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COMMISSION ON HUMAN RIGHTS

Tenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND SEVENTY-FIRST MEETING

Held at Headquarters, New York,
on Monday, 12 April 1954, at 10.55 a.m.

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PRESENT:

<u>Chairman:</u>	Mr. AZMI	(Egypt)
<u>Rapporteur:</u>	Mr. INGLES	Philippines
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. LABARCA) Mr. CRTEGA)	Chile
	Mr. CHENG PAONAN) Mr. HU CHUN)	China
	Mr. GHORBAL	Egypt
	Mr. CASSIN) Mr. JUVIGNY)	France
	Mr. CARAYANNIS	Greece
	Mr. RAJAN	India
	Mr. PIRACHA	Pakistan
	Mr. BIRECKI	Poland
	Mr. ASIROGLU	Turkey
	Mr. SAPOZENIKOV	Ukrainian Soviet Socialist Republic
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
	Mrs. LORD	United States of America
	Mr. RODRIGUEZ FABREGAT) Mr. MONTERO BUSTAMANTE)	Uruguay
<u>Representatives of specialized agencies:</u>		
	Mr. MANNING	International Labour Organisation
	Mr. ARNALDO	United Nations Educational, Scientific and Cultural Organization

Representatives of non-governmental organizations:

<u>Category B:</u> Mr. FRASER	Friends World Committee for Consultation
Mr. CRUICKSHANK	Inter-American Council of Commerce and Production
Miss RANDALL	International Federation of Business and Professional Women
Mr. JACOBY	World Jewish Congress
Mr. PENCE	World's Alliance of Young Men's Christian Associations
Mrs. POLSTEIN) Mr. RONALDS)	World Union for Progressive Judaism

Secretariat:

Mr. SCHWELB	Deputy Director of the Division of Human Rights
Mrs. BRUCE) Mr. DAS)	Secretaries of the Commission

REPORT OF THE SIXTH SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES: FUTURE WORK PROGRAMME OF THE SUB-COMMISSION IN THE FIELD OF PREVENTION OF DISCRIMINATION (E/CN.4/703, paragraph 143, and E/CN.4/L.362)

The CHAIRMAN apologized to the Commission for his absence, which had been due to circumstances beyond his control. He observed that the Commission had not, in particular, completed the study of the questions relating to priorities which had been referred to it by the General Assembly. He appealed to the Commission's members voluntarily to limit the length of their speeches, as the Commission should, according to the programme of conferences for 1954 approved by the Economic and Social Council, complete the work of the present session not later than 16 April. The meetings would henceforth begin at the scheduled time or as soon as there was a quorum. It was possible that the Commission would be obliged to meet on the Saturday if it had not completed consideration of its report. In order to expedite the discussion of the report, he asked representatives to take note of the parts which had already been circulated, to frame their observations and to communicate them without delay to the Rapporteur so as to facilitate the reading of the report in plenary meeting.

In reply to a question by Mr. MOROZOV (Union of Soviet Socialist Republics), the CHAIRMAN explained that the Commission itself would decide, if necessary after consultation with the Secretariat and perhaps even with the Economic and Social Council, whether it should meet on the Saturday.

He opened the discussion on the future work programme of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in the field of prevention of discrimination; the Commission had before it a draft resolution submitted by the United States (E/CN.4/L.362).

Mrs. LORD (United States of America) said that her delegation's draft resolution was designed to clarify the Sub-Commission's proposals in resolution D. The provisions of resolution D and the United States proposals were, on the whole, fairly similar, but she felt that the former ought to be expressed more clearly and linked to specific provisions of the Universal Declaration of Human Rights. The rights referred to in paragraph 1 were expressed in too general terms. The field of political rights, for example, was vast, and it was possible that some of those rights would have to be studied separately. An initial pilot study was therefore indicated, and it was for that reason that the United States resolution specially mentioned, in respect of political rights, those provided in article 21 of the Universal Declaration of Human Rights.

The last paragraph of the draft resolution was prompted by the importance which now attached to freedom of religion. Taken as a whole, the United States draft resolution simplified and facilitated the Sub-Commission's work. That had been the United States delegation's intention in submitting it, and she hoped that the discussion would be short and would be conducted in a spirit similar to that which had prevailed when the draft was being prepared.

