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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-FOURTH MEETING

Held at Lake Success, New York,  
on Thursday, 16 June 1949, at 11.20 a.m.

CONTENTS: Consideration of Part C of General Assembly resolution 217 (III)  
concerning the fate of minorities (E/CN.4/Sub.2/41)

<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. MASANI	India
	Mr. McNAMARA	Australia
	Mr. MENESES PALLARES	Ecuador
	Mr. NISOT	Belgium
	Mr. ROY	Haiti
	Mr. SHAFAG	Iran
	Mr. SPANLEN	France

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Also present:

Miss ZUNG

Commission on the Status of  
Women

Representative of a Specialized Agency

Mr. ARNALDO

United Nations Educational,  
Scientific and Cultural  
Organization (UNESCO)

Secretariat:

Mr. LAWSON

Secretary of the Sub-Commission

CONSIDERATION OF PART C OF GENERAL ASSEMBLY RESOLUTION 217 (III)  
CONCERNING THE FATE OF MINORITIES (E/CN.4/Sub.2/41)

Mr. LAWSON (Secretariat) submitted document E/CN.4/Sub.2/41. He recalled that, at its first session, the Sub-Commission had drawn up a draft text for article 31 of the Universal Declaration of Human Rights, which appeared in a footnote on page 2 (E/CN.4/Sub.2/41). The Commission on Human Rights also had before it another draft for the same article, which had been proposed by the Drafting Committee (note, page 2). After examination of those two drafts, the Commission, considering that it could not draft an article which was sufficiently universal, had decided to refer them to the Economic and Social Council which in turn had referred them to the General Assembly. The General Assembly, considering that it could not adopt a universal solution of that complex question had decided at its 183rd meeting, not to deal with the question of minorities in a special provision in the body of the Declaration but to refer the texts submitted by the delegations of the USSR, Yugoslavia and Denmark (E/CN.4/Sub.2.1, pages 2 and 3) to the Economic and Social Council, for a thorough study of the question of minorities. At its 87th meeting, the Commission on Human Rights had adopted a resolution referring the question to the Sub-Commission which was to submit a report to the Commission on the study it had made.

Mr. MASANI said that the question of minorities which was before the Sub-Commission was one of great magnitude. He suggested that there should first be a general discussion of the question and in particular of effective measures for the protection of racial, national, religious and linguistic minorities to which the General Assembly resolution referred. It was no longer a question of inserting an article in the Universal Declaration of Human Rights, but of the form

of recommendations to be made in that connexion. At the beginning of the general discussion the Sub-Commission should examine the texts submitted by the USSR, Yugoslav and Danish delegations and any other proposal which might be submitted.

Miss MONROE shared Mr. Masani's views. It was essential that the way in which protective measures were to be set out, namely, their form, should be examined. At its first session, the Sub-Commission had envisaged such measures in the form of an article in the Universal Declaration of Human Rights but that proposal had not been accepted by the Commission on Human Rights. Consideration might therefore be given to such measures in the form of an article in the draft Universal Covenant on Human Rights, or of another document, a separate charter covering minorities throughout the world, or in the form of a bilateral agreement.

Mr. SHAFAG stated that it was obvious, from an examination of the documents, that the General Assembly as well as the Economic and Social Council and the Commission on Human Rights, had encountered difficulties in formulating a principle which was sufficiently comprehensive and in adopting a uniform solution in regard to the complex problem of minorities. He did not think that it would be possible to find such a formula. He suggested therefore that a scientific and methodological study of the problem should be made and that the differences of status of the various minorities throughout the world, from both a social and a political point of view should then be studied. Moreover, he would like the officers of the Sub-Commission to classify the various proposals according to their contents, so as to avoid repetition in the discussions.

Mr. DANIELS wished to know whether the study of the question would really be facilitated if it were examined in the way suggested. In his opinion, the study of his own proposal, which had the advantage of setting forth measures of implementation, would enable the Sub-Commission to reach decisions more easily.

The CHAIRMAN replied that, after general study of the basic document (E/CN.4/Sub.2/41), the Sub-Commission would consider the specific proposals, in chronological order, and would begin with Mr. Daniels' proposal.

/Mr. McNAMARA

Mr. McNAMARA did not agree with Miss Monroe regarding the way in which the question should be approached. On the contrary, he shared Mr. Daniels' view. It was only by finding a solution for specific problems that general principles could be formulated. He suggested that the proposals of Mr. Daniels and Mr. Borisov, which covered the whole question of the protection of minorities and the points raised in the proposals of the USSR, Yugoslavia and Denmark, should first be studied. If an agreement on the content of those proposals were reached, it would be possible to express them later in the form of a separate convention or of an article in the draft Covenant.

