr. MENESES PALLARES	Ecuador
	Mr. NISOT	Belgium
	Mr. ROY	Haiti
	Mr. SPANJEN	France
	Mr. SEAFACH	Iran
<u>Also present:</u>	Miss SIEU-LING ZUNG	Commission on the Status of Women
<u>Secretariat:</u>	Mr. RICASSENS SICHES	Representing the Secretary-General
	Mr. LAWSON	Secretary of the Sub-Commission

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JUN 23 1949

BUSINESS ARISING OUT OF THE NEW TERMS OF REFERENCE OF THE SUB-COMMISSION
(E/CN.4/209)

Miss MONROE recalled the first decision taken by the Sub-Commission during its first session (E/CN.4/52, page 11) on the question of communications dealing with discrimination and minorities. She asked the Secretariat where the matter stood at the moment in view of the Economic and Social Council's resolution 116 (VI).

Mr. McNAMARA also asked the Secretariat whether the second decision adopted by the Sub-Commission (E/CN.4/52, page 11) on the question of communications dealing with discrimination and minorities had been acted upon.

Mr. LAWSON (Secretary of the Sub-Commission) stated that by its resolution 116 (VI) the Economic and Social Council had granted the Sub-Commission's members the same facilities as those accorded to members of the Commission on Human Rights by virtue of resolution 75 (V). He read both resolutions and pointed out that the only modification made during the Council's sixth session (sub-paragraphs b) and e)) dealt with the disclosure of the names of authors of communications who were not opposed to their names being divulged. The revised text of resolution 75 (V) would be distributed to the Sub-Commission's members.

The Secretariat had prepared a confidential list of those communications; the translations of that list would be ready in the near future.

In reply to a question by Mr. McNAMARA, Mr. LAWSON stated that when a communication concerned a State or territories placed under its jurisdiction, that State was advised of its contents without the name of the author being divulged.

Mr. DANIELS remarked that from the questions asked and the replies given by the Secretariat it appeared that the Sub-Commission's role was of a purely negative character. That question should be examined and a decision taken as the new terms of

reference reflected the Council's wish that the Sub-Commission should play a positive role. It had in fact been asked to undertake studies and make recommendations or, in other words, to submit original proposals and plans, which would make the Sub-Commission's work positive and effective. The Sub-Commission's terms of reference had evolved and should be interpreted in their broader sense. Mr. Daniels recalled that the previous day he had had distributed proposals concerning the action to be taken on petitions (E/CN.4/Sub.2/42).

Miss MONROE considered Mr. Daniels' remarks to be of great importance. While she shared his views, she did not interpret document E/CN.4/Sub.2/42 as meaning that the Sub-Commission should take petitions as a basis for the examination of problems raised by discriminatory measures. In her opinion, that was a mistaken view as many other sources of information existed. The Sub-Commission should keep in mind that some minorities were satisfied with their lot and that that fact had also to be taken into consideration. She thanked the Secretariat for the remarkable document which it had distributed the previous day (E/CN.4/Sub.2/40) and which provided the Sub-Commission with valuable data.

Mr. DANIELS fully agreed with Miss Monroe that the Sub-Commission should examine the problem as a whole. It should also take into consideration the minorities which were satisfied with their fate as well as those which were not.

Mr. MENESES PALLARES pointed out that while the Sub-Commission's terms of reference had been broadened, its scope had in fact been restricted. The Sub-Commission had been asked to undertake studies and make recommendations, which meant it was asked to carry out work which was of a purely theoretical and analytical character. The Sub-Commission's duty was to interpret its terms of reference in the broadest possible manner. In that connexion, Mr. Meneses Pallares made the following suggestions:

1. With regard to discrimination, the Sub-Commission should:
 - a) Analyse its origins and various forms;
 - b) Study the means at its disposal to fight discrimination as well as the necessary measures to improve those means;
 - c) Co-ordinate international action in that respect.

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2. With regard to the protection of minorities, the Sub-Commission should:

- a) Analyze existing minority groups and their tendencies;
- b) Study the measures which might be taken on the basis of the Universal Declaration of Human Rights to ensure the protection of minorities;
- c) Study methods to enable good use to be made of the cultural contributions which minorities might possibly make to the cause of international peace.

