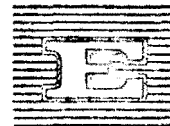


UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/Sub.2/SR.152
3 February 1955

ORIGINAL: ENGLISH

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

Seventh Session

SUMMARY RECORD OF THE HUNDRED AND FIFTY-SECOND MEETING

Held at Headquarters, New York,
on Tuesday, 11 January 1955, at 3 p.m.

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studies

PRESENT:

<u>Chairman:</u>	Mr. SORENSEN	(Denmark)
<u>Rapporteur:</u>	Mr. INGLES	(Philippines)
<u>Members:</u>	Mr. AMMOUN	(Lebanon)
	Mr. AWAD	(Egypt)
	Mr. CHATENET	(France)
	Mr. CASANUEVA	(Chile)
	Mr. FOMIN	(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)

Representatives of specialized agencies:

Mr. DUNAND	International Labour Organisation
Mr. METRAUX	United Nations Educational, 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
	Mrs. FOX	World Federation of United Nations Associations

Representatives of non-government organizations: (continued)

Category B and Register:

Mr. LEWIN	Agudas Israel World Organization
Mr. NOLDE	Commission of the Churches of International Affairs
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. JOFTES	Co-ordinating Board of Jewish Organizations
Miss HITCHCOCK } Miss DODD }	International Alliance of Women
Mr. HARDMOND	National Baptist Convention, USA Inc.
Mr. SIENIEWICZ	Nouvelles Equipes Internationales
Mr. PRICE	Pax Romana
Mr. JACOBY	World Jewish Congress
Mr. HUMPHREY	Director, Division of Human Rights
Mr. LAWSON	Secretary of the Sub-Commission

Secretariat:

STUDY OF DISCRIMINATION IN THE FIELD OF EMPLOYMENT AND OCCUPATION: PROGRESS
REPORT BY THE INTERNATIONAL LABOUR OFFICE (E/CN.4/Sub.2/166, E/CN.4/Sub.2/L.81)
(concluded)

Mr. THORMANN (International Federation of Christian Trade Unions) said that the Federation had noted with satisfaction the work already accomplished by the ILO on the subject of discrimination in employment and occupation in response to the resolution which the Sub-Commission had adopted at its previous session. The ILO was undoubtedly well qualified to undertake the study, and the IFCTU therefore joined in the hope expressed by the Sub-Commission that the expected report would be completed in due course and that it would lead to appropriate action to safeguard essential human rights.

The CHAIRMAN invited the Sub-Commission to continue its consideration of the draft resolution submitted by Mr. Krishnaswami (E/CN.4/Sub.2/L.81).

Mr. FOMIN thought that it would be desirable to insert the words "in the field of employment and occupation" before "to the eighth session of the Sub-Commission". The present wording, "this field", was not explicit.

The proposal was adopted.

Mr. ROY proposed the transposition of paragraphs 1 and 2.

It was so agreed.

The CHAIRMAN felt that it might be better to use the word "Recalling" instead of "Recalls" in what was now paragraph 1, which would then become the preamble.

It was so agreed.

Mr. HALPERN proposed the addition of the words "and expresses its appreciation to the ILO for having undertaken this task" in paragraph 1 of the operative part of the draft resolution.

The CHAIRMAN observed that the point was controversial. It might be better not to include a formal expression of appreciation in the draft resolution. However, he had no strong feelings in the matter.

Mr. HALPERN pointed out that the suggestion had first been made by Mr. Awad. He would defer to Mr. Awad's views.

Mr. AWAD explained that he had suggested the inclusion of an expression of appreciation because he felt that the draft resolution should reflect the sentiments expressed by members of the Sub-Commission. It had been his impression that most members were appreciative of the efforts which the ILO had made so far.

Mr. FOMIN felt that an expression of appreciation of the ILO's efforts would not reflect the spirit of the debate which had taken place. The Sub-Commission, while it understood the reasons for the ILO's inability to present its report for consideration at the current session, was not satisfied with the rate of progress which the ILO had achieved. Otherwise, it would not express the hope in the draft resolution that the ILO would present its report to the eighth session of the Sub-Commission. The ILO could ascertain the views of individual members by consulting the summary records.

