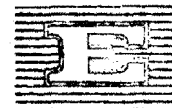


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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Seventh Session

SUMMARY RECORD OF THE HUNDRED AND FORTY-FIFTH MEETING

Held at Headquarters, New York,
on Thursday, 6 January 1955, at 10.50 a.m.

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

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PRESENT:

<u>Chairman:</u>	Mr. SORENSEN	(Denmark)
<u>Rapporteur:</u>	Mr. INGLES	(Philippines)
<u>Members:</u>	Mr. AMMOUN	(Lebanon)
	Mr. AWAD	(Egypt)
	Mr. DIAZ CASANUEVAS	(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 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
	Miss KAHN	World Federation of Trade Unions
	Mrs. FOX	World Federation of United Nations Associations

Category B and Register:

Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. JOFTES	Co-ordinating Board of Jewish Organizations
Miss GUTHRIE	International Alliance of Women

Category B and Register: (cont'd)

	Mr. JACOBY	World Jewish Congress
	Mr. PENCE	World's Alliance of Young Men's Christian Associations
	Mrs. POLSTEIN	World Union for Progressive Judaism
<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. DIAZ CASANUEVAS said that he would not comment at the present stage on the substance of the question of discrimination in education but would confine himself to the problem of methods faced by the Special Rapporteur. The Sub-Commission and the Commission on Human Rights had sought long and unsuccessfully for a universally applicable definition of discrimination and the Special Rapporteur was in the anomalous position of having to ask certain sources for information about discrimination in spite of the absence of agreement on its meaning. In any event, he thought that any definition agreed on should be related to the objectives the Sub-Commission sought to achieve.

He was particularly interested in the distinction between "static" and "deliberate" discrimination drawn in paragraph 134 of the progress report, as well as in the Special Rapporteur's question at the last meeting as to how much of the report should be devoted to each of those categories. In his view, a Government invoking economic or geographical reasons to explain why a majority of the children did not attend school might justly assert that access to education was not denied on racial, religious or other grounds and such a Government could not be accused of practising deliberate discrimination. Nevertheless, so far as the children were concerned, the situation was discriminatory and if the report failed to take that type of discrimination into account, it would be dealing only partially with the problem. Conditions would tend to improve only to the extent that Governments were made aware of the discriminatory results of such conditions as insufficient schools, lack of teachers and child labour.

The structure of a country's educational system might itself lead to discrimination. In many countries secondary education was still considered to be mainly a preparation for the university and schools were mostly of the lycée or gymnasium type with curricula based on the humanities. Such a situation contributed to the denial of real secondary education to a large segment of the school-age population not interested in professional careers. However, the trend was now towards the diversification of secondary education and the preparation of the students for life in a technical age. The report should draw attention to

that trend towards the democratization of "aristocratic" secondary education and the Sub-Commission should link it with the effort to prevent discrimination in the field of education.

He was surprised that the Special Rapporteur's terms of reference failed to mention as a specific source of information national and international teachers' organizations. Teachers were in direct touch with pupils and families, and his own contacts with teachers' representatives in the International Labour Organisation had convinced him of their ability to go beyond the narrow field of their occupation and to think in broad social terms. He hoped that the Special Rapporteur would bear in mind so important a source of information, since as stated in paragraph 83 of the progress report he was not limited to the sources expressly mentioned in his terms of reference.

Mr. EMELYANOV said that he had heard with mixed feelings the suggestion made at the last meeting that at the present stage the Sub-Commission should merely take note of the progress report without discussing the substance of the question under consideration. The suggestion had already had the effect of limiting some of the speakers in the expression of their views. Adoption of the procedure suggested would show a lack of respect for the world-wide struggle for universal compulsory education and would run counter to the Sub-Commission's objectives. An unrestricted debate on substance would be in the interest of the United Nations and of humanity as a whole. It seemed to him that even from the procedural aspect questions of method could not be examined without a discussion of substance. He felt sure that Mr. Ammoun would welcome further guidance from the Sub-Committee in completing the task on which he had already expended considerable effort, for which all members were grateful. The criticisms he was about to make did not imply that there were no positive elements in the progress report.

He wished to refer first to the principles that should govern the preparation of the report. In his view, the report should in future be framed more on the lines of the basic documents of the United Nations and should avoid references to controversy in United Nations organs. Perhaps a very brief

(Mr. Emelyanov)

summary of the history of the question would be in order but he seriously doubted whether material such as that in paragraphs 73, 81, 125 and 135 should be included.

He did not understand why there should be so much stress in the progress report on religious education and even a favourable reference to the educational system of Hitlerite Germany while the colossal effort of the People's Republic of China to eliminate discrimination was not brought out.

He did not think there was any need to dwell on the absence of an agreed definition of discrimination at such length. He had in the past agreed with Mr. Halpern on the difficulty of finding a universally applicable definition of a minority. However, that did not prevent countries from using a definition applicable to their own needs, as Mr. Krishnaswami had demonstrated in the case of India in his statement at the last meeting. The report could emphasize, without the need for a definition, that discrimination in education in certain circumstances was a violation of human rights and part of a much wider social problem.