Mr. SAPOZHNIKOV (Ukrainian Soviet Socialist Republic) felt that there was no need to amend resolution D as was proposed by the United States delegation. The Sub-Commission had given very thorough consideration to the question of its future work in the field of prevention of discrimination, and some of its members had already proposed that the study of political rights should cover only the rights set forth in article 21 of the Universal Declaration of Human Rights. Since, however, the majority of the Sub-Commission's members had held otherwise, resolution D as a whole had ultimately been adopted unanimously.

It was not advisable to reopen that question and it would be better to abide by the solution adopted by the Sub-Commission. His delegation would therefore vote against the United States draft resolution.

Mr. INGLES (Philippines) drew the Commission's attention to the fact that the preparatory studies to be undertaken by the three members appointed under paragraph 3 of resolution D could not be compared to the studies of discrimination in education or in employment and occupation. The task of those three members was merely to prepare proposals concerning the procedure to be followed in the studies provided for in paragraph 1. When the Sub-Commission had those proposals before it, it would decide which of them should be undertaken first. If, for example, it decided to study discrimination in the matter of political rights, it could then decide to study first discrimination with respect to the rights provided for in article 21 of the Universal Declaration of Human Rights. He had already suggested to the Sub-Commission that it should adopt that method from the outset, but the majority of members had felt that the freedom of the three members entrusted with the preliminary enquiry should not be restricted. The Sub-Commission remained free to select subsequently, taking into account the preliminary work of those three members, the political rights it would study first if it thought fit to restrict the study of discrimination in that field to a few only of the rights provided for in the Universal Declaration of Human Rights. The need for selection did not arise in the same way in the matter of religious rights and practices, which were mentioned only in article 18 of the Universal Declaration. He noted that the United States proposal departed appreciably from the provisions of resolution in so far as it sought to delete immigration and travel from the subject of the procedural study assigned to him in his personal capacity by the Sub-Commission. He noted that the study of discrimination in immigration and travel figured in the work programme of the Sub-Commission as approved by the Commission at its previous session. His delegation would have to abstain when the vote on the United States draft resolution was taken.

Mr. MOROZOV (Union of Soviet Socialist Republics) felt that the proposals embodied in the United States draft resolution departed conspicuously from those of the Sub-Commission. In any case it was not desirable to discuss the question at the present stage of the Sub-Commission's work. The Commission

would be committing an error of principle if it tried to place the Sub-Commission, from the outset, under such close supervision as was advocated by the United States delegation. Recalling the Philippine representative's remarks, he said that the Sub-Commission had not yet settled its plan of work for the next session and that it would certainly be premature to interfere as though resolution D contained a precise work programme. The Commission could not, for a reason of principle, withhold from the Sub-Commission a certain minimum of confidence and prevent it from drawing up its own plan of work. The Sub-Commission would in any case have to refer the matter to the Commission, since the plan would have to be submitted to the Commission upon completion.

Furthermore, some delegations would doubtless have comments to make on the drafting of the item which the Sub-Commission had decided to include in the agenda of its seventh session. For his part he could say that the text proposed by the Sub-Commission in its resolution D was not drafted in sufficiently precise terms, and the same remark applied to the text suggested by the United States delegation. It could be construed to mean that the proposed study should confine itself to dealing with discrimination as embodied in the constitutional and legislative provisions of the various countries. Everyone knew, however, that words and practice were far apart and that the fact that a particular country's constitution or legislation did not provide for discrimination, or even expressly condemned it, did not justify the conclusion that discrimination did not exist in the country in question. It was therefore essential to study both aspects of the problem, that is, not only the theoretical aspect but also the equally important practical aspect.

Those were some examples of the many questions and observations which might result in the event that directives were to be given to the Sub-Commission immediately. For the reasons he had indicated, he felt that it would be better to refrain from instructing the Sub-Commission concerning the wording of the items it placed on its agenda, especially since the Commission on Human Rights still had much to do and the little time remaining should be devoted to the important questions on which the Commission itself was expected to take decisions. If the Commission followed the course proposed in the United States draft resolution, it would not only be interfering unduly in the affairs of the Sub-Commission, which was the readily understandable reason for the Philippine representative's hesitancy, but would in addition be wasting valuable time.

