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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 THIRTY-FIRST MEETING *

Held at Lake Success, New York,
on Monday, 20 June 1949, at 4 p.m.

CONTENTS: Consideration of the proposals of Mr. Daniels (E/CN.4/Sub.2/42),
Mr. Chang (E/CN.4/Sub.2/54) and Mr. McNamara (E/CN.4/Sub.2/62,
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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. MASANI	India
	Mr. McNAMARA	Australia
	Mr. MENESES PALLARES	Ecuador
	Mr. NISOT	Belgium
	Mr. ROY	Haiti
	Mr. SHAFAGH	Iran
	Mr. SPANFEN	France

* As the thirtieth meeting was held in closed session, the summary record of that meeting (E/CN.4/Sub.2/SR 30) is a restricted document.

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Also present:

Miss ZUNG

Commission on the Status of
Women

Representative of a Specialized Agency:

Mr. STOLZ

American Federation of Labor
(AF of L)

Secretariat:

Mr. LAWSON

Secretary of the Sub-Commission

CONSIDERATION OF THE PROPOSALS OF MR. DANIELS (E/CN.4/Sub.2/42),
Mr. CHANG (E/CN.4/Sub.2/54) and Mr. McNAMARA (E/CN.4/Sub.2/62,
E/CN.4/Sub.2/63, E/CN.4/Sub.2/64, E/CN.4/Sub.2/65)

The CHAIRMAN declared open the discussion on Mr. Daniels' proposal (E/CN.4/Sub.2/42).

Mr. DANIELS explained that his proposal was designed to establish a system which would enable the Sub-Commission to collect interesting communications in order to compile files which would make it possible for the Sub-Commission, over a period of time, to become familiar with the problem. He did not wish to re-open the discussion on the ideas contained in his proposal. He had, moreover, redrafted the second paragraph in order to take into consideration certain objections which had been raised and, in particular, to allay the fear of infringement upon the sovereignty of States.

The CHAIRMAN recalled that several amendments had been submitted, in particular by Mr. Masani, who recommended the inclusion of non-governmental organizations after the specialized agencies mentioned in the fourth line of paragraph 1, and by Mr. SHAFAGH, who proposed an amendment to paragraph 2.

Mr. ROY stated that the Sub-Commission could not at that time take concrete measures regarding the review of communications. Mr. Daniels was right to propose a procedure for the examination of communications which could be followed in the future. In order that the Sub-Commission might take action in the future, it was necessary for the Council to authorize it to do so. Mr. Daniels' proposal

/should therefore

should therefore be preceded by a proposal requesting that necessary measures be taken to enable the Sub-Commission to review communications. He formally proposed that it should be drafted as follows:

"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 No. 75(V) with a view to granting to the Sub-Commission the right to make reports and to submit recommendations 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".

Miss MONROE wondered in what way Mr. Daniels' proposal differed from the procedure currently followed. It appeared that the only difference was that it provided for an order of priority, but the task of establishing such priority was entrusted to the Secretariat, and it was possible that the members of the Sub-Commission might not agree with the Secretariat's point of view. She was quite prepared to seek means of overcoming the obstacle raised by Economic and Social Council resolution 75(V), but she did not think that the solution recommended by Mr. Daniels was the best one. She asked who, except for the members of the Sub-Commission itself, could choose the three members of the committee, which Mr. Daniels in paragraph 2 of his proposal suggested should be set up. Would that Committee sit permanently if the continuous arrival of communications required it? In short, did Mr. Daniels propose a temporary or permanent arrangement? She recalled that the Commission on Human Rights had to adopt a procedure which would apply to the review of all communications concerning violations of human rights, and that it might object to any permanent arrangement being made by its subsidiary organs. She wondered what would become of communications containing complaints concerning discriminatory measures and other violations of human rights, if the machinery suggested by Mr. Daniels became permanent. Would those communications be transmitted to the committee mentioned by Mr. Daniels, or would they be examined in accordance with the procedure to be set up by the Commission on Human Rights. In order that Mr. Daniels' proposal might stand a chance of being adopted by the Commission, it would be much better to say that the provisions suggested would be followed only until the Commission on Human Rights had established a procedure for the review of all communications concerning human rights.

/Mr. DANIELS

Mr. DANIELS hoped that the result of his proposal would be to encourage anyone wishing to inform the Sub-Commission of any facts in which it was interested. He had not thought it necessary to make any precise proposals on the composition of the Committee. It would be for the Sub-Commission to determine the composition of the Committee if his proposal were adopted. Needless to say, the provisions envisaged were to lapse as soon as the Commission on Human Rights had adopted a procedure applying to all communications concerning human rights. He would not object, therefore, if it were specified in his proposal that it related to temporary provisions put forward pending the decision of the Commission on Human Rights on that matter.