The CHAIRMAN shared Miss Monroe's opinion on the report dealing with the prevention of discrimination (E/CN.4/Sub.2/40), which was an extremely interesting document.

Moreover, he thought that proposals as wide in scope and as interesting as those submitted by Mr. Meneses Pallares should be distributed in writing to the Sub-Commission's members.

The Chairman also felt that the Sub-Commission's new terms of reference, which required the latter to undertake studies and make recommendations to the Commission on Human Rights, made it incumbent on the Sub-Commission to reach practical conclusions.

Mr. MASANI felt that, far from being restrictive in nature, the Sub-Commission's new terms of reference widened both its competence and the range of its work. He pointed out that while sub-paragraph b) of the terms of reference (E/CN.4/209, section A) merely reproduced the former terms of reference, sub-paragraph a) opened up a number of new possibilities by its reference to the Universal Declaration of Human Rights and to the various long-range tasks which the Sub-Commission had been asked to undertake. There was no longer any obligation for it to carry out a given task in a restricted period of time, or merely to draft provisions of a legislative character. The Sub-Commission had entered a new phase, which was the study and examination of questions of a permanent character.

Mr. Masani felt that the Sub-Commission should avoid any lengthy discussion on questions of procedure; it should, moreover, hold its debates in a less formal manner so as to reach definite conclusions which might well take the form of resolutions.

Mr. BORISOV asked the Secretariat whether the Commission on Human Rights had in the course of its present session taken any decisions on the question of communications dealing with the prevention of discrimination and the protection of minorities.

Mr. LAWSON (Secretary of the Sub-Commission) replied that the Commission on Human Rights had not yet taken any final decision on the matter. The list of communications received had been sent to the Commission on Human Rights which had transmitted it to its Committee on Communications. That Committee had met on 6 and 7 June 1949 and had examined not only that list but also a report from the Secretary-General on questions which needed clarification. The Committee on Communications had also recommended to the Commission on Human Rights the adoption of a resolution covering those communications and to that end had forwarded a draft resolution in three parts (E/CN.4/302) to the Commission.

That resolution had not yet been adopted by the Commission on Human Rights and it could not be said therefore that the latter had taken a decision on the matter. Nevertheless, the recommendation of the Committee on Communications clearly indicated that there was no reason to keep secret the names of the authors of communications which dealt exclusively with general principles of human rights. On the other hand, it was necessary to keep secret the names of authors of communications dealing with complaints of violations of human rights.

Referring to the passive attitude adopted by the Commission on Human Rights with regard to complaints addressed to it, Mr. Lawson pointed out that during examination of that question by the Committee on Communications, it had been decided that the question of subsequent positive action should be left open and that, therefore, the replies to petitioners should not be to the effect that the Commission on Human Rights could not take any action, but that it could not take any positive measures "for the moment".

Mr. McNAMARA felt that at its previous session the Commission had acted in an excessively prudent manner. Its negative attitude was due to a misinterpretation of the Economic and Social Council's resolution approving the Commission on Human Rights' declaration that it was unable to take positive measures to maintain respect for human rights. The members of the Sub-Commission had felt that if the Commission on Human Rights could not adopt a positive attitude towards the complaints it received on violations of human rights, the Sub-Commission obviously could not wield greater powers than the principal organ on which it was dependent.

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Nevertheless, Mr. McNamara felt that the Sub-Commission's new terms of reference allowed it to adopt a positive attitude, as it was in fact required to "undertake studies" and "make recommendations to the Commission on Human Rights". That was a different task from that assigned to it by the declaration of the Commission on Human Rights as approved by the Economic and Social Council.

Mr. SHAFAGH expressed the opinion that the item on the agenda dealing with "business arising out of the new terms of reference of the Sub-Commission" included the examination of questions which were so numerous and important that it was essential to define the procedure to be adopted for their study and the forwarding of the recommendations as required by those terms of reference. With that purpose in view, Mr. Shafagh proposed the establishment of a working committee composed of three or five members of the Sub-Commission. That committee would make a preliminary examination of the whole question and would submit practical suggestions to the Sub-Commission so as to enable it to proceed with the orderly discussion of the matter, which was one of the most delicate and complex before the United Nations.