Mr. MENESES PALLARES approved the procedure suggested by the Chairman. It was necessary to consider the problem from a general point of view, and then to study the definite proposals.

Miss MONROE feared that the work of the Sub-Commission would fail if the latter followed Mr. McNamara's suggestion to submit to the General Assembly a resolution identical with that which the General Assembly had not been able to adopt.

Mr. BORISOV thought that the procedure suggested by the Chairman was not satisfactory. In fact, to consider proposals in chronological order was a mechanical method of approach to the problem, and would permit the mistake to be made of dealing with secondary questions before fundamental questions. Such a procedure was not logical. In general, proposals which were furthest removed from the original proposal were examined. He therefore proposed that the General Assembly resolution should be taken as a basic document, as had been suggested, and that a study should then be made of the principles covering the whole of the problem, by taking as a basis for discussion, for example, the proposal which he had submitted. Subsequently, the Sub-Commission would take up the study of secondary questions.

Mr. MASANI requested the Chairman to confirm his decision.

Mr. McNAMARA pointed out that the General Assembly resolution and that of the Commission on Human Rights merely requested the Sub-Commission to consider the USSR, Yugoslav and Danish proposals, and not to make a general study of the problem of minorities.

/The CHAIRMAN

The CHAIRMAN stated that those texts had been submitted to the Sub-Commission only as documentation and that, in accordance with his decision the Sub-Commission would continue the general discussion before taking up the study of the proposals in the chronological order in which they had been submitted.

Mr. MENESES PALLARES pointed out that the Universal Declaration of Human Rights, which had become the basic working document of the Sub-Commission, had established the fact that peace, freedom and justice in the world were founded on the recognition of the dignity and equal rights of men. Article 2 stated that everyone was entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. It added that no distinction should be made on the basis of the political jurisdictional or international status of the country or territory to which a person belonged, whether it be independent, Trust, Non-Self-Governing territory, or under any other limitation of sovereignty.

Mr. Meneses Pallares explained the full significance of that article as far as the work of the Sub-Commission was concerned. Through that article, which dealt with individual rights and freedoms, whether the person belonged to a majority or a minority, an attempt had been made to protect the rights and freedoms of all groups known as "minorities". Thus, even in the absence of any specific provision in the Declaration of Human Rights concerning the rights of minorities, that instrument placed on the Sub-Commission a definite responsibility in its own field, namely, the full and total protection of minority groups, racial, national, religious and linguistic.

In order to judge of the importance of the problem, it should be remembered that at the present time the question of discrimination and of the treatment of minorities in the various parts of the world, could not be separated. The effects of events which took place in a country were felt far beyond national frontiers and might threaten world peace.

He recalled that one of the recognized causes for the existence of minority groups lay in the fact that ethnical groups did not often coincide with political communities. Cultural frontiers were not as clearly defined as political frontiers, which were often established by force. Political frontiers were subject to revision and modification, whereas cultural groups were more or less of a permanent nature.

The juxtaposition of different peoples and cultures might create minority groups. When those cultures were heterogeneous a process of crystallization developed, especially with regard to language and religion, which inevitably resulted in the creation of a minority.

Another cause for the creation of minorities was the tendency to dispersion evident in the historic evolution of mankind. It was a result of conquests, migration and the facilities of transport, and had destroyed the homogeneity of the ancient communities by dispersing the elements of which it was composed. The problem of minorities was symptomatic of a transitional state in the historic evolution of peoples towards universal civilization.

It was the duty of the United Nations to try and find a solution to that problem. In Mr. Meneses Pallares' opinion, the fundamental part of that task was to find means to ensure the rapid assimilation of minority groups. It would be unprofitable and dangerous to preserve those groups permanently. If it was necessary to encourage the development of the cultural heritage of a nation, it was also necessary to create conditions which would allow the fusion of all its composite cultures into one single national culture. That was the ideal established by the Pan-American conferences which considered that the minority problem did not exist on the American continent.

The solution of that problem was all the more urgent as the atrocities committed by the nazis and fascists against human rights were fresh in the minds of the people, and the seeds of such doctrines still existed. If nothing was done, a dangerous situation to the peace of mankind might develop. That was the responsibility which had been placed on the members of the Sub-Commission and on the United Nations in general.

To the causes previously cited could be added other phenomena of modern times, especially nationalism and separatism. The development of nationalism, which had led to the establishment of the modern Italian and German States, as well as the consequent development of Pan-Germanic and Pan-Slav doctrines, had provoked an acute crisis among ethnical minorities with separatist tendencies which had found themselves suddenly overwhelmed and oppressed.

