

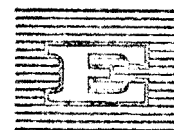
UNITED NATIONS

ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/Sub.2/SR.148
26 January 1955
ENGLISH
ORIGINAL: FRENCH



COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Seventh Session

SUMMARY RECORD OF THE HUNDRED AND FORTY-EIGHTH MEETING

Held at Headquarters, New York,
on Friday, 7 January 1955, at 2.55 p.m.

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Study of discrimination in the field of education:

Progress Report by the Special Rapporteur (E/CN.4/Sub.2/163)

(continued)

55-01526

PRESENT:

<u>Chairman:</u>	Mr. SORENSEN	(Denmark)
<u>Rapporteur:</u>	Mr. INGLES	(Philippines)
<u>Members:</u>	Mr. AMMOUN	(Lebanon)
	Mr. AWAD	(Egypt)
	Mr. CASANUEVA	(Chile)
	Mr. CHATENET	(France)
	Mr. EMEL'YANOV	(Union of Soviet Socialist Republics)
	Mr. HALPERN	(United States of America)
	Mr. HISCOCKS	(United Kingdom of Great Britain and Northern Ireland)
	Mr. KRISHNASWAMI	(India)
	Mr. KULAGA	(Poland)
	Mr. ROY	(Haiti)
<u>Also present:</u>	Miss BERNARDINO	(Commission on the Status of Women)

Representatives of specialized agencies:

Mr. DUNAND)	International Labour
Mr. METALL)	Organisation
Mr. ARNALDO)	United Nations Educational,
Mr. METRAUX)	Scientific and Cultural Organization

Representatives of non-governmental organizations:

<u>Category A:</u> Miss SENDER	International Confederation of Free Trade Unions
Mr. THORMANN	International Federation of Christian Trade Unions
Miss KAHN	World Federation of Trade Unions
Miss FOX	World Federation of United Nations Associations

Category B and Register:

Mr. NOLDE	Commission of the Churches on International Affairs
Mr. BAILEY	Friends World Committee for Consultation
Miss HITCHCOCK	International Alliance of Women

Category B and Register (continued):

Mr. LONGARZO	International Conference of Catholic Charities
Miss ROBB	International Federation of University Women
Mr. HARDMOND	National Baptist Convention
Mr. PRICE	<u>Pax Romana</u>
Mr. JACOBY	World Jewish Congress
Mr. PENCE	World's Alliance of Young Men's Christian Associations
<u>Secretariat:</u> Mr. HUMPHREY	Director, Division of Human Rights
Mr. LAWSON	Secretary of the Sub-Commission

STUDY OF DISCRIMINATION IN THE FIELD OF EDUCATION: PROGRESS REPORT BY THE SPECIAL
RAPPORTEUR (E/CN.4/Sub.2/163)(continued)

Mr. INGLES explained why he was proposing two oral draft resolutions. The first was designed to implement Economic and Social Council resolution 545 E (XVIII), under which the Council invited the United Nations Educational, Scientific and Cultural Organization and other interested specialized agencies to give their attention to the Sub-Commission's programme of work when selecting fields and subjects for research, with a view to facilitating and supplementing the studies to be undertaken by the Sub-Commission. The Sub-Commission would ask UNESCO, which had documentation bearing directly on the Special Rapporteur's study and which was in a better position than the United Nations to obtain certain information on education, to increase the assistance it had given him. He was prepared to support whatever view the Special Rapporteur might take on the advisability of the draft resolution.

The second draft resolution would express confidence in and pay a tribute to the Special Rapporteur, who would be congratulated on the way he had done the first part of his work. Under the draft resolution the Sub-Commission would also request the Special Rapporteur to take due account of the comments of members of the Sub-Commission during the debate at the present session, bearing in mind the terms of reference the Sub-Commission had given him under resolution B, adopted at the sixth session. Lastly, it would ask the Special Rapporteur to submit his report to the eighth session. He would agree with the majority opinion if the Sub-Commission decided to give the Special Rapporteur more time.