Mr. BORISOV thought that the Secretariat could not be asked to state what communications required urgent examination, as it could not act in the place of an organ of twelve members, each of whom might have different views.

Mr. DANIELS said that in the last resort it would obviously be for the Sub-Commission to decide what communications should be examined first. It would be useful, however, if the Secretariat were to undertake a preliminary sorting of the communications.

Mr. McNAMARA felt that a distinction should be made between the two kinds of communications: the first should include petitions submitted to the Secretary-General by members of the Secretariat, Member States, etc. The second should include individual communications or petitions in the narrow meaning of the word, which the Secretariat should study in order to draw the Sub-Commission's attention to those which should be examined urgently. Mr. Daniels' proposal approached the problem from a new angle, and the idea it contained deserved consideration.

The CHAIRMAN asked Mr. Daniels to draw up a new draft in the light of the amendments he had accepted and asked the authors of amendments to submit their texts in writing. He then asked Mr. Chang to present his draft resolution.

Mr. CHANG stated that his draft resolution (E/CN.4/Sub.2/54) referred to the protection of minorities. The collective rights of minorities had to be protected as well as the individual rights of the persons composing those minorities. The Universal Declaration of Human Rights had described them as the inherent rights "of all members of the human family". In his opinion, the rights of the minorities should be brought into harmony with those of the majority so that a minority should never be incited against a majority.

Paragraph 9 of the Secretariat's report had drawn a distinction between discriminatory measures and the protection of minorities. There appeared to be no justification for such a distinction, for there would be no need for protective measures if there was no discrimination. The adoption of discriminatory measures was the result of deeply rooted prejudice in men's minds. It had been noted that the western civilization nurtured some of those prejudices. The problem of discrimination did not arise in China as the principles of Chinese philosophy did not exclude anyone. A Taoist or a Confucian could be either Buddhist or Christian.

In his opinion, no social system could be perfect, and all could be improved. Constitutional guarantees might undoubtedly help to solve the problem of discrimination, but the real solution of that problem lay in the absence of prejudice. All members of the human family possessed certain inherent and inalienable rights set forth in the first paragraph of the preamble of the Charter. The question, therefore, was not one of creating those rights but of protecting them against any discriminatory measure.

He emphasized that his draft resolution would no doubt become part of a wider resolution; hence, he was not opposed to any possible drafting changes. Should members of the Sub-Commission insist on maintaining the distinction drawn by the Secretariat, he would not raise any further objection.

Mr. SHAFAGH referred to the first paragraph of the operative part of Mr. Chang's draft resolution and suggested the insertion of the word "economic" before the words "business or professions".

Miss MONROE quoted article 23 of the Universal Declaration of Human Rights, which stated that everyone had the right to work and the right to equal pay for equal work. That article seemed to meet the very purpose of Mr. Chang's draft resolution. Furthermore, she wondered whether it was advisable to quote article 2 of the Declaration in paragraph 2 of the draft resolution.

Mr. SHAFAGH asked for the exact meaning of the expression "certain business or professions" and also whether the expression "individuals or a particular national group" applied only to the nationals of a given country or whether it also included aliens residing in that country.

Mr. CHANG said that the expression "individuals or a particular national group" applied both to the nationals of a given country and to aliens residing in that country.

Mr. McNAMARA considered that Mr. Chang's draft resolution was too limited in scope, as the discrimination which existed in certain countries was not the result of restrictive measures taken by government authorities but rather of customs traditionally observed by the population. From another point of view, however, the draft resolution went too far, for it was inconceivable that States should grant aliens absolute equality of rights with their own nationals unless the country of origin of the said aliens agreed to a reciprocal arrangement.

Mr. SHAFAGH said that under Mr. Chang's draft resolution the nationals of any country would have free entry into all professions in all other countries. The legislation of some countries, however, reserved certain fields of activity only to the nationals of the country concerned; that was the case in Iran, where only the nationals of the country could work in the mines.

Mr. CHANG emphasized that his main purpose was to ensure equal treatment for all.

Mr. SHAFAGH thought that Mr. Chang should so amend his draft resolution so as to enable the Sub-Commission to continue its examination at a later date.

Mr. MENESES PALLARES thought, on the contrary, that the discussion on that question should not be postponed. The only criticism which could be made in connexion with Mr. Chang's draft resolution was that it repeated some provisions of the Universal Declaration of Human Rights. Article 21 of the Declaration dealt with the right of access to public employment, and article 22 guaranteed economic rights indispensable for the dignity and the free development of personality.

Mr. CHANG did not agree with Mr. Meneses Pallares. The provisions of his draft resolution were more precise in character than the general principles set forth in the Universal Declaration of Human Rights. The main point was to ensure to individuals the livelihood without which they could enjoy no other right.