Later, the recognition in the Treaty of Versailles of the right of peoples to self-determination, applied to minorities, had in certain cases appeased the oppressed peoples but it had also given rise to irritation and the possibility of conflicts. That principle, in fact,

apart from its vague nature, had the disadvantage that it did not include in the concept of minorities certain ethnical and cultural groups which were not sufficiently developed to claim the status of nations.

Hence, when the Treaty of Versailles had been concluded only the well-defined minorities with separatist tendencies had been recognized as such, while those which merely wished to obtain equal treatment and achieve assimilation had been neglected. The latter had received as a guarantee only a theoretical statement of the principles of tolerance and non-discrimination.

In practice the right to protection given to minorities by the Versailles Treaty had been repeatedly violated, in many instances by States which had recovered their independence thanks to that Treaty. The question arose whether the ineffectiveness of the provisions relating to minorities contained in the treaties which followed the 1914-1918 war was not largely due to the fact that those treaties had emphasized the protection of groups rather than of individuals.

From the beginning it had been disputed whether the rights of minorities could be considered as equal to the rights of a political community and that had only made the task of formulating effective guarantees still more difficult.

He felt that greater importance should, on the contrary, be given to an effective system to ensure the implementation of the protection of human rights which would at the same time guarantee ipso jure all minority rights. That system would naturally have to be completed by well-defined measures according to the nature of the minority group in question. Furthermore, appropriate international machinery should be set up in each case in order to make such protection effective. In that connexion use could be made of multilateral conventions, binding on their signatories and laying down a procedure for the settlement of disputes and control of the application of the measures envisaged.

Miss MONROE pointed out that Mr. Meneses Pallares' statement raised two questions: whether it was possible to guarantee the rights

of a group in a different manner from that in which the rights of individuals were guaranteed, and whether the definition of certain characteristic traits of a minority which they might eventually lose would not prevent the assimilation of some groups. The problem of minorities, therefore, should not be over-simplified. There were many different minority groups, which raised a great variety of problems, particularly when going through a period of transition as was the case with new immigrants, for instance.

Mr. MASANI felt that the Sub-Commission should decide on the form in which it wished to make its recommendation. He thought that the best procedure would be to make them in the form of a resolution to be submitted to the Commission on Human Rights for final approval by the General Assembly. The adoption of that suggestion would enable the Sub-Commission to examine the proposals before it and discuss their substance without taking any final decision, after which a drafting committee could be asked to prepare a draft resolution.

Mr. NISOT said that under its terms of reference the Sub-Commission was to give its opinion on well-defined texts rather than to carry out a thorough study of problems concerning minorities. The resolution of the General Assembly was no doubt wider in scope, but the Sub-Commission's terms of reference were defined by a resolution of the Commission on Human Rights and not by that General Assembly resolution.

Mr. SPANIEN recalled that the Commission on Human Rights had asked members to examine proposals which it referred to the Sub-Commission in the light of the discussions which had taken place in the General Assembly and in the Commission itself. He believed, therefore, that the present discussion was well within the scope of the Sub-Commission's terms of reference.

Mr. NISOT said he had merely intended to state that the Sub-Commission should undertake a general study only in so far as such a study was necessary to enable it to express an opinion on the texts referred to it.



Mr. SPANIEN did not share the fears expressed by Mr. Nisot. He did not think that the Sub-Commission would be going beyond its terms of reference if it undertook a thorough study of the problem of minorities. It had been asked in fact, to examine the Danish, USSR and Yugoslav proposals "in the light of the discussion on this subject by the General Assembly at its third session, by the Commission on Human Rights at its fifth session, and by the latter's Committee on the Prevention of Discrimination and the Protection of Minorities" (E/CN.4/209).

He realized that the Sub-Commission was not an academic body concerned with purely theoretical studies, but that it had to make concrete recommendations capable of leading to practical measures. To do so, however, it should first examine problems of a general character.

In accordance with the wishes of the General Assembly, the first task of the Sub-Commission was to draw up a list of human groups which could claim minority status.

The Sub-Commission should then lay down a certain number of principles as a basis for its recommendations regarding the protection of minorities. It could, for instance, state without further delay that protection should be granted only when it was requested by the minority group itself. Such protection, therefore, should not be of a compulsory nature. Furthermore, the Sub-Commission could state that the protection of minorities should supplement the Universal Declaration of Human Rights, that it should not be substituted for that Declaration, and that it should come into force only when the Declaration did not guarantee the rights of the individual adequately. He paid tribute to Miss Monroe's work in connexion with the classification of minority groups, but thought that it would have been more useful to approach the question from a different angle. Indeed, he felt that instead of defining the different types of minorities it would be better to determine the kinds of States with minority groups and work out protective measures applicable to each.

