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SUB-COMMISSION ON THE PREVENTION OF DISCRIMINATION AND THE PROTECTION
OF MINORITIES

Second Session

SUMMARY RECORD OF THE THIRTY-SIXTH MEETING

Held at Lake Success, New York,
On Thursday, 23 June 1949, at 11 a.m.

CONTENTS: Mr. McNamara's Proposal (E/CN.4/Sub.2/71;
Programme of work for the third session of the
Sub-Commission (E/CN.4/Sub.2/72, E/CN.4/Sub.2/73)

<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. SPANLEN	France
	Mr. SHAFAGH	Iran

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Also Present:

Miss ZUNG

Commission on the Status of
Women

Representative of a specialized agency:

Mr. ARNALDO

United Nations Educational,
Cultural and Scientific
Organization (UNESCO)

Consultants from non-governmental organizations:

Category A:

Mrs. MEAGHER

World Federation of Trade
Unions (WFTU)

Secretariat:

Mr. HUMPHREY

Director of the Human Rights
Division

Mr. LAWSON

Secretary of the Sub-Commission

MR. McNAMARA'S PROPOSAL (E/CN.4/Sub.2/71); PROGRAMME OF WORK FOR THE
THIRD SESSION OF THE SUB-COMMISSION (E/CN.4/Sub.2/72, E/CN.4/Sub.2/73)

Mr. McNamara's proposal (E/CN.4/Sub.2/71)

Mr. McNAMARA stated that sub-paragraph (a) of his proposal concerning the granting of the status of a commission to the Sub-Commission might be considered at a later session. For the moment his purpose would be served if the Sub-Commission confined its attention to sub-paragraph (b). He therefore proposed withdrawing the first part of his proposal, and suggested that the paragraph beginning with the words "Considering that the scope of work and importance of the Sub-Commission...etc.", should be deleted, as well as sub-paragraph (a).

With regard to sub-paragraph (b), he noted that delay frequently occurred in the case of proposals forwarded by the Sub-Commission, which were passed through to the Economic and Social Council. Both the work of the Sub-Commission, and that of other bodies in the United Nations, was being slowed down. Even the Commission on Human Rights, in matters concerning ^{the} machinery of the Organization, which the Secretariat should be able to carry through, had to address itself to the Economic and Social Council.

For such proposals he had provided two safeguards. Firstly, a special vote had to be taken in order to determine that those proposals were urgent. Secondly, if the right to forward such proposals required further qualification, the Chairman of the Commission on Human Rights was required to certify as to the eligibility for the direct transmission of such proposals. Thus, such action did not signify that the Sub-Commission would by-pass the Commission on Human Rights.

Opinions expressed in his country and elsewhere pointed to the fact that the cynicism with which the United Nations was sometimes regarded was due to the slowing down of its work. His suggestion might be adopted by other United Nations organs in order to expedite the work of the United Nations.

Mr. SHAFAGH could not agree with the opinions expressed by Mr. McNamara, and felt that his proposal interfered with the organization of the United Nations, since the Commission and the Sub-Commission were co-ordinated according to a general plan.

Mr. MASANI supported Mr. McNamara's proposal that under certain conditions the Sub-Commission should have the right to forward its proposals direct to the Economic and Social Council, and that such a procedure would assist both of the Sub-Commission, the Commission on Human Rights, and the Economic and Social Council.

For example, if during 1950 the meetings of the Sub-Commission were delayed until after the meetings of the Commission on Human Rights, the Sub-Commission's recommendations could not go direct to the Economic and Social Council, and would be delayed until 1951, by which time they would no longer be of value. The possibility of requesting permission to forward recommendations direct to the Economic and Social Council, through the Chairman of the Commission on Human Rights, would mean that the Sub-Commission could place its recommendations before the Council without having them considered by the Commission. He thought that the Commission, if approached at present, would agree that the Sub-Commission's recommendations should go direct to the Council.

Mr. NISOT was of the opinion that the proposal to give the Sub-Commission the status of a Commission would not be considered favourably by the Commission on Human Rights.

Mr. SHAFAGH although he agreed with the necessity of accomplishing work rapidly, did not see why urgent recommendations of the Sub-Commission should not be considered by the Commission on Human Rights.