Mr. Ammoun's view that he would exceed his terms of reference and be guilty of a breach of confidence if at the present stage he provided details of the documentation he had received was regrettable. The Sub-Commission's views on the nature of the documentation might have proved valuable to the Special Rapporteur in his future work. Again, there was unnecessary vagueness as to the sources used. If the report was to be objective, members would have to be in a position to form a judgment on the sources.

The indisputable objective in the advancement of education was that it should be universal. Many countries had achieved that objective and if a particular country was failing to do so the Special Rapporteur should examine the reasons.

There was no basis for the distinction between "static" and "deliberate" discrimination. If economic conditions actually made it impossible to provide universal education, that was a valid reason and discrimination did not enter the picture. In the case of his own country, the Soviet Union, the economic basis for universal secondary education was lacking in the early days. As soon as that

(Mr. Emelyanov)

basis had been created, universal secondary education had been introduced. Today, it would be unreasonable to accuse the Soviet Union of practising discrimination in education on the ground that it failed to provide universal college education. That would have to await the achievement of an even higher economic level. On the other hand, if economic or other conditions that had no basis in reality were invoked as an excuse for the denial of education, there would be discrimination. Thus there was no justification for the Special Rapporteur's division of the concept into two categories.

Finally, it seemed to him that the expression of gratification at the decision of the United States Supreme Court was premature. It remained to be seen how the decision was applied.

Mr. HISCOCKS paid a tribute to the Special Rapporteur for his achievement. The list in paragraph 108 of the progress report (E/CN.4/Sub.2/163) showed how impressive was Mr. Ammoun's work. He had also established a very close relationship with UNESCO. Nevertheless, more information was needed on certain preliminary questions.

Firstly, the exact value of the UNESCO contribution had not been made clear. While paragraph 116 of the progress report made clear the decision of the Executive Board that UNESCO would be careful to refrain from all comment, it was surprising to read in paragraph 115 that none of the documents placed at the Special Rapporteur's disposal by UNESCO had been found to have a direct bearing on the subject. Even now he had before him a UNESCO booklet on the educational system in New Zealand, showing how an ideal solution of the various problems had been found in a country containing a substantial minority. Documents of that type certainly had a direct bearing on the subject and UNESCO would greatly assist the Sub-Commission by placing such material, without comment, at the Rapporteur's disposal.

Secondly, he wished to know why, if it was stated in paragraph 119 that Belgium, France and the United Kingdom had withheld their replies to the Special Rapporteur, they were listed in paragraph 108 among the countries in respect of which studies had been prepared.

(Mr. Hiscocks)

Thirdly, there was an element of uncertainty about the main sources of material used by the Special Rapporteur. The original text of resolution B (E/CN.4/Sub.2/163, page 15) listed as such main sources Governments, the Secretary-General, specialized agencies and non-governmental organizations. The Commission on Human Rights had subsequently added "writings of recognized scholars and scientists". The Special Rapporteur had, quite naturally, relied principally on the replies of Governments. It was not clear, however, what course he proposed to adopt where a Government gave a purely negative reply. The Sub-Commission should indeed devote some time to a special discussion on the subject of sources, as some other details were also in doubt. Thus, the term "to some extent" in paragraph 80 implied that non-governmental organizations were sources of a lower category than the others, although the Sub-Commission had never expressly made such a statement. Furthermore, it seemed inadequate to say that the writings of scholars could not be "completely neglected" (paragraph 125). Such a source, especially added by the Commission on Human Rights, could yield a vast amount of information and the Sub-Commission should decide how the Special Rapporteur might use it to the best advantage.

Fourthly, by resolution G, adopted at its sixth session, the Sub-Commission had requested the Special Rapporteur to report on any relevant facts concerning minorities which came to his attention during his study. It would be interesting to know what facts he had ascertained and whether he considered that the handling of that aspect of the problem would involve an embarrassing addition to his burden.

Mr. INGLES felt that the Sub-Commission should not, at the present stage, embark on a general debate of the question. Document E/CN.4/Sub.2/163 was not a final report but merely a progress report, as envisaged in paragraph II (b) (i) of resolution B, and the question to determine was how that paragraph should be interpreted. The Sub-Commission had to decide whether the Special Rapporteur should merely indicate which Governments or organizations had co-operated or withheld assistance or whether he should also give the Sub-Commission an idea of the nature of the material collected.

At the preceding meeting, the Special Rapporteur had said that a discussion of the material at the present stage might prejudice his final report. That

admonition was a good reason why the Sub-Commission should desist from any discussion of the substance. It should confine itself to an examination of the procedure followed by the Special Rapporteur. A re-opening of discussion on the guiding principles would be justified only if the Sub-Commission decided to change the Special Rapporteur's terms of reference. Otherwise members should restrict their comments to constructive suggestions designed to help the Special Rapporteur.

Certain points in the progress report should be cleared up. Firstly there was some difficulty in assessing the UNESCO contribution. While UNESCO's financial and administrative assistance had been very valuable, the representative of UNESCO at the last session of the Sub-Commission had promised assistance in the form of new research if approved by the Executive Board.