Mr. KRISHNASWAMI emphasized that discrimination was universal and uniform, despite its many different forms.

Unfortunately, the phenomenon existed in all States although some of them had done their best to eliminate it. India, for example, had written into its constitution some commendable principles which helped it to evaluate the results of measures taken to eliminate every trace of discrimination. Nevertheless, however general the phenomenon might be, it could not be claimed that the separation of institutions implied discrimination if education provided in different schools was of the same standard. Social conditions might make it necessary to establish special colleges for women, as was the case in certain regions in India.

(Mr. Krishnaswami)

The evil the Sub-Commission was fighting was the same, irrespective of the many forms it took. The Sub-Commission should therefore reject any too rigid distinction between the various forms of discrimination. However, the distinction the Special Rapporteur proposed to make between so-called static discrimination and intentional discrimination, deliberate and active, was flexible enough to facilitate the Sub-Commission's work on the recommendations it would be called upon to make. The Sub-Commission would find it useful as an illustration and of help in its work, but it should bear in mind that there was no clear-cut distinction between different forms of the same phenomenon and that in certain respects those forms overlapped. A distinction formulated for analytical purposes would not be detrimental to the synthesis that would follow.

He had full confidence in Mr. Ammoun with respect to this, as well as to other matters. The Special Rapporteur had had the courage to undertake a formidable task, which he had so far accomplished to the satisfaction of all and the members of the Sub-Commission had full confidence in him. The Sub-Commission should leave him complete freedom of choice with respect to sources of information, the authenticity and objectivity of which he, more than anybody else, was qualified to evaluate. Neither should it lay down too short a time-limit by asking him to complete his report for submission to the eighth session of the Sub-Commission. Moreover, the Special Rapporteur should not be deprived of the liberal assistance some non-governmental organizations were willing to give him. The Sub-Commission should encourage the organizations and pay the greatest attention to their opinions.

He would like to hear Mr. Ammoun's reply before taking a stand on the draft resolution about the assistance to be sought from UNESCO. He unreservedly supported the draft resolution, proposed by Mr. Ingles, in which the Sub-Commission would express its complete confidence in its Special Rapporteur.

Miss BERNARDINO (Commission on the Status of Women) said that in most fields women were still unjustifiably deprived of equal rights. The Commission on the Status of Women thought that, in order to eliminate educational inequalities based on sex, primary education should be made free and compulsory for women. In the absence of such a system poor parents preferred to send their

(Miss Bernardino, Commission on the Status of Women)

sons to school rather than their daughters. In that respect the position was particularly alarming in the under-developed countries, the Trust Territories and the Non-Self-Governing Territories. It was precisely in those countries which were the least prepared to give women the same educational opportunities as men that women did not enjoy complete political rights. Certain countries sought to confine women's education to household duties. Yet women were human beings and were entitled to enjoy all human rights. The Commission on the Status of Women, in co-operation with UNESCO and other specialized agencies, had conducted inquiries which had shown that Member States should be invited to take measures to ensure that all branches of education were open to women and to make primary education free and compulsory for women. That subject would be discussed at the next session of the Commission on the Status of Women.

Finally, she hoped that the Sub-Commission would continue to work in close co-operation with the Commission on the Status of Women.

Mr. CASANUEVA observed that members of the Sub-Commission seemed to hesitate between two viewpoints: one restrictive, taking into account only intentional or deliberate discrimination, the other, more liberal, embracing static discrimination or that resulting from the economic or social situation or from the policy followed by States in the past. Both tendencies were dangerous: one distorted reality, the other came near to demagoguery.

No member of the Commission was pledged to one viewpoint or another and the difficulty was less theoretical than practical. The fact must be admitted that in many countries children could not always go to school. Discrimination between them was therefore a fact, arising from many causes - economic, social, historical and geographic - and not from the evil intentions of Governments. However, the interpretation of that simple fact by Governments or by non-governmental organizations varied with their conception of discrimination.

