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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Sixteenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND TWENTY-THIRD MEETING

Held at Headquarters, New York,
on Friday, 24 January 1964, at 3.10 p.m.

CONTENTS

Draft international convention on the elimination of all forms of racial discrimination (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.308 and Add.1/Rev.1 and Add.1/Rev.1/Corr.1, L.309, L.314, L.334 (provisional text)) (continued)

PRESENT:

<u>Chairman</u>	Mr. SANTA CRUZ	(Chile)
<u>Rapporteur:</u>	Mr. CAPOTORTI	(Italy)
<u>Members:</u>	Mr. AWAD	(United Arab Republic)
	Mr. BOUQUIN	(France)
	Mr. CALVOCORESSI	(United Kingdom of Great Britain and Northern Ireland)
	Mr. CUEVAS CANCINO	(Mexico)
	Mr. FERGUSON	(United States of America)
	Mr. INGLES	(Philippines)
	Mr. IVANOV	(Union of Soviet Socialist Republics)
	Mr. KETRZYNSKI	(Poland)
	Mr. KRISHNASWAMI	(India)
	Mr. MATSCH	(Austria)
	Mr. MUDAWI	(Sudan)
	Mr. SAARIO	(Finland)

Also present: Mrs. LEFAUCHEUX Commission on the Status of Women

Observers from Member States:

Miss KRACHT	Chile
Mr. SAJJAD	India
Mr. BARROMI	Israel
Mr. SCHAAPVELD	Netherlands
Mr. QUIAMBAO	Philippines
Mrs. NASON	United States of America

Representatives of specialized agencies:

Mr. FARMAN-FARMAIAN	International Labour Organisation
Miss BARRETT	United Nations Educational, Scientific and Cultural Organization

Secretariat:

Mr. HUMPHREY	Director, Division of Human Rights
Mr. LAWSON	Secretary of the Sub-Commission

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.308 and Add.1/Rev.1 and Add.1/Rev.1/Corr.1, L.309, L.314, L.334 (provisional text)) (ccontinued)

The CHAIRMAN invited the experts to take up the draft article IV (E/CN.4/Sub.2/L.334 (provisional text)) formulated by the Working Group. That text was based on several provisions of the Universal Declaration of Human Rights, but as the wording of those provisions had not always been reproduced exactly, it should be regarded only as a provisional text.

Mr. SAARIO said that he would like a clear distinction to be drawn between civil and political rights on the one hand and economic, social and cultural rights on the other, in conformity with the Universal Declaration of Human Rights and the human rights Covenants. He pointed out, moreover, that the citizenship rights referred to in sub-paragraph (a) did not appear in the Universal Declaration of Human Rights, and he suggested that the phrase "political and citizenship rights" should be replaced by "civil and political rights". If that were done, it would be necessary to change the order of the sub-paragraphs.

Mr. KETRZYNSKI drew the attention of the experts to the words "not to permit" in the second line of article IV and recalled that, after a long discussion on the words "permit" and "admit", the Third Committee, and later the General Assembly, had adopted the latter word. While there might be scarcely any difference in French between the words "permettre" and "admettre", the Russian equivalent of "to admit" was considerably stronger than the equivalent of "to permit". He would therefore like "admit" to be substituted for "permit".

The CHAIRMAN remarked that the negative expression "not to permit" had been translated - rather injudiciously, as it seemed to him - in the French and Spanish texts by the positive expressions "interdire" and "prohibir", respectively.

Mr. CALVOCORESSI said that there was so little difference between "to permit" and "to admit" that he himself would be quite willing for one to be substituted for the other. In any event, however, the wording of the first sentence seemed to him to be rather cumbersome, and it could be considerably improved by deleting the words "not to permit and".

Mr. CAPOTORTI explained that, according to some of the experts who had drafted the text of article IV, there was a considerable shade of difference between "not to permit" and "to eliminate". In their view, an undertaking to eliminate discrimination was not the same thing as an undertaking not to exercise it or to permit it to be exercised at some time in the future, for only a phenomenon which already existed could be eliminated. He himself, however, thought that "to eliminate" covered both ideas and that the deletion of the words "not to permit and" would have the advantage of making the phrase read better. Furthermore, the expression "not to permit" was difficult to translate into French and Spanish and did not entirely correspond with "interdire" or "prohibir".

Out of a similar desire for conciseness, he wondered whether it might not be possible to shorten article IV by replacing sub-paragraphs (e) and (f) with a single sub-paragraph worded as follows: "(e) In the enjoyment of civil, economic, social and cultural rights as set out in the Universal Declaration of Human Rights".

Mr. FERGUSON considered that it would be dangerous to enumerate the rights, for fear of omitting some of them. Mr. Capotorti's suggestion therefore seemed to him to be an excellent one. If it was not adopted, a clause should be added to article IV stating that the omission of any of the rights stated in the Universal Declaration of Human Rights was not intentional.