Mr. CASANUEVA suggested that the Sub-Commission might go so far as to express its satisfaction both at the content of the communication it had received from the ILO and the progress which the latter had achieved.

Mr. ROY said that if the majority of the Sub-Commission wished to include in the draft resolution an expression of appreciation for the work which the ILO had done, he would support Mr. Casanueva's suggestion.

The CHAIRMAN observed that the element of controversy had been heightened. It was his impression from the debate that the Sub-Commission was not fully satisfied with the communication it had received from the ILO although it understood the reasons for the ILO's inability to produce a report. Some members had expressed their appreciation of the work which the agency had already done.

Mr. CHATENET suggested, for the sake of unanimity, that the Sub-Commission merely express its confidence that the ILO would do its best to carry out the task entrusted to it.

Mr. HALPERN felt that his proposal met the doubts which had been expressed by various members.

Mr. HISCOCKS supported Mr. Halpern's proposal.

Mr. KULAGA pointed out that the Sub-Commission had not deemed an expression of appreciation to the ILO necessary in the resolution it had adopted the previous year when the ILO had undertaken to make such a study. There was less reason to do so now.

Mr. FOMIN agreed with Mr. Kulaga's view. Moreover, the Sub-Commission would be lacking modesty if it expressed appreciation of the ILO's acceptance of a task which had been entrusted to it by the Economic and Social Council. Furthermore, it was customary to express appreciation after and not before a task had been completed. The best course would be to include such expressions by members in the Sub-Commission's report and not in its draft resolution.

Mr. HALPERN formally moved his proposal to insert the words "and expresses its appreciation to the ILO for having undertaken this task" at the end of paragraph 1 of the operative part of the draft resolution.

The proposal was adopted by 4 votes to 2, with 6 abstentions.

This draft resolution as a whole, as amended, was unanimously adopted.

Mr. FOMIN explaining his vote, said that he had voted for the resolution as a whole because a unanimous decision would be conducive to future progress. He had opposed the amendment because expressions of gratitude were premature; moreover, the large number of abstentions, showed that other members beside himself had had misgivings in the matter.

Mr. HALPERN said that he had insisted that the amendment should be put to the vote in order to remove all doubt as to the expression of appreciation. The mere fact that tributes paid to the ILO by some members would appear in the record was insufficient. The number of abstentions did not in any way detract from the affirmative nature of the vote.

Mr. KULAGA said that he had supported the resolution on principle but had opposed the amendment for the reasons he had given.

Mr. ROY said that the fact that he had abstained from voting on the amendment did not denote that he felt no gratitude to the ILO; the insertion had merely seemed unnecessary.

METHODS TO BE ADOPTED BY THE SUB-COMMISSION IN CARRYING OUT FUTURE STUDIES

The CHAIRMAN invited comments on agenda item 7. There were no basic documents referring to the item as such. However, a number of suggestions concerning methods could be found in the documents to be discussed under agenda item 8. As long as the discussion was confined strictly to methods, it would be perfectly in order for members to refer to those suggestions.

Mr. ROY recalled that, ever since 1947, it had been generally agreed that the most satisfactory method of carrying out an exhaustive study was through the appointment of a special rapporteur. The value of that method had recently been confirmed by the excellent work already accomplished by the Special Rapporteur on discrimination in the field of education. Unfortunately, the decisions of higher bodies did not always make such appointments easy. For example, General Assembly resolution 677 (VII) precluded the payment of remuneration to special rapporteurs. The Sub-Commission had pointed out the difficulty of entrusting special work to any of its members if they could not be compensated for the disruption of their other activities. Its request to the General Assembly to reconsider resolution 677 (VII) had been approved by the Commission on Human Rights but unfortunately rejected by the Economic and Social Council. The Fifth Committee had likewise seen fit to confirm the existing position. That basic factor severely handicapped the Sub-Commission, as most of its members could not now accept appointments as special rapporteur.