The representative of the Ukrainian SSR had shown that the United States draft would limit the scope of the Sub-Commission's studies. The United States draft resolution, which would restrict the scope of the Sub-Commission's studies even before that body had begun the preparatory phase of its work, was, to say the least, premature.

For all those reasons, he considered it preferable to approve resolution D as it stood despite its possible shortcomings. After the Sub-Commission had had an opportunity to study the proposed work programme, it would inform the Commission on Human Rights of its conclusions and the Commission could at that time properly make its position known.

The CHAIRMAN urged representatives to respond to the appeal he had made at the beginning of the meeting and to limit the length of their statements. He recalled for their benefit that there had been a more or less tacit agreement that the Commission would confine itself to making recommendations on the Sub-Commission's report without actually amending the wording of the resolutions adopted by the Sub-Commission. Further, after reading out the terms of reference of the Sub-Commission, he observed that every United Nations organ was indisputably the master of its own agenda.

Mr. RAJAN (India) explained that after a careful examination of the United States draft resolution his delegation preferred to approve resolution D as it stood. The limitations laid down in the United States draft had been considered by the Sub-Commission, and that body had, for good reasons, considered it preferable not to include them. The Indian delegation felt that the Sub-Commission had been established to study not only the measures of discrimination which came under the Universal Declaration of Human Rights but also those which though not covered by that instrument might have just as serious social and humanitarian consequences. There was even some basis for the view that the establishment by the United Nations of the necessary organs and procedures for ensuring protection of the rights mentioned in the Universal Declaration of Human Rights and for precluding a discriminatory application of those rights made it perhaps even more important for the Sub-Commission to concern itself specifically with discriminatory measures not covered by the Universal Declaration.

The Indian delegation nevertheless recognized that at the beginning the scope of the proposed studies should be limited. It would prefer the study dealing with discrimination in political rights to cover, in the first place, the rights mentioned in the Universal Declaration, as provided in resolution D, on the understanding that the Sub-Commission could subsequently concern itself with a single article of the Universal Declaration which might very well be article 21. His delegation, however, had no very strong views on the matter and would not oppose a restriction to article 21 at the outset.

As for religious rights and practices, article 16 seemed to be the only relevant article in the declaration and the Indian delegation would be prepared to support restricting the study to that article.

He could not support clause (c) of the United States draft resolution since, as the Philippine representative had noted, the inclusion of the problem of immigration and travel in the work programme of the Sub-Commission had already been approved. Moreover, emigration and immigration were only two aspects of a single problem, and while he saw no objection to adding emigration, he could certainly not agree that it should be substituted for immigration. Human resources were among the most important of all resources, and discrimination in emigration, immigration and travel could have most serious economic and social consequences and constitute an obstacle to the free development of world resources.

Finally, he observed that resolution D did not establish any order of priority and that that seemed to be preferable. If, however, an order of priority should be decided upon, he would be inclined to give first place to the study dealing with political rights. If the individual was free to exercise his political rights, he could eventually help to give his country a government capable of ending all other kinds of discrimination, especially religious discrimination, and in that sense there were grounds for saying that the main effort to do away with discrimination should be made in the political field.

Mr. WHITLAM (Australia) agreed with the Philippine representative that resolution D could not be compared with the resolutions the Sub-Commission had adopted on discrimination in the field of education and in employment and

occupation. It was a procedural resolution, since the Sub-Commission confined itself to drawing the Commission's attention, and rightly so, to the wording which it proposed to give that item in its agenda and to how it intended to define its method of work. If resolution D were to be considered as laying down a final plan of work, his delegation would be compelled to raise some rather serious objections, but as that was not the case, he agreed with the USSR representative that the resolution should not be scrutinized as minutely as the Sub-Commission's other resolutions and that it was too early for the Commission to take a decision in the matter.

He wished in any case to make a general statement on his delegation's preferences. He felt, as did the Indian representative, that priority should be given to the study of discrimination in political rights, because success in the prevention of all kinds of discrimination depended on the free exercise of political rights, with the result that political rights should be the principal avenue of attack. He agreed with the United States representative that the question of immigration and travel was a most complicated problem which affected the population of every State and, of course, the provisions of Article 2, paragraph 7 of the Charter had particular relevance.

