

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/Sub.2/SR.268
20 May 1959

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

Eleventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND SIXTY-EIGHTH MEETING

Held at Headquarters, New York,
on Wednesday, 14 January 1959, at 3.20 p.m.

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(E/CN.4/Sub.2/L.147) (continued)

PRESENT:

<u>Chairman:</u>	Mr. AWAD	(United Arab Republic)
<u>Rapporteur:</u>	Mr. SAARIO	(Finland)
<u>Members:</u>	Mr. BEYHUM	(Lebanon)
	Mr. CHAYET	(France)
	Mr. FOMIN	(Union of Soviet Socialist Republics)
	Mr. HISCOCKS	(United Kingdom of Great Britain and Northern Ireland)
	Mr. INGLES	(Philippines)
	Mr. KRISINASWAMI	(India)
	Mr. MACHOWSKI	(Poland)
	Mr. ROY	(Haiti)
	Mr. SANTA CRUZ	(Chile)
	Mr. SPAULDING	(United States of America)

Representatives of specialized agencies:

Mr. PAYRO	International Labour Organisation
Mr. SALSAMENDI	United Nations Educational, Scientific and Cultural Organization

Representatives of non-governmental organizations:

<u>Category A:</u>	Mr. THORMANN	International Federation of Christian Trade Unions
<u>Secretariat:</u>	Mr. HUMPHREY	Director, Division of Human Rights
	Mr. LAWSON	Secretary of the Sub-Commission

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STUDY OF DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS (E/CN.4/Sub.2/L.147)
(continued)

The CHAIRMAN, speaking as a member of the Sub-Commission, said that the item under consideration was particularly delicate. Governments were willing to grant religious and cultural rights but reluctant about granting political rights, which involved the surrender of power. The enjoyment of political rights was, nevertheless, a prerequisite for the enjoyment of all other human rights. The Sub-Commission was concerned not only with discrimination in that field but also with the protection of human rights. For instance, a despotic Government might deprive its citizens of all political rights; that could not be called discrimination but it was a matter with which the Sub-Commission was deeply concerned.

Mr. SPAULDING said that discrimination in the matter of political rights was a question of paramount concern to his Government. Although the Special Rapporteur had expressed disappointment with the amount of information he had received, it was stated in paragraphs 6 and 7 of his report (E/CN.4/Sub.2/L.147) that twenty-eight more Governments had replied since the previous year, bringing the number which had supplied information to fifty-two. Thus, on the whole, the response so far had been quite encouraging. Information on some of the countries which had not replied might be obtained from other sources, so that the Special Rapporteur might proceed with his task even in the absence of replies from those Governments. However, preparing a reply was a wholesome exercise for Governments, since they could consider the de jure and de facto situation regarding political rights in their own countries and thus learn how they might take advantage of experience elsewhere. The Special Rapporteur had also expressed disappointment regarding lack of response from non-governmental organizations. He hoped that more information would be supplied. Groups interested in women's rights had supplied information particularly on women's suffrage, but there was no reason to limit comment to only one aspect of political rights.

The fact that measures had to be taken to combat discrimination in some countries did not necessarily mean that the situation was worse in those countries than in some others, where no action was being taken. As in the

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(Mr. Spaulding)

case of the United States, it could mean that the Government was aware of inequalities and seeking to remedy the situation. The results of the Sub-Commission's study would be most helpful to such countries. Many non-governmental organizations were in a position to appraise the extent to which political rights were effectively exercised in any country.

He strongly supported the Special Rapporteur's decision to adopt, as a general framework for the analytical part of his study, the enumeration of the various grounds of discrimination laid down in article 2 of the Universal Declaration of Human Rights. He hoped that the Special Rapporteur would also consider the extent to which the exercise of political rights was safeguarded. He might also suggest measures by which Governments could improve their measures against discrimination.

Mr. THORMANN (International Federation of Christian Trade Unions) said that there was a very close link between the enjoyment of political rights and the exercise of all other rights. The link between such fundamental freedoms as freedom of opinion and expression, freedom of peaceful assembly and of association, and the fulfilment of the objectives of the ILO had been underlined at the forty-second International Labour Conference.