(Mr. Roy)

The three preliminary reports before the Sub-Commission (E/CN.4/Sub.2/162, E/CN.4/Sub.2/165, E/CN.4/Sub.2/167) all contained suggestions as to the best method of carrying out future studies. The most satisfactory suggestion seemed to be that of Mr. Santa Cruz that a special rapporteur from the Sub-Commission should be assisted by the Secretariat, especially in the field of research. Such a method would ease the special rapporteur's burden. By contrast, the suggestion that studies should be carried out by a United Nations consultant was open to the objection that the Secretariat was properly reluctant to take any position on issues with political implications and that an expert appointed by the Secretary-General would be in much the same situation as a member of the Secretariat.

Mr. FOMIN said that if the Sub-Commission intended to raise political issues and criticize governments, it would be guilty of serious default in its duty and its work would prove ineffective regardless of the method employed. If, on the other hand, the Sub-Commission adhered to accepted United Nations practice and sought to formulate objective recommendations, the question of method could be relatively easily solved.

He would not criticize the Sub-Commission's past decisions concerning appointments of special rapporteurs. Nevertheless, the Sub-Commission's work could be carried out without placing such a financial burden on the United Nations. Moreover, any appointed expert, regardless of his standing, might present subjective views influenced by governments or groups. Other United Nations bodies had already experienced such difficulties; the Reports on Freedom of Information and on Forced Labour had been so flagrantly one-sided that the discussions on those subjects had degenerated into political wrangles. Consequently, the Economic and Social Council had decided to discontinue the practice of appointing special rapporteurs, as there was no doubt that the consequences could be dangerous.

It had been suggested that the drafting of a report for the Sub-Commission might involve political issues and that the Secretariat was therefore precluded from undertaking the task. Such an assumption was hardly borne out by facts. The Commission on the Status of Women had always used the Secretariat for the

collection of material, even when dealing with the political rights of women, without encountering any difficulty. Moreover, as a result of that practice, the Commission on the Status of Women now had at its disposal very exhaustive material. The Sub-Commission would be well-advised to follow that example and entrust the preparation of all future reports to the Secretariat, which could obtain information from every government source and possessed the proper facilities for research. If that procedure were adopted, the studies received by the Sub-Commission would be more objective and comprehensive and no objections could be raised on budgetary grounds.

He would add, as the expert from the USSR, that he was categorically opposed to the appointment of a rapporteur from outside the membership of the Sub-Commission.

He was also opposed to the transformation of the Sub-Commission into a political organ. For example, Mr. Halpern had suggested as a method of study the questioning of refugees. If facts about a particular country were to be gathered from persons who had betrayed that country, the Sub-Commission would be transformed into a forum for the exchange of political charges that had nothing in common with its purpose.

As an organ of the United Nations, the Sub-Commission should not deal with matters essentially within the domestic jurisdiction of States. That principle applied also to the collection of documents. In that connexion he drew attention to the fact that the Commission on the Status of Women, the Trusteeship Council and other bodies of the United Nations, in investigating matters within their fields of competence, accepted only documents from Government sources.

He was aware that the Sub-Commission's higher bodies had, in the case of the study of discrimination in education, approved the use of material from other sources including non-governmental organizations. However, the Sub-Commission's relations with those organizations were governed by Economic and Social Council resolution 288 B (X) and there was nothing in that resolution that authorized non-governmental organizations to furnish material on situations in foreign countries. For example, the Anti-Slavery Society, in furnishing information on the existence of slavery, was expected to base that information on official sources, and not on newspaper articles or private communications.

(Mr. Fomin)

Apparently, some members sought to widen the basis of consultations with non-governmental organizations even on so delicate a matter as discrimination on religious grounds. What that would mean in terms of transforming the Sub-Commission into a forum for political debates could be judged from what had occurred at the 150th meeting when the representative of one non-governmental organization had introduced political material in her statement.