States might, therefore, be divided into five groups as follows:

(1) States of Central and Western Europe where "classical" minorities existed, for which definite regulations had been established after the first World War. Mr. Spanien noted with regret that after the second World War attempts had been made to solve the problem of those minorities by means of massacres and forced migration;

(2) Federal States and immigration countries, such as the United States of America and Latin American countries, or unified States like France, where minorities did not ask to be protected;

(3) Moslem countries where religious communities existed in juxtaposition, some of which wished to obtain protection;

(4) Countries like the USSR and Switzerland where geographical minorities were formed into autonomous political entities and could not therefore claim the status of minorities;

(5) Lastly, newly constituted States which until recently were still non-autonomous and where new minorities would appear as, in the case, for instance, of the white minority in Indo-China. Obviously, the rights of those new minorities should be guaranteed.

Mr. Spanien thought that by adopting the working method he had outlined, the Sub-Commission would be able to carry out successfully the task which had been entrusted to it.

Mr. NISOT recalled that, according to its terms of reference, the Sub-Commission had to consider three texts and report on them to the Commission on Human Rights. He feared that by broadening its field to studies the Sub-Commission might be unable to fulfil that task.

Mr. SPANIEN was of the opinion that the Sub-Commission would have all the time necessary to draft the report in question as the Commission on Human Rights wished that document submitted at its next session, namely, in March 1950. The Sub-Commission itself would, it appeared, meet in January and it could prepare its report at that time. If, therefore, during its current session, it could lay down the general principles on which its work should be based and if it distributed among its members the tasks to be carried out, a very important step in the right direction would have been taken.

Mr. LAWSON (Secretariat) referring to Mr. Nisot's remarks, stated that while it was correct that the Sub-Commission had been asked to submit a report to the Commission on Human Rights, as the latter had referred to it the General Assembly's resolution, the Sub-Commission could use that resolution as a basis for its work.

/With regard

With regard to the date of the next session of the Sub-Commission, Mr. Lawson pointed out that the date decided upon by the Interim Committee on Programme of Meetings was not final and could be changed by the Economic and Social Council.

Obviously, the Sub-Commission would not be able to submit its report to the current session of the Commission on Human Rights. But if it was to meet in January to prepare that report, that fact should be clearly stated in the report of its current session in order that that wish might be considered by the Economic and Social Council.

Mr. DANIELS, supported by Mr. McNAMARA, said that in his opinion it was useless to attempt to establish the characteristics of different minorities and to deal with each one in a special manner. That study would extend the work of the Sub-Commission over too wide a sphere, and would prevent it from making the concrete recommendations which it was expected to submit. Instead of enumerating minorities, the Sub-Commission should attempt to solve the problems with which all minorities throughout the world were faced, and establish the rights which all of them should enjoy.

Miss MONROE pointed out that the General Assembly had already attempted to find a universal solution applicable to all minorities without distinction. Moreover, after having examined the problem, it had admitted "that it is difficult to adopt a uniform solution of this complex and delicate question, which has special aspects in each State in which it arises" (E/CN.4/Sub.2/41). It was for that reason that the General Assembly had referred the problem to the Sub-Commission.

With regard to the working methods to be adopted by the Sub-Commission, Miss Monroe supported Mr. Masani's suggestion that the Sub-Commission should first of all examine the substance of the proposals submitted to it and then prepare a draft resolution based on the results of that discussion.

According to Mr. SHAFaq, the discussions which had so far taken place showed that the opinion of the members of the Sub-Commission was divided on the question of whether the Sub-Commission should enter into details and study the different types of minorities, or whether it should keep to general principles. He felt that such controversy

/was useless

was useless as the Sub-Commission should study both aspects of the problem in order to carry out its work successfully.

Mr. Shafaq then referred to the principle which, in his opinion, should be the basis of the Sub-Commission's work. The fundamental aim of the United Nations should be to establish unity and harmony in the world and promote international co-operation and understanding. The Sub-Commission should base its work on that principle. It should not try to create new minorities, to encourage particularism and militant nationalism, or to revive cultures and civilizations long since dead. Nor should it oppose peaceful assimilation, as that would be contrary to the main purpose of the United Nations. It should simply ensure that minorities which already existed received the necessary protection, without, however, losing sight of the high ideal of international co-operation.

The meeting rose at 12.50 p.m.