The IFCTU regretted that it had not yet been able to provide the information requested by the Special Rapporteur but it would endeavour to do so in the course of the year. It realized that the contribution of NGOs was of particular importance in the proposed study, as Governments could hardly be expected to stress their own shortcomings in the domain of political rights. Furthermore, as the Special Rapporteur pointed out in Part II of his report, the criteria for evaluating the extent to which limitations might legitimately be imposed on the enjoyment of political rights under article 29, paragraph 2, of the Universal Declaration were at least partially subjective and acquired certain special aspects when political rights were involved.

The IFCTU fully subscribed to the Special Rapporteur's remarks in paragraphs 58 and 59 regarding the conflicting meanings of the expression "in a democratic society". Differences of interpretation had led to substantial differences in practice. Furthermore, it had become only too clear that the use of the vocabulary of democracy did not necessarily mean that human rights were

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safeguarded. For that reason, the IFCTU welcomed the observations in paragraphs 60 to 64 of the report. Such an approach to the question was likely to lead to an authoritative and balanced study.

Mr. HISCOCKS said that the plan of the study proposed by the Special Rapporteur seemed satisfactory and based on cogent arguments. Part II of the report, dealing with the meaning of the term "discrimination" in the matter of political rights was lucid and constructive. The report kept the question of discrimination in that field before Governments and NGOs; there did not seem to be any reason for discouragement, although progress was slow.

One point which emerged clearly from the statement made by the Special Rapporteur at the previous meeting was that the progress of the study had been hampered by the limited assistance **provided by the Secretariat**. There was an imperative need to establish a time-table for the completion of the work on the item, which had been before the Sub-Commission since 1952. The Special Rapporteur could not be expected to devote his valuable time indefinitely to carrying out his task. A draft of the final report might be prepared for submission to the next session, and the final report should be available for consideration by the Sub-Commission in 1961. The Secretary-General might be asked why the Secretariat assistance which the Special Rapporteur had been led to expect the previous year had not been forthcoming and whether the necessary staff could be provided for the completion of the study in accordance with the proposed time-table.

Mr. INGLES said that while the Special Rapporteur had complete latitude in deciding on his plan of work, he might find the Sub-Commission's comments on the plan proposed in his report useful. The Special Rapporteur should be left to decide on the actual form of the final report. Part II of his progress report, dealing with the meaning of the term discrimination in the matter of political rights, was only tentative, because of the lack of verified information but was valuable and constructive. Although fifty-two countries had submitted reports, only twenty draft country studies had been prepared, owing to lack of Secretariat facilities.

He concurred with Mr. Hiscock's view that a time-table should be established to enable the Special Rapporteur to complete his task in the shortest possible time. The Sub-Commission might find it desirable to request additional Secretariat assistance.

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(Mr. Ingles)

He agreed with Mr. Spaulding that the NGOs could make a greater contribution to the Special Rapporteur's work. It was very disappointing that there had so far been so little response. Although there were few NGOs specifically interested in the question of political rights, many of those organizations were deeply concerned with the protection of human rights as a whole. He hoped that a greater response would be forthcoming. The NGOs were probably in a better position than any other bodies to evaluate the effectiveness of local measures to combat discrimination in the countries in which they operated. The remedies applied in countries which had no need of assistance from international bodies might be of the greatest interest to less fortunate countries. They were of the greatest interest to the Sub-Commission, in any case, and the Special Rapporteur should be asked to report on them.

The extent to which the Special Rapporteur should use the works of scholars and scientists dealing with discrimination needed very careful consideration. In his view, such writings should be used not as a basis for criticizing the action Governments had taken but to elucidate the information received from Governments. The Special Rapporteur had shown commendable prudence in his approach to the problem.

Mr. CHAYET shared the general concern regarding the material difficulties which had prevented the Special Rapporteur from making any further progress in his study, and agreed that a time-table should be established for the completion of each of the studies undertaken by the Sub-Commission. He also felt that the Special Rapporteur should be able to draw for information on as many sources as possible, including the non-governmental organizations, especially since his study was to cover both the de facto and the de jure situation with regard to discrimination in the matter of political rights. Part II of the progress report, which discussed the meaning of the term "discrimination" as applied to political rights, was an excellent analysis and should constitute one of the main sections of the final study.