Even more objectionable was the collection of information from private persons. He drew attention to the fact that the Commission on Human Rights had decided that no action should be taken on individual complaints of violations of human rights. Information on discrimination received from private persons constituted such a complaint and the Sub-Commission, if it used such material, would be disregarding the decision of its parent body.

The Sub-Commission should therefore confine the sources of its material to Governments, and organs of the United Nations such as the Economic and Social Council, the Trusteeship Council, the Committee on Information from Non-Self-Governing Territories, the standing Committee on Petitions and the Commission on the Status of Women. By so doing, it would keep to its terms of reference and work efficiently instead of spending a good deal of its time on extraneous matters.

The CHAIRMAN said that he had understood Mr. Halpern's intention in proposing the inclusion of the present item in the agenda to be to consider how the proposed studies should be carried out rather than the sources of material. Unless there was a feeling that the discussion should be broadened, he thought that the question of sources could be deferred until the examination of each of the suggested studies under item 8 of the agenda.

Mr. AMMOUN felt that the question of sources could not be separated from that of methods. However, he suggested that further consideration of item 7 should be deferred because it was not logical to attempt generalizations about the studies before examining what was specifically involved in each situation, and the proposals of the three rapporteurs under item 8.

Mr. CHATENET agreed with Mr. Ammoun. He, for one, would not know how to do something until he knew what it was that had to be done. Moreover, if the discussion was to be broadened to include sources, the wording of the agenda item might be amended accordingly.

Mr. ROY felt that the only justification for having item 7 on the agenda was the view of some members that principles could be developed that were applicable to all studies. However, if it was agreed that each subject called for its own special methods of study, there was no need to consider item 7 at all and, under rule 45, the discussion could be adjourned, as Mr. Ammoun had suggested.

Mr. HALPERN said that he had proposed the inclusion of item 7 to consider ways and means of overcoming some of the difficulties that Mr. Roy had described in his earlier statement. However, that question seemed trivial after the startling statement of Mr. Fomin, and he appreciated Mr. Fomin's frankness in stating his views. Apparently, Mr. Fomin disagreed with his predecessor, Mr. Emelyanov, since at the last session the latter had voted in favour of the Sub-Commission's resolution B, which stipulated that the non-governmental organizations were one of the main sources of the Rapporteur's material. Mr. Fomin had invoked article 2 (7) of the Charter and taken such an extreme view that no useful work could be done by the Sub-Commission. Also he would impose on the Sub-Commission's activities of such restrictions as to render it impotent. If its functions were to be reduced to those of merely collecting and cross-indexing material supplied by Governments, it might as well disband.

Mr. FOMIN denied that his views were not in harmony with those of Mr. Emelyanov. He would have voted on the resolution in the same way as Mr. Emelyanov, who would have preferred something else but, in a spirit of compromise, had voted for what was acceptable. Moreover, there was nothing startling about the position he had just taken. It had been stated before on a number of occasions in various organs of the United Nations.

(Mr. Fomin)

It was immaterial to him whether item 7 was discussed now or after item 8, but there were two inseparable aspects to the question of methods: the person who prepared the reports; and the material he used. He would add that if it was decided that the Secretariat should prepare the studies, there would be no problem as to the material, since the Secretariat observed certain rules in the matter.

Mr. HISCOCKS thought it useful that Mr. Fomin had raised the question of sources. He agreed that a discussion of methods must deal with questions of personnel and sources. It would be useful to have a general debate on item 7 and, at the appropriate time, the Sub-Commission could take up item 8.

Mr. HALPERN supported Mr. Hiscocks' proposal. He still failed to see how Mr. Fomin's statement was compatible with Mr. Emelyanov's affirmative vote on a resolution that laid down contrary principles in connexion with a study that everyone had agreed should be a model for future studies. In any event, the statement had raised fundamental issues on which members should be allowed to express their considered opinions.

The CHAIRMAN asked whether it was agreeable to the Sub-Commission to (1) hold a general debate on the present item, (2) proceed to take up each of the three reports in the order in which they appeared in agenda item 8 and (3) take a decision on which of the suggested studies it would pursue.

It was so agreed.

The meeting rose at 5 p.m.