In order to obtain fuller and more objective data from Governments or non-governmental organizations, the Special Rapporteur should state that, in seeking information, the Sub-Commission viewed the question from many angles and that, to begin with, it did not exclude any aspect of discrimination. In other words, it should be explained to the Government or non-governmental organization concerned that the Sub-Commission wished to be informed even about situations

(Mr. Casanueva)

which, in the eyes of a particular Government or non-governmental organization, would not involve any discrimination.

The powers of insight and analysis which the Special Rapporteur had displayed in his replies to comments by members of the Sub-Commission justified the hope that he would prove best qualified to bring home the aims of the inquiry and that Governments or non-governmental organizations would have no doubts about the kind of information requested.

Mr. CHATENET expressed satisfaction with Mr. Ammoun's report and felt that the Commission should give the Rapporteur its confidence, encouragement and assistance. Any decision which might make his task more difficult must be avoided. It was gratifying that Mr. Ammoun had established a distinction between static discrimination and intentional discrimination. The first was a natural phenomenon and such a realistic idea should not be disregarded.

He agreed with Mr. Emelyanov about the need to adhere to the sources of material laid down in the Sub-Commission's resolution B, section I.

Mr. Ammoun had already won the Sub-Commission's confidence and he saw no need to take a vote to express it.

Mr. HISCOCKS said that, in spite of his attitude at the morning meeting, he favoured a formal vote on a draft resolution expressing the Sub-Commission's confidence in its Rapporteur. He also hoped that a draft resolution inviting UNESCO to assist the Sub-Commission in its work would be put to the vote.

Mr. EMELYANOV, referring to the debate during the morning meeting, felt that Mr. Halpern had been unwise to state that unfavourable conclusions should be drawn when a State announced that it had no problem of discrimination. He also disagreed with Mr. Casanueva's opinion that Governments would take a narrower view of the problem than non-governmental organizations. He rejected the contention that there was no country in which discrimination did not exist; certain Governments applied no discriminatory measures.

He had complete confidence in Mr. Ammoun, but felt it unnecessary to take a vote of confidence.. The question did not even arise.

(The Chairman)

Mr. AWAD said that the Sub-Commission should invite UNESCO's information service to co-operate with Mr. Ammoun. He opposed the idea of a formal vote of confidence in the Rapporteur, but proposed that in the resolution addressed to UNESCO Mr. Ammoun's name should be followed by the words "in whom the Sub-Commission has complete confidence".

Mr. HALPERN said that Mr. Emelyanov had been mistaken in attributing to Mr. Ammoun the statement that eighteen Member States had asserted that they had no problem of discrimination in education. In fact, it could be seen from paragraph 95 of the report that those States had transmitted certain information or stated that the problem of discrimination in education did not arise in their countries. The Special Rapporteur had acted very wisely in not specifying how many cases came within each of the two categories; he had thus avoided drawing hasty conclusions about the number of countries in which that form of discrimination did not exist.

He agreed with Mr. Awad's remarks about the vote of confidence in the Special Rapporteur which Mr. Ingles wanted the Sub-Commission to take. That was a farewell procedure, adopted only after a mission had been completed and not during it. As Mr. Awad had proposed, it would be enough to include a few words of thanks in the resolution addressed to UNESCO.

In the other draft resolution proposed by Mr. Ingles, reference to the scope of the study or the sources to be consulted raised a delicate point. Those matters had been settled by higher organs and the Sub-Commission had no right to take them up again.

The CHAIRMAN noted that the draft resolution as now presented by Mr. Ingles (E/CN.4/Sub.2/L.59) did not contain the word "confidence" which its sponsor had used orally and which seemed to have caused some hesitation among members of the Sub-Commission.

Speaking personally, he could not approve the distinction between static discrimination and intentional discrimination. The problem of discrimination was a problem of relations and conflicts between groups. If some forms of discrimination were regarded as static phenomena, conflicts might be perpetuated,

(The Chairman)

and that was even more likely if they were regarded as phenomena inherent in "the nature of things", as Mr. Chatenet would have it. The "nature of things" was a concept which had been and was still being abused and by invoking it women could be denied the right to vote. Moreover, by referring to static discrimination attention might be concentrated on the cases of certain groups which were or seemed to be satisfied with their unfavourable situation. But that was only a stage of evolution, which usually came before the dynamic stage of demands for equality. It was that stage of vigorous reaction on the part of the victims that mattered and it would be unfortunate if, by using static discrimination as one of the bases of his study, the Special Rapporteur confined himself to a definite stage of the evolution, the stage at which the victims made no demands, and thus perhaps gave the impression that some forms of discrimination were inevitable and should be accepted.