He concluded by saying that he could not share the view of the USSR representative, who saw in the United States draft resolution an attempt to interfere in the affairs of the Sub-Commission; there was no intention to make the Sub-Commission completely subordinate to the Commission on Human Rights. However, for the reasons he had given, the Australian delegation would not be able to support the United States draft resolution and would abstain from the vote.

Mr. CASSIN (France) felt that what was at issue was not the procedure to be followed in studying a particular item, but rather the Sub-Commission's method of work in general. After passing through a difficult period, the Sub-Commission was now engaged in constructive work and could be relied upon not to overlook any aspect of its task.

It could, however, be asked whether the better course might not be to advise the Sub-Commission to deal with questions which were fairly ripe for study and to limit the scope of its work to some extent. The Sub-Commission had

already decided to undertake studies on discrimination both in the field of education and in employment and occupation. It should be realized that those were problems of considerable magnitude, the study of which would certainly require a long time.

If, in the case under discussion, the Sub-Commission should decide to study discrimination in the matter of political rights, the better course would certainly be to limit attention to the rights dealt with in article 21 of the Universal Declaration of Human Rights, which already covered an extremely wide field. With regard to the problem of emigration and immigration, it should not be forgotten that the omission in the Universal Declaration of Human Rights of the question of immigration was not accidental but was rather the result of the view that the right to immigration could not for the time being be given a place in such a declaration.

That was why his delegation, which in 1953 had felt that the study of discrimination should be mainly concerned with the most serious forms of discrimination, likewise thought that the Sub-Commission should be invited to devote itself chiefly to problems which had reached maturity and should, for the sake of the work to be accomplished, carefully limit its studies. Thus, in his delegation's view, religious rights and practices should be given first priority, not because they were any more sacred than any other human right, but because the Sub-Commission could very likely achieve results in that field more rapidly than if it elected to study discrimination in the matter of political rights. He therefore felt that the United States draft resolution would guide the Sub-Commission along lines which would enable it to make real progress without slowing down its work.

Mr. BIRECKI (Poland) observed that the United States draft resolution raised the serious problem of relations between the Commission and the Sub-Commission, which was not on the Commission's agenda. He was pleased that the Chairman had recalled the Sub-Commission's terms of reference, from which it followed that the Commission must deal principally with the Sub-Commission's recommendations. Since, however, in the matter under discussion, the Sub-Commission had not yet submitted any recommendations to the Commission, the

paramount consideration was for the Sub-Commission to reach the study stage. As the members of the Commission were not supposed to act as experts, the Commission should not interfere with the Sub-Commission's preparatory work, particularly where, as was the case with resolution D, the Sub-Commission had adopted a resolution unanimously. That resolution was a synthesis of the opinions of the various experts on the Sub-Commission; there was no reference in it to any plan of work, but merely to the placing of an item on the agenda. By that resolution the Sub-Commission already defined its scope of action and referred to the Universal Declaration of Human Rights. He did not feel that at the present preliminary stage the Commission should further restrict the Sub-Commission's work as was provided in the United States draft resolution, which he consequently could not support.

Mr. RODRIGUEZ FABREGAT (Uruguay) thought that no examination of the Sub-Commission's resolution D or of the United States draft resolution could be undertaken without reference to the Universal Declaration of Human Rights, with which it was absolutely essential to comply. The Declaration, which was complementary to the Charter, had arrested the world's attention, because, far from being a mere declaration of principles, it was a step forward for mankind. Unlike the corresponding passages in the Sub-Commission's resolution D, clauses (b) and (c) of the United States draft resolution expressly referred to the Declaration. One could hardly speak of the Commission interfering with the Sub-Commission when such important decisions were at stake, and the Commission was perfectly entitled to examine anything within the Sub-Commission's province, in order to assist it.

He referred to the provisions of article 21 of the Universal Declaration of Human Rights, which was rightly mentioned in the United States draft resolution, but regretted that articles 19 and 20 of the Declaration, which referred to the same essential principle, were not also mentioned. There was reason to fear that a reference solely to article 21 might restrict the Sub-Commission's field of action too much. His delegation would therefore find it difficult to approve clause (a) of the United States draft resolution.