Mr. MENESES PALLARES felt that Mr. McNamara's proposal overlooked the fact that the Sub-Commission was merely a consultative body of the Commission on Human Rights. He agreed with Mr. Masani that the present

machinery of the United Nations was unwieldy, but felt that that was a result of its organization. Such alteration of the organization as Mr. McNamara proposed could be included on the agenda of the General Assembly, where Australia could ask for the change envisaged in its proposal. Although he agreed with Mr. McNamara's idea in principle, he felt that it was in opposition to the present organization of the United Nations.

Mr. MASANI pointed out that the Sub-Commission on Freedom of Information and of the Press had been given the right to report direct to the Economic and Social Council in certain cases. He felt that it would be sufficient to suggest that a similar latitude should be extended to the Sub-Commission, whenever no meeting of the Commission on Human Rights intervened between a session of the Sub-Commission and one of the Council. Mr. McNamara's proposal should not be rejected because of timidity on the part of the Sub-Commission, since the Commission on Human Rights would consider that proposal and could reject it, if it so wished.

Mr. HUMPHREY (Representative of the Secretary-General), in reply to a request for information, said that the Sub-Commission on Freedom of Information and of the Press could report direct to the Council, the Council at its eighth session having adopted a resolution (197 (VIII)), granting it that power. He pointed out, in the first place, that the Sub-Commission on Freedom of Information and of the Press dealt with technical problems, many of which did not concern the Commission on Human Rights directly. Secondly, at the United Nations Conference on Freedom of Information in Geneva, the question had been considered of establishing separate machinery in the field of freedom of information, and even of setting up a separate Council. The decision taken had been in the nature of a compromise.

Miss MONROE felt that the Sub-Commission was concerned with fundamental human rights. In her opinion the supporters of Mr. McNamara's proposal did not seem to be aware that the members of the Sub-Commission were not on call whenever an urgent problem arose. It would be more practical to state that the Sub-Commission should always meet annually, just before the meetings of the Commission on Human Rights.

Mr. DANIELS expressed the view that the Sub-Commission dealt entirely with subjects pertaining to the field of human rights. The Sub-Commission could merely ask permission occasionally to present proposals direct to the Economic and Social Council, without specifying methods and procedures for such action.

Mr. McNAMARA felt that the Sub-Commission on Freedom of Information and of the Press was a body dealing with one particular right. The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities dealt with a great number of rights, and if his proposal were agreed to and were forwarded to the Economic and Social Council, the latter would have to consider granting such discretionary power.

The CHAIRMAN remarked that in his opinion the Sub-Commission had been set up to advise the Commission on Human Rights; that purpose would not be fulfilled if Mr. McNamara's proposal were adopted.

Mr. SHAFAGH thought that the Sub-Commission might simply inform the Commission of its difficulties, without making any definite proposal towards their solution.

Mr. BORISOV warmly supported Mr. McNamara's proposal. While he regretted that Mr. McNamara had withdrawn sub-paragraph (a), requesting that the Sub-Commission might be granted the status of a Commission, which in his opinion would enable it to do its work more effectively, he welcomed the suggestion contained in sub-paragraph (b). The Sub-Commission's recommendations should be acted upon as promptly as possible and, as Mr. McNamara had pointed out, it was a body of no less importance than the Sub-Commission on Freedom of Information and of the Press; it was, in fact, a much more important body inasmuch as it dealt with problems affecting millions of human beings, rather than the interests of great information agencies. Mr. McNamara's proposal would permit the Sub-Commission to attain concrete results much more rapidly.

Mr. Borisov, too, was shocked by the lackadaisical attitude of many members of the Sub-Commission, who seemed to prefer theories and abstract studies to coming to grips with problems which the Sub-Commission had been set up to solve.

He observed that the suggestion that direct submission of urgent proposals to the Economic and Social Council should be sanctioned by the Chairman of the Commission on Human Rights was unduly restrictive, and consequently requested that the second clause of sub-paragraph (b) might be put to the vote separately.