Mr. AWAD thought that, far from being rejected, the idea of static discrimination should be studied very thoroughly. Some relatively backward societies living in very undeveloped environments had institutions which suited them perfectly but, which, under different circumstances, would be regarded as discriminatory and which it was in practice impossible to change. Thus, in Egypt, the idea of compulsory schooling for nomads was unthinkable, although the country had decreed that all children living no more than two kilometres away must go to school. Similarly, although attendance at school was very strictly enforced in the Sudan, children were not taught to read and write but only matters which were of direct use to them. Care must therefore be taken not to impose upon certain groups reforms which would not only be unworkable, but might even upset their way of life and threaten their very existence. The Special Rapporteur would no doubt be able to examine the situation of those backward societies.

The discrimination which must be fought was criminal discrimination deliberately practised by the authorities against any group.

The CHAIRMAN recognized that in certain cases caution was required. The cases Mr. Awad had mentioned were among those where differences of treatment could be accepted. Moreover, the discrimination which must be combatted was not only that practised by the authorities, but also that practised by private individuals or organizations (trade unions, employers, etc.).

Mr. AMMOUN (Special Rapporteur), replying to the various remarks made during the discussion, wished to make it clear to Mr. Halpern that he had no intention of ignoring the fifth source of documentation which the Commission on Human Rights had added to the list of those provided for by the Sub-Commission; he had simply said that so far he had found no work on the question he had been instructed to study and he would be glad to receive a bibliography on the subject.

In reply to Mr. Hiscocks, he said that his report was only a preliminary study; the study of the substance could not begin until Governments had sent their replies. In that connexion, he did not consider that a Government had not replied when that Government stated that it had no information on discrimination. However, if necessary, it was for the Special Rapporteur to make up for this lack of information. The whole question of assessing the value of sources was a question of common sense.

He would point out to Mr. Emelyanov that in his report (E/CN.4/Sub.2/163, paragraph 41) he had condemned the disastrous results produced by the Hitler regime. As regards the question of China, in so far as the rules of the United Nations, to which he would adhere strictly, would permit it, he would endeavour to extend his study to the greatest possible number of countries; naturally he would be only too happy to include several more hundreds of millions of individuals in his study. Lastly, he recognized that he had no right to cast any suspicion on Governments, a right which had never been claimed, more especially as such a method would be detrimental to the results of the inquiry.

With regard to the criticisms made by several members of the Sub-Commission, he was trying to justify his distinction between static discrimination and intentional discrimination, as he thought he would have been ill-advised to confine himself to the latter. He wished to make it quite clear that so-called static discrimination was still discrimination; the distinction simply pointed

(Mr. Ammoun, Special Rapporteur)

to a difference in origin. Obviously the absence of compulsory education, for example, had a different cause and significance according to whether per capita income in the country in question was high or very low. Moreover, the distinction was not merely academic; it had the advantage of making it possible to apply the appropriate remedy to each situation. There was nothing rigid in the distinction; it had been imposed solely by the practical necessities of the study. In fact, it was impossible to accord the same importance to all cases of discrimination; if he did that, he would be faced with a superhuman task which could not be carried out even by several persons. Hence he could not lay equal stress on discrimination practised by men and that not practised by men, on the discrimination which could be eliminated by human action, however painfully, and the discrimination which could not be eliminated, even with the best will.

He nevertheless assured the members of the Sub-Commission that he would not overlook any form of discrimination in education. His task would be greatly facilitated by both the criticisms and praise addressed to him during the discussion; and the co-operation he had met everywhere, particularly in the case of the representative of the Commission on the Status of Women, augured well for the result of his work.

The meeting rose at 5.20 p.m.