Mr. KRISHNASWAMI said that the difficulties encountered by the Special Rapporteur should be fully and sympathetically understood. In discussing the time factor, for example, the Sub-Commission should bear in mind that even after the preparation of the tentative country studies and their submission to

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(Mr. Krishnaswami)

Governments, an indeterminate period had to be set aside for receipt of Government replies, since no deadline could be fixed. Further, the inadequate response of NGOs might be explained by the fact that they did not have enough information on the administrative, judicial and organizational aspects of political rights in certain areas where political discrimination was practised.

The Special Rapporteur's decision to take the various grounds for discrimination as the basis for his study was a wise one, because unless the underlying motives for the denial of rights were known, no positive recommendations for remedial measures could be made. Part II of the progress report was therefore basic, and the members of the Sub-Commission should assist the Special Rapporteur in defining the scope of his study by offering their interpretations of the various grounds on which discrimination was practised. He hoped that the Special Rapporteur would also include in his study an account of how progress towards the full observance of political rights had been achieved, that is, whether it had been brought about by force of circumstances or, as was more common in the case of political rights, by the pressure of certain interested groups.

The administrative aspects of political rights were of special interest to him because they presented great difficulties in multi-religious and multi-lingual societies. The Special Rapporteur might analyse in greater detail the implications of various restrictions on the recruitment of persons to the civil service, the fine distinction between the principle of competition and that of selection, and the reservation of posts to ensure equal treatment of minority groups. In administration, no rigid lines should be drawn in marking out categories: merit could mean many things, and performance tests and many other criteria should be used to prevent discrimination.

He was also especially interested in the grounds invoked by Governments to debar certain groups of the population from participating in elections. There was a strong case for removing such restrictions on illiterate persons: every adult should be given the right to vote; education would come later. It would be useful for the Special Rapporteur to catalogue the limitations imposed by voting age requirements, even if no discrimination was involved. Finally, it could not be said a priori that the debarment of aliens from the exercise of political rights was discriminatory per se; on the other hand, the Special Rapporteur should take

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(Mr. Krishnaswami)

full account of situations where people who had long been enjoying certain political rights were suddenly deprived of them by the enactment of new nationality laws. The Special Rapporteur might also make a more detailed analysis of distinctions based on the dependent status of a country.

He was not sure that it would be advisable for the Sub-Commission to establish a time-table for the completion of its studies. Until it could persuade the Secretary-General to provide adequate staff in the Human Rights Division to assist in the preparation of the studies, it could not fix any deadlines. The Secretary-General would have to bear in mind the wishes of the Fifth Committee of the General Assembly in that regard. All that the Sub-Commission could do for the time being was to make full allowance for the Special Rapporteur's difficulties and endeavour to induce the competent authorities to provide better facilities in view of the high educational value of the studies on discrimination and their contribution to the observance of human rights.

Mr. FOMIN said that the progress report (E/CN.4/Sub.2/L.147) showed that, within the limited possibilities open to him, the Special Rapporteur was preparing a competent study on discrimination in the matter of political rights. It should be borne in mind, in connexion with sources of information, that the Sub-Commission's task was to formulate general recommendations on the basis of which various United Nations bodies could call upon Member States to eliminate discrimination. The Special Rapporteur had quite rightly decided to take as a basis for his study the discriminatory grounds enumerated in article 2 of the Universal Declaration of Human Rights. He should, of course, supplement them with any other criteria used to create discrimination in political rights when he had more information at his disposal. The Commission on the Status of Women might also provide useful additional material. With regard to the situation in Non-Self-Governing Territories, the Special Rapporteur should set aside a special section in his final report. His analysis of discrimination in the matter of political rights against the millions of inhabitants of those Territories should not be marred by references to the factors which allegedly made them incapable of attaining self-government at the present time.