Miss MONROE wished to amend Mr. McNamara's proposal to read as follows: "The Sub-Commission recommends that in order to expedite implementation of its recommendations, it shall, if possible, be scheduled to hold its annual sessions to end six weeks before those of the Commission on Human Rights."

After a brief discussion, it was decided that Miss Monroe's proposal constituted an independent resolution rather than an amendment.

Mr. McNAMARA agreed that Miss Monroe's suggestion should be treated as an independent resolution as it would not, by itself, achieve the purposes aimed at in his own proposal. Thus, it was perfectly possible that the Commission on Human Rights, even though it met shortly after the session of the Sub-Commission, might be unable to consider the latter's recommendations for lack of time.

The suggestion made by Mr. Daniels did not substantially differ from his own, but was unnecessarily vague. His own proposal, on the other hand, was perfectly clear, as it pointed to the need for expediting action on the Sub-Commission's studies and recommendations and suggested the method for doing so.

In reply to Mr. Borisov, he remarked that he had withdrawn sub-paragraph (a) of his proposal simply because he realized that at the moment it had no chance of being accepted. Moreover, enabling the Sub-Commission to do more effective work was of greater importance than achieving a formal alteration of its status. As regards the clause which Mr. Borisov wished to have deleted, it had been put in as an additional safeguard to meet the views of those members who were opposed to drastic action.

He accepted the Chairman's suggestion that the words in sub-paragraph (b), "by special vote", should be deleted.

The CHAIRMAN put to the vote the first part of Mr. McNamara's proposal reading as follows:

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

Considering that consideration and possible effectualisation 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".

That part of the proposal was adopted by 6 votes to 3, with 3 abstentions.

The CHAIRMAN then put to the vote the remaining part, reading as follows:

"If thought necessary, this right to be further qualified by a requirement that the Chairman of the Commission on Human Rights would need to certify as to the eligibility for direct transmission of such 'urgent' proposals."

That part of the proposal was rejected by 3 votes to none, with 9 abstentions.

The CHAIRMAN directed the Sub-Commission's attention to Miss Monroe's proposal, which constituted a recommendation and was entirely subject to the decision of the Commission on Human Rights.

In a brief exchange of views, Mr. SHAFAGH pointed out that the interval of six weeks given in Miss Monroe's proposal might not suffice for the circulation of the relevant documents to the Governments of distant countries.

Mr. HUMPHREY (Representative of the Secretary-General) said that, since in principle sessions of Commissions and Sub-Commissions were not scheduled during sessions of the General Assembly and the Economic and Social Council, it might sometimes be materially impossible to schedule the Sub-Commission's session as it desired.

Mr. DANIELS said that it might be advisable to replace the words "six weeks" by a more general term.

Miss MONROE accordingly amended the latter part of her proposal to read: "to end shortly before those of the Commission on Human Rights".

Miss Monroe's proposal as amended was adopted unanimously.

PROGRAMME OF WORK FOR THE THIRD SESSION OF THE SUB-COMMISSION
(E/CN.4/Sub.2/72 and E/CN.4/Sub.2/73)

E/CN.4/Sub.2/72

Mr. DANIELS referred to the third paragraph of the joint proposal on the future programme of the Sub-Commission (E/CN.4/Sub.2/72) and pointed out that by singling out two specific chapters the text tended to prejudge future action by the Sub-Commission and restrict its field of activity. He could not accept what amounted to substantive decisions which would commit the Sub-Commission to the consideration of certain questions at its forthcoming session.

Mr. CHANG concurred in the view expressed by Mr. Daniels and presented a series of amendments which in his opinion served to eliminate the parts of the joint proposal which in any way restricted the future action of the Sub-Commission.

Mr. Chang's proposed text was as follows:

"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 by the Secretariat and welcomes the suggestions made in part 2 of Mr. Meneses Pallares' paper (E/CN.4/Sub.2/47) on the same subject;

"Resolves to place on the provisional agenda for its next session the item Prevention of Discrimination."

Mr. MENESES PALLARES stated that the joint proposal constituted nothing more than a tentative list for the provisional agenda of the third session of the Sub-Commission. That proposal was of course open to amendment.

