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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION  
AND PROTECTION OF MINORITIES

Eleventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND SIXTY-NINTH MEETING

Held at Headquarters, New York,  
on Thursday, 15 January 1959, at 10.45 a.m.

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

PRESIDENT:

<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. KRISHNASWAMI	(India)
	Mr. MACHOWSKI	(Poland)
	Mr. ROY	(Haiti)
	Mr. SANTA CRUZ	(Chile)
	Mr. SPAULDING	(United States of America)
<u>Also present:</u>	Miss MAÑAS	Representative of the Commission on the Status of Women

Representatives of specialized agencies:

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

<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)

Mr. HUMPHREY (Secretariat) replied to the two questions put by Mr. Hiscocks at the previous meeting. Financial provision had been made for the recruitment of an additional staff member at the professional level and several members of the Secretariat had been temporarily transferred to work for the Sub-Commission but that, owing to a shortage of funds and of sufficiently qualified personnel, the Secretariat could not increase the staff assigned to that work in the foreseeable future.

He drew the Sub-Commission's attention to Economic and Social Council resolution 665 D (XXIV) and to the recommendation in paragraph 3 (b) of the annex to resolution 664 (XXIV), in which the regional and functional commissions were requested to leave to the Secretary-General decisions on the timing of reports requested by them.

Mr. SANTA CRUZ, Special Rapporteur, recalled that the work of the United Nations in the field of human rights consisted mainly of the studies carried out by the Commission on Human Rights and by the Sub-Commission on certain specific rights proclaimed in the Declaration of Human Rights. The Sub-Commission's programme of work was clearly defined but, as the representative of the Secretariat had just confirmed in his statement, the time-limit of two years which had been envisaged as adequate for the preparation of the studies could not be adhered to, inasmuch as the Secretary-General had not deemed it necessary or desirable to make good the shortage of highly qualified technical staff by requesting the necessary allocation of funds. He realized that an organ such as the Sub-Commission did not carry much weight with the higher organs; none the less, he believed that they should facilitate the work of those who were devoting themselves to the accomplishment of one of the most important tasks laid down by the Charter.

The CHAIRMAN, speaking as a member of the Sub-Commission, pointed out that the Secretariat's multifarious duties made its task particularly difficult.

Preparation of "country studies" (paragraphs 16 to 18)

There were no observations.

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Nature of the Report (paragraphs 19 to 21)

There were no observations.

Plan envisaged for the Study

The CHAIRMAN pointed out that the Special Rapporteur had made changes in the plan for the Study as set out in annex I to the interim report which he had made to the tenth session (E/CN.4/Sub.2/L.124).

Speaking as a member of the Sub-Commission, he said that the Special Rapporteur should not hesitate to change the plan again, if he saw fit, at any time prior to the drafting of his final report.

Mr. MACHOWSKI drew attention to the position which had arisen in consequence of the view of the Special Rapporteur, expressed in paragraph 26 of his report, that he could not fully implement certain of the terms of his mandate by following the original plan. While he (Mr. Machowski) did not wish to give any definite opinion on the reasons for which the Special Rapporteur had decided to make changes in his plan for the Study, or to make any suggestions on the subject, he thought it would be worth considering the plan for enumeration envisaged in paragraph 31, unless the Special Rapporteur felt he would prefer greater freedom of action or a more detailed plan which he could transmit to the Sub-Commission in case of need.

Mr. SAARIO felt, as regards paragraph 24, that the Special Rapporteur should be allowed complete freedom; he should, for instance, feel free to quote specific examples in his analysis, for example, in the form of footnotes.

Mr. FOMIN was afraid that if the Special Rapporteur quoted specific examples he would place himself in an embarrassing position vis-à-vis the countries in question. Mr. Krishnaswami's attitude on that point, in his study on discrimination in the matter of religious rights and practices, seemed to have more to recommend it.

One of the aims of the Study was to reach the most objective general conclusions on ways of preventing various forms of discrimination. Thus, he agreed with the views on national minorities expressed by Mr. Krishnaswami at the previous meeting; he would appreciate it if Mr. Santa Cruz would also deal in his report in

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(Mr. Fomin)

a practical manner with the special right of national minorities to protection of their political and other rights.