Mr. MACHOWSKI said that the progress report constituted an important step forward in a very difficult field. As the Special Rapporteur had indicated,

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(Mr. Machowski)

the study was still in its first stage and the planning of the work was the most important question to be considered. However, he was not altogether in agreement with the suggestion that the Sub-Commission should concentrate on Chapter II of the progress report, as it would be difficult to have a fruitful discussion of the definition of the term "discrimination" as long as the analysis of material was not complete. Any discussion of the subject of Part II would therefore have to be of a very general nature.

Mr. SAARIO agreed with Mr. Hiscocks that it was desirable to complete the study as soon as possible. More staff might become available to assist the Special Rapporteur when the study of discrimination in the matter of religious rights and practices was completed. In his view, Part II of the progress report could usefully be discussed by the Sub-Commission, as valuable comments might be made on the meaning of the term "discrimination" in the matter of political rights.

Mr. HISCOCKS hoped that his comments on the scheduling of future work and on the desirability of securing further assistance from the Secretariat would not be interpreted as a criticism of the Special Rapporteur. No such criticism had been intended and the Sub-Commission was indeed fortunate in having persuaded the Special Rapporteur to accept his assignment. It would, however, be difficult to make a strong case for an increase in Secretariat assistance until a firm time-table of work had been established. Not only had the Sub-Commission been unable to speed up its work on the study, as had been hoped, but it even failed to keep to the time-table envisaged by the Secretary-General. It was therefore important to establish a clear-cut programme for future work on the study.

Mr. SANTA CRUZ said that he would reply to some of the points made by members of the Sub-Commission when the latter began its substantive discussion of the progress report. His inability to progress further with the study had been due to two causes: the inadequacy of the material facilities available and the need to obtain more material for the "country studies". He agreed with Mr. Hiscocks that further Secretariat assistance might be obtained if the Sub-Commission drew up a clear-cut programme for the completion of the study.

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(Mr. Santa Cruz)

The Economic and Social Council and the Commission on Human Rights had appointed the Sub-Commission as being the most efficient and rapid means of making the studies on discrimination. That being the case, there was no reason why the Sub-Commission should not be provided with the necessary tools to perform its task. While the ultimate authority in such matters was the Fifth Committee and the General Assembly itself, he did not believe that the Secretary-General had ever specifically requested the General Assembly to provide further resources for the studies. The responsibility of the Secretary-General was clear and he believed it would be useful for the Sub-Commission to hear the latter's representative on the question. The Sub-Commission's own views did not perhaps carry sufficient weight with the General Assembly but he believed that some heed should be paid to its requirements, in view of the sacrifices of time and effort made by its members in order to serve an important objective of the United Nations. Even if the term of office of the current members were to end shortly, the matter should be fully discussed with a view to the future. His comments implied absolutely no criticism of the hard-pressed staff of the Division of Human Rights.

The Sub-Commission should concern itself, as the Chairman had said, not only with discrimination, but also with the protection of political rights. Further comments on that question would provide him with useful guidance in his work, and new ideas might emerge from the discussion which could usefully be transmitted to the Commission on Human Rights. Part II of the progress report was not only concerned with the definition of "discrimination". In it he had attempted to establish the limits of the study of discrimination in the matter of political rights.

Paragraphs 1 to 15

The CHAIRMAN expressed his disappointment at the very small response of the NGO's, which were not hampered by the limitations necessarily imposed on Governments, to the Special Rapporteur's request for information on discrimination in the matter of political rights, particularly in view of their ready response on the question of discrimination in the matter of religious rights and practices.

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Mr. SANTA CRUZ, Special Rapporteur, said that one reason why it was desirable to obtain material from other sources in addition to Governments was that information supplied by Governments inevitably tended to deal more with the legislative position and less with the practice. The Sub-Commission had to consider both aspects, ascertaining whether discrimination existed and whether legislation against discrimination was being applied.

In reply to a question from Mr. HISCOCKS, Mr. SANTA CRUZ said that he had no objection to the adoption by the Sub-Commission of a resolution drawing attention to the problem of Secretariat assistance. Further information might be forthcoming from Governments, which would help to complete the study, and he deemed it inadvisable to address a new appeal to them. He left it to the Sub-Commission to decide whether a further appeal should be addressed to the NGO's.

The meeting rose at 5.20 p.m.