Miss MONROE indicated that the joint proposal had been drafted precisely to prevent the vague headings which Mr. Chang's series of amendments would restore. It had been felt that special attention should be called to certain documents or parts of documents which would direct the thought of the Sub-Commission towards concrete action. The provisional agenda in no way represented an attempt to limit the activity of the Sub-Commission or to prejudge its future discussions.

/Mr. BORISOV

Mr. BORISOV expressed agreement with the views of Mr. Daniels. In his opinion it was impossible for the Sub-Commission to adopt a Secretariat document, which it had not yet discussed, as a basis for recommendations at its third session.

Mr. SHAFAGH indicated that the joint proposal could not be regarded as a rigid programme, since it involved only a provisional agenda which would be subject to alteration at the beginning of the third session. Accordingly no limitation of the Sub-Commission's activities was involved.

He pointed out that documents E/CN.4/Sub.2/73 and E/CN.4/Sub.2/75 were intimately connected with the proposal under consideration and that since all three texts were complementary rather than contradictory it might be well for the Sub-Commission to consider them together.

Miss MONROE felt that since the three documents mentioned by Mr. Shafagh related to three separate items to be included in the provisional agenda there was no reason to discuss them together.

The CHAIRMAN stated that the Sub-Commission would first complete its consideration of document E/CN.4/Sub.2/73.

The Chairman put to the vote Mr. Chang's amendment to the first paragraph of document E/CN.4/Sub.2/72 in the following form: "...welcomes the comprehensive and efficient study on types and causes of discrimination (E/CN.4/Sub.2/40) prepared for it by the Secretariat and welcomes the suggestions made in part 2 of Mr. Meneses Pallares' paper (E/CN.4/Sub.2/47) on the same subject".

Mr. Chang's amendment to the first paragraph was rejected by 6 votes to 2 with 4 abstentions.

Mr. Chang's proposal for the deletion of the second paragraph was rejected by 6 votes to 3 with 3 abstentions.

Mr. Chang's proposal to end paragraph 3 after the words "prevention of discrimination" and to delete the remainder of the third paragraph and all of the fourth paragraph was rejected by 6 votes to 3 with 3 abstentions.

Mr. ROY stated that he had voted against Mr. Chang's amended third paragraph because the prevention of discrimination was always an item on the agenda of the Sub-Commission.

/After

After a further exchange of views regarding drafting amendments, the first paragraph of the original text of the joint amendment was adopted by 11 votes to none with 1 abstention.

The second paragraph, amended to read "decides to use this as a working paper," was adopted by 11 votes to 1.

The third paragraph, amended to read "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 the consideration of Chapter VI (Legal Measures) and Chapter VIII (Educational Measures) of document E/CN.4/Sub.2/40:", was adopted by 11 votes to none with 1 abstention.

The fourth paragraph of the original text was adopted by 10 votes to none with 2 abstentions.

The resolution, as amended, was adopted by 11 votes to 1.

Mr. CEANZ explained that he had voted in favour of the joint proposal because its substance was the same as the substance of his amendments.

E/CN.4/Sub.2/73

Miss MONROE stated that the draft resolution contained in document E/CN.4/Sub.2/73 was based on paragraphs 2, 4 and 7 of document E/CN.4/Sub.2/69 which she and Mr. Spanien had submitted for discussion by the Sub-Commission the preceding day. The authors of that paper had felt uncertain of the Sub-Commission's final position at the close of the discussion of that paper, and therefore had presented a draft resolution which would enable the members to approve or reject the essential points involved.

Miss Monroe stressed the importance of clarifying the Sub-Commission's definition of a minority in order to prevent difficulties and misunderstandings regarding the interpretation of the text.

Mr. DANIELS indicated that the objections he had raised in connexion with document E/CN.4/Sub.2/72 applied to the draft resolution now presented by Miss Monroe and Mr. Spanien. That new text amounted actually to approval of a document which the Sub-Commission had not yet discussed. Mr. Daniels presented an amendment (document E/CN.4/Sub.2/76) which preserved the references to the work of Miss Monroe and Mr. Spanien without committing the Sub-Commission to approval of any of the ideas or considerations contained therein.

The meeting rose at 1 p.m.