Secondly, the list of countries in respect of which studies had been prepared included certain dependent territories bracketed with the Powers responsible for their welfare. It would be helpful to know what the position was of the dependent territories that were not mentioned.

Thirdly, the progress report stated in paragraph 126 that periodicals and the press seemed the principal sources of information outside, the main sources. There existed other valuable sources, such as the teachers' organizations to which Mr. Diaz Casanuevas had referred. In that connexion, the question arose whether the Special Rapporteur should take into account communications from individuals. Where such communications were published in print they were

sometimes in the same category as periodicals and the press. As the progress report pointed out, however, in paragraph 126, it had to be decided how much credence could be given to the information so published. Consequently, it would be advisable also to give the Special Rapporteur a free hand to ascertain the value of private communications by using the same test of credibility.

Mr. CHATENET, while unconvinced as to the value of a general debate on a progress report, felt nevertheless that the exchange of views among members had served some purpose. The subject of the debate being a progress report, members should make every effort to assist the Special Rapporteur by offering suggestions which might guide him in his preparation of the final report. It would be wrong

(Mr. Chatenet)

to take positions of principle on the substance of the question until the Special Rapporteur had completed his work. The trust which the Sub-Commission had placed in Mr. Ammoun had been fully justified by the quality of the progress report. In that connexion, he had been particularly struck by the final section, entitled "Spirit of the Report".

He concurred in the view which Mr. Diaz Casanueva had expressed that the problem of discrimination in education should be considered in relation to the educational systems in various countries. Some thought might be given to the problem of adapting those different systems to the eradication of discrimination in education.

The discussions in the Sub-Commission had enabled members to obtain a clearer understanding of the exact meaning of discrimination. It was therefore inadvisable to try first to arrive at a rigid but necessarily abstract definition of the term and then to decide whether a particular educational system was discriminatory. The better course was to await first the Special Rapporteur's final report.

Discrimination in education might be considered in the light of the trend in modern educational systems towards specialized rather than general studies. The Sub-Commission might find, for instance, that discrimination existed in fact where an educational system based on too general a curriculum was applied without distinction to all students. While discrimination normally meant failure to apply identical standards in identical situations, application of the same standards to different situations might also constitute discrimination. A study of educational systems by the Special Rapporteur could help the Sub-Commission avoid the pitfall of laying down general rules applicable to all situations, rules which, while seemingly perfect, failed to take into account the difference in educational systems, and which might therefore be discriminatory.

Mr. KULAGA felt that the useful exchange of views in which members of the Sub-Commission had engaged proved that Mr. Krishnaswami had been right in insisting upon a discussion of the Special Rapporteur's progress report. The current debate showed the Commission's interest in the report and its wish to help Mr. Ammoun in his future work, as well as the Commission's responsibility in the matter.

A theoretical debate on the definition of discrimination would serve only to delay the Sub-Commission's work and the accomplishment of its objectives.

A study of discrimination in education, one of the worst forms of discrimination, was fully justified. However, a concrete plan with respect to the future work of the Sub-Commission on that particular subject would have been a useful addition to the report.

He fully agreed with Mr. Emelyanov's views on the sources of the documentation that the Special Rapporteur would use in preparing his report.

He recalled Mr. Ammoun's statement that documentation relating to Trust and Non-Self-Governing Territories would be used, although it had not been mentioned in the report, and stressed the importance of using those sources, if the study were to be as complete as it was meant to be.

The CHAIRMAN speaking in his personal capacity, observed that the important question of the relationship between discrimination and educational systems had been broached at the previous session during a debate on deficiencies in educational systems. It had been provisionally agreed then that such deficiencies per se were not the concern of the Sub-Commission, unless they gave rise to discriminatory practices.

While he agreed that at the present stage the Sub-Commission should not lay down too rigid a definition of discrimination, he felt nevertheless that its studies should be based on a conception of the term which was not unduly vague. According to a text adopted by the Commission on Human Rights, the prevention of discrimination was the prevention of any action which denied to individuals or groups of people the equality of treatment which they might wish. That definition was incomplete and the Sub-Commission might want to broaden it while abiding by the spirit of the text which the Commission on Human Rights had adopted. Discrimination implied a difference of treatment based on the group to which an individual belonged. Unequal treatment of an individual based, for instance, on his position in his family, would not constitute discrimination.

The educational system in most countries was based on classification, a process which was inevitable, although in certain respects being viewed with less favour than heretofore. In Denmark, for instance, psychologists had found that children suffered when divided into groups according to their ability.

(The Chairman)

Another factor in the educational system of some countries was the education of boys and girls in separate schools. Some thought should be given to the question whether that separate treatment constituted discrimination. It probably did not if the educational facilities were equal for both sexes.

Hence, the Sub-Commission would do well to bear in mind, in its studies of discrimination in education, that it must decide which elements in educational systems constituted harmless distinctions and which should be regarded as examples of actual discrimination.

The meeting rose at 1 p.m.