Clause (b), which was definite without being restrictive, met with his delegation's approval. In connexion with clause (c), he stressed that the study was of a more general character and, after having referred to articles 13 and 14 of the Universal Declaration of Human Rights, he pointed out that the word "emigration" in that clause did not have the same scope as the words "emigration", "immigration" and "travel" in the corresponding passage of the Sub-Commission's resolution D. On the other hand, he approved of the addition of the words "right to return to one's country" in the United States draft resolution and thought that they should be inserted in operative paragraph 1, clause (c), of resolution D.

Mr. CARAYANNIS (Greece) said that, for the reasons stated by the French representative, his delegation was prepared to vote for the United States draft resolution. He was doubtful, however, about the last paragraph of the operative part and would, with the Australian and Indian representatives, prefer priority to be given to the study of discrimination in the matter of political rights.

Mr. HOARE (United Kingdom) had no objection to operative paragraph 3 of resolution D - indeed the proposal to make preliminary studies of procedures was eminently successful - but, in view of Article 2, paragraph 7, of the Charter, his delegation could not approve of the Sub-Commission having recourse to the methods advocated in its resolution B (E/CN.4/703, paragraph 97) for the study eventually selected even if the question of that study had only reached a preliminary procedural stage. He again expressed the hope that the Economic and Social Council and the General Assembly would not approve the arrangement by which the study selected by the Sub-Commission and similar future studies would be entrusted to a special remunerated rapporteur, but pointed out that, to provide against all contingencies and out of concern for not appearing to commit itself with regard to the outcome of the preliminary studies contemplated in resolution D, his delegation could do nothing but abstain from voting on the United States draft resolution.

With regard to clause (a) of the United States draft resolution, he agreed with the French representative's comment that if the Sub-Commission wished to do constructive work it must restrict itself to studies of limited scope and that a reference to the political rights which were covered by the Universal Declaration of Human Rights was apt to be interpreted as referring to all the rights included in the draft covenants on civil and political rights. In those circumstances, clause (a), which the United States proposed should be included in paragraph 1, seemed satisfactory to his delegation. He agreed with the USSR representative that clause (b) of paragraph 1 of the Sub-Commission's resolution D was poorly worded. As it was obviously not a matter of studying discrimination within a given religion, but of freedom to profess and practise a religion, clause (b) of the United States draft resolution was in that respect more explicit.

Concerning clause (c), proposed by the United States for inclusion in paragraph 1, he stressed that immigration involved the sovereignty of States; it was in every country dealt with on a selective basis which each country determined according to its own circumstances and requirements. The right of everyone to be admitted for settlement in any country he chose was therefore not generally recognized and the exercise of the right to exclude persons from one's territory already constituted a form of discrimination. That was why it had not been possible to include the right to immigration in the Universal Declaration of Human Rights. It was inappropriate therefore to apply the non-discrimination provisions in the Declaration to something which was not in itself a right; and some of those prohibited grounds of discrimination - for example, political opinion, or property - were grounds which States were fully justified in taking into account in deciding who should be allowed to settle in their territory. Even in respect of the other grounds some States might wish to maintain the homogeneity of their own population and traditions. The term discrimination could not easily be given any objective context in relation to the various standards applied by States for refusing admission to their territory. He therefore approved clause (c) which the United States proposed to include in paragraph 1.

Mr. JACOBY (World Jewish Congress) recalled that the Sub-Commission had already rejected the concept embodied in the United States draft resolution, and he urged that the contemplated studies, particularly those on discrimination in the field of emigration, immigration and travel, should be carried out.

He regretted that the draft resolution only referred to paragraph 2 of article 13 of the Universal Declaration of Human Rights, thus excluding the right to freedom of movement mentioned in paragraph 1 of that article. He thought that a study of discrimination in the matter of religious rights and practices would be advisable.

Mr. INGLES (Philippines) pointed out to the United Kingdom representative that since the right to immigration was not included in the Universal Declaration of Human Rights, the grounds of discrimination to be studied with respect to immigration would not be those enumerated in article 2 of the declaration but those enumerated in article 1, paragraph 3 of the Charter which dealt with Human Rights in general and outlawed discrimination only on the ground of race, sex, language or religion.

The meeting rose at 1.5 p.m.