Mr. ROY pointed out that the duties devolving on the Sub-Commission under the revised terms of reference, while clear and precise, were extremely broad in scope. The Sub-Commission had in fact to undertake studies and submit recommendations both with regard to the prevention of discrimination and to the protection of minorities.

He thought therefore that the Commission should first of all decide on the method of work to be followed. Would the Sub-Committee begin with questions concerned with the prevention of discrimination or with those related to the protection of minorities? That point should be decided at the beginning of the session.

Mr. BORISOV while reserving his right to express his views on item 4 of the agenda when he had finished his study of the documents which had recently been distributed, wished to make some preliminary observations.

In his opinion, the Commission should not establish a working committee as suggested by Mr. Shafagh. Experience had shown that

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discussions which took place in committees were always taken up again at plenary sessions, which meant useless repetitions. On the other hand, questions as wide in scope as those raised by the Sub-Commission's new terms of reference should be examined in plenary sessions and not in a restricted committee, so as to give all members an opportunity to make their views known to their colleagues.

With regard to the point raised by Mr. Roy, Mr. Borisov said that it was extremely difficult to separate the question of the prevention of discrimination from that of the protection of minorities, the two questions being closely linked together. If the minorities needed protection, it was obviously due to the fact that they were subject to discrimination. That being so, it seemed necessary for the two questions to be dealt with simultaneously.

Lastly, Mr. Borisov stated that within the next few days he would submit/draft recommendations dealing with item 5 of the agenda.

Mr. SHAFAGH then suggested that instead of setting up a working committee, the afternoon meeting should be cancelled so as to give all members the necessary time to prepare any proposals which they might wish to submit to the Sub-Commission.

Mr. ROY did not deny the close relationship between the question of the prevention of discrimination and the protection of minorities. He stressed, however, that the General Assembly itself had decided (resolution 217 C (III)) not to deal with the question of minorities in a special provision of the Universal Declaration of Human Rights, but to ask the Sub-Commission to undertake a thorough examination of that problem. That proved that the General Assembly had made a very clear distinction between the prevention of discriminatory measures and the protection of minorities.

Mr. McNAMARA was opposed to Mr. Shafagh's suggestion to cancel the afternoon meeting. The Sub-Commission had several items on its agenda which should be taken up immediately in order to avoid any necessity for accelerating the rhythm of its work towards the end of its session.

Mr. McNamara suggested that 11 a.m. Friday, 17 June 1949, should be fixed as the time limit for submitting proposals concerning item 4 of the agenda, by which he meant proposals indicating the nature of the studies to be undertaken in connexion with the prevention of discrimination and the protection of minorities, as well as those embodying recommendations to be submitted to the Commission on Human Rights on those two matters. If necessary, the Sub-Commission might set up a working committee to examine, analyze and classify those proposals and to report to the Sub-Commission at its meeting on Monday, 20 June 1949.

Mr. DANIELS pointed out that the adoption of Mr. McNamara's suggestion would postpone the Sub-Commission's work on item 4 of its agenda until the following week and suggested that the proposals should be examined in the order in which they were submitted. He added that he was willing to discuss his own proposal immediately.

Miss MONROE, while supporting Mr. Daniel's point of view, suggested that if the Sub-Commission decided to cancel one of its meetings it would be better not to meet in the afternoon of 14 June but to fix Wednesday, 15 June 1949, as the last date for submitting proposals.

Mr. MASANI supported Mr. Shafagh's last suggestion and urged that the Sub-Commission should fix a time limit for the submission of proposals.

Mr. BORISOV also supported that suggestion but pointed out that it would be difficult to prepare all proposals dealing with item 4 of the agenda before the following day. The last date for submission of proposals should be Friday, 17 June.

Mr. Borisov was opposed to the procedure suggested by Mr. McNamara. It would be impossible for the Sub-Commission to give any guidance to the working committee without having previously examined all the proposals submitted and he thought that the Sub-Commission should therefore examine those proposals itself.

Mr. McNAMARA said that he had not recommended the setting up of a working committee but had expressed the view

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that such a possibility might be considered if the Commission felt it was necessary.

The CHAIRMAN, supported by Mr. NISOT, suggested that the afternoon meeting of 14 June should be cancelled and that the Commission should devote its next meeting to the examination of the proposals before the Sub-Commission.

It was so decided.

The meeting rose at 1 p.m.