Mr. KETRZYNSKI stressed the difference between the expressions "not to permit" and "to eliminate", and said that if only the latter of those expressions was retained, the scope of article IV would be reduced.

As to the question of enumerating the rights, Mr. Capotorti's suggestion was valuable in theory but not in practice. The Working Group had considered it necessary to specify and define certain of the rights stated in the Universal Declaration of Human Rights, particularly in sub-paragraphs (d) and (f) (i). As such specification was essential, the complete list of rights should be retained.

In his view, there was no reason to fear that the scope of the Convention might be reduced if all the rights stated in the Universal Declaration of Human Rights were not listed in article IV, as it was perfectly clear from the Preamble which had been adopted that the provisions of the Convention applied to all the rights set out in the Universal Declaration of Human Rights.

The CHAIRMAN said that, after giving the matter considerable thought, he had come to the conclusion that if the Convention was to have any educative and political force, it must enumerate all the rights in the fields in which racial discrimination was most frequently practised.

Reverting to the problem of the order of the sub-paragraphs in article IV, he expressed the view that Mr. Saario would be satisfied if sub-paragraphs (b) and (c) were to become sub-paragraphs (a) and (b). Sub-paragraph (a), as redrafted, would then follow. Sub-paragraphs (e) and (f) would become sub-paragraphs (d) and (e). Sub-paragraph (d) should be placed at the end of the article.

Mr. CALVOCORESSI suggested that the English text of article IV (E/CN.4/Sub.2/L.334) should be brought into line with the French and Spanish texts and that in the introductory sentence the words "undertake not to permit" should be replaced by "undertake to prohibit". In view of the wording of article II (E/CN.4/Sub.2/L.329), which had already been adopted, he also suggested that the sentence should be altered to read: "... undertake to prohibit and to eliminate all forms of racial discrimination" and in French: "s'engagent à interdire et à éliminer toute forme de discrimination raciale".

The CHAIRMAN suggested that the words "such as" in sub-paragraphs (e) and (f) should be replaced by "in particular" and that the wording of sub-paragraph (a) should follow that of article 21 of the Universal Declaration of Human Rights by the addition of the words "of his country" after "Government".

Mr. SAARIO agreed.

Mr. IVANOV proposed that the part of sub-paragraph (a) following the words "citizenship rights" should be replaced by the following text taken from article II, sub-paragraph (d), of the draft convention which had been submitted by him and Mr. Ketrzynski (E/CN.4/Sub.2/L.314): "Including the inalienable right to

(Mr. Ivanov)

participate in determining the nature of the social and political structure of his country, the right to participate in elections through universal and equal suffrage, the right to actual participation by racial, national and ethnic groups in legislative and executive bodies, as well as equal access to public service".

Mr. CAPOTORTI thought that it would be enough merely to change the order of sub-paragraphs (a), (b), (c) and (d) and to amend sub-paragraph (e) as follows: "In the enjoyment of all other civil and political rights...".

Mr. BOUQUIN proposed that, in order to lighten the text and avoid repetition, the final phrase in the introductory sentence should be replaced by: "Notably in the field of the following rights" and that the words "in the enjoyment" in sub-paragraphs (b), (c), (e) and (f) should be deleted. Sub-paragraph (a), slightly amended, could then be inserted in sub-paragraph (e) and would begin with the words: "Political rights, in particular the right of every person to participate ...", the other rights being enumerated in the order in which they appeared in the present text.

Mr. CAPOTORTI suggested that Mr. Bouquin's wording should be accepted in part and that the passage in question should read: "The rights of all citizens of a country to participate in elections ...".

Mr. KETRZYNSKI said that he was not satisfied with the text proposed by Mr. Capotorti. He proposed that the sub-paragraph following the introductory sentence should begin: "in the enjoyment by any person in his own country of political and citizenship rights, in particular the rights ...".

Mr. BOUQUIN wondered whether the notion of political rights did not cover that of citizenship rights.

Mr. CAPOTORTI thought that that was so. He proposed that the introductory paragraph should conclude with the words "notably in the enjoyment of the following rights" and that sub-paragraph (a) should begin: "the political rights to which each person (or each citizen) is entitled in his own country, in particular the rights to participate ...".

Mr. KETRZYNSKI thought that proposal acceptable.

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The CHAIRMAN recalled that the Sub-Commission had before it an amendment proposed by Mr. Ivanov for the insertion in the present sub-paragraph (a) of article II, sub-paragraph (b) of document E/CN.4/Sub.2/L.314, beginning with the words "the inalienable right ...".

Mr. CALVOCORESSI pointed out that the right of individuals to determine the nature of the social or political structure of their country was included in the right to take part in the Government as already laid down in sub-paragraph (a) of document E/CN.4/Sub.2/L.334. Furthermore, by introducing