Mr. McNAMARA thought that paragraph 2 of Mr. Chang's draft resolution should not mention article 7 of the Declaration.

Mr. ROY said that while paragraph 1 could be adopted provided it was amended, paragraph 2 could not be adopted. The Sub-Commission could not make recommendations to Member States on a question which was within the scope of the draft international covenants for it was plain that if States signed that covenant, they would obviously take all necessary measures for its implementation without there being any need for a special text to that effect.

Mr. CHANG stated that if the members of the Sub-Commission pressed for the deletion of all references to articles of the Declaration from paragraph 2, he would raise no objection.

The CHAIRMAN said that Mr. Chang's draft resolution would be examined later, after it had been amended by Mr. Chang, Mr. Masani and Mr. Shafagh.

The Sub-Commission then passed to the examination of Mr. McNamara's amendment (E/CN.4/Sub.2/65) to the draft resolution submitted by Mr. Daniels (E/CN.4/Sub.2/43) relating to the protection of minorities.

Mr. McNAMARA stated that the object of his amendment was to ensure, by indirect means, that Governments took active steps regarding the protection of minorities. He asked the Secretariat whether there was not a General Assembly resolution intended to meet the same purpose.

/Mr. LAWSON

Mr. LAWSON (Secretariat) read resolution 119 adopted by the General Assembly at its second session. In accordance with that resolution, the Secretary-General sent twice a year to Governments a questionnaire regarding measures taken by them in application of resolutions adopted by the Economic and Social Council or the General Assembly in the economic and social fields. Those replies were embodied in a report which was submitted bi-annually to the Economic and Social Council. The Sub-Commission might, however, request the Secretary-General to prepare a document containing the replies of Governments relating to certain resolutions of particular interest to the Sub-Commission. He added that that was the method adopted by the Commission on the Status of Women.

Replying to a question by Miss MONROE, the CHAIRMAN said that the Secretariat would assemble such answers from the various Governments as would interest the Sub-Commission.

Mr. McNAMARA then presented his proposal (E/CN.4/Sub.2/63). He emphasized that its object was to obtain all the relevant information contained in the Trusteeship Council's reports. One or two members of the Sub-Commission might be invited to participate in the visiting missions to Trust Territories, but on the one hand, that was not a very practical solution, and, on the other hand it was doubtful whether the information thus obtained would be more complete than that which could be extracted by the Secretariat from the reports of the visiting missions.

Mr. LAWSON (Secretariat) recalled that during the discussion in the Commission on Human Rights of the Sub-Commission's terms of reference, the USSR representative had emphasized that a great deal of discrimination was practised in Trust Territories, and had proposed that the Sub-Commission should be represented by one or more members on the visiting missions periodically sent out by the Trusteeship Council.

If the Sub-Commission decided against such representation, it should indicate the type of information it required, in order that the visiting missions' reports might contain useful material relating to discrimination and the protection of minorities.

Mr. McNAMARA stated that if his proposal were adopted it would not exclude the possibility of a member of the Sub-Commission participating in a visiting mission. Information obtained in that way would be of the

greatest value to the Sub-Commission, and would enable it to make its own judgment of the true circumstances of minorities, not only in the Trust Territories, but also in other parts of the world.

Mr. McNamara then presented another proposal (E/CN.4/Sub.2/64). He considered that its adoption would promote the speedy application of the rights and principles proclaimed in the Declaration of Human Rights. The establishment in each country of a national co-ordinating committee of non-governmental organizations would constitute the first step, after which it would be possible to set up permanent human rights committees. In various ways, those committees would assist in suppressing discriminatory measures in every country.

Mr. LAWSON (Secretariat) recalled the fact that, at its first session, the Commission on Human Rights had proposed the establishment of information groups of national human rights committees. The Economic and Social Council had adopted a resolution to that effect on 21 June 1946. A few States had thereupon set up local committees. Other countries had waited before taking that step to learn what part might be played by such committees. The question had been included in the agenda of the Commission on Human Rights for each of the two previous sessions.

Mr. Lawson pointed out, in particular, that the non-governmental organizations which had been granted consultative status had an international character. Doubtless they had affiliated organizations in the various countries, but it would be difficult to set up a co-ordinating committee for such organizations in each State.

Miss MONROE thought it would be advisable to define the type of measures which were to be taken by the permanent human rights committees; the expression "all such constructive measures..." seemed to her rather too broad.

Mr. McNAMARA then presented a further proposal (E/CN.4/Sub.2/62), and explained that if it were adopted, the Secretariat could make use of existing machinery. The non-governmental organizations granted consultative status could provide the Sub-Commission with information, which it would find difficulty in obtaining by any other means. The Secretariat could transmit such information to the Governments concerned and request their observations.