Mr. HISCOCKS welcomed Mr. Santa Cruz's decision that in preparing the study he would not follow the same plan as was followed for the country studies.

He suggested to the Special Rapporteur that he should reverse the order of the two parts envisaged in paragraph 32. Such an order would be more logical and would make it easier for the general reader to follow the report.

Lastly, he requested the Special Rapporteur to be more explicit regarding the measures of the second category referred to in paragraph 33; he presumed Mr. Santa Cruz had in mind measures to improve economic, social and educational standards and so reduce existing distinctions based on a backward stage of development.

Mr. KRISHNASWAMI said that the last question raised by Mr. Hiscocks was very important. If the political rights of one part of the population of a country were limited on the grounds that their standard of education was not high enough, the effect would be to retard both cultural and political progress. He would confine himself to an example from his own country, India, where the authorities had deliberately made it easy for the representatives of primitive tribes to become members of legislative assemblies; experience had shown that such representatives had learnt rapidly as a result of contact with their more advanced colleagues, and that the contribution of such representatives to the debates had often made it possible to take useful measures for the benefit of the areas from which they came.

With regard to the preparation of the report on discrimination in the matter of political rights, he hoped that non-governmental organizations would collaborate more actively with the Special Rapporteur. That subject, perhaps the most delicate of all those with which the Sub-Commission was concerned, needed to be fully documented, and if the non-governmental organizations did not provide sufficient material, the Special Rapporteur would be obliged to draw to a greater extent on the work of scholars and scientists who were specialists in the social and political sciences. That would make his task even more onerous.

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Mr. SAARIO, clarifying his previous statement, said that it was not the purpose of the report to list cases in which Governments might have violated political rights, but examples could be mentioned of countries which had experienced difficult situations and had successfully overcome them. The report would thus be constructive and useful to countries which were facing similar difficulties.

The CHAIRMAN, speaking as a member of the Sub-Commission, in general approved of the plan proposed by the Special Rapporteur in paragraph 22. However, he thought that it might be more logical to reverse the order of parts I and II, since study of the material should make it possible to analyse the two concepts of political rights and discrimination in the matter of political rights. The Special Rapporteur would then be faced by a very important question: should he define and study those concepts in their strict sense, which was essentially the right of the population of a country to take part in managing its public affairs, or should he adopt a wider point of view, even if that meant trespassing in other fields? He (Mr. Awad) favoured the second method. He hoped, for example, that Mr. Santa Cruz would be able to study cases in which a Government had undertaken large-scale transfers of population, or where persons had been prevented from leaving or re-entering their country at will. Moreover, there were also countries where there was perhaps no discrimination in the narrow sense of the term because the withholding of political rights applied to almost the whole population; nevertheless such a situation called for a careful examination, whether the country was ruled by a colonial government or an oligarchy. Obviously the Special Rapporteur must have full latitude to carry out the study as he deemed fit; he (Mr. Awad) had merely wished to make certain suggestions.

Mr. SPAULDING said that he fully agreed with the views expressed by the Special Rapporteur and the Chairman, and considered that the proposed study should include all cases of violation of the political rights enjoined by the United Nations Charter and by the Universal Declaration of Human Rights, especially violations committed by Governments themselves.

(Mr. Spaulding)

He described practical problems with which the United States had dealt in its struggle against racial discrimination in the matter of political rights. In some areas of the country, especially in the South, coloured citizens had sometimes been prevented from joining political parties. In April 1944 the Supreme Court had decided that political parties, because of the part they played in the political life of the country, could not be considered as private organizations, and that they did not have the right to refuse admission to persons belonging to certain groups. Later, the Supreme Court, on the basis of the Fourteenth Amendment to the United States Constitution, had handed down decisions against discrimination in housing and in trade-union membership, and, in 1954, against discrimination in education. In 1957 Congress had adopted legal measures to protect voting rights. The historical development that he had outlined was closely connected with the questions examined by the Special Rapporteur in paragraph 33 of his progress report and he hoped his account would be useful to Mr. Santa Cruz.

The meeting rose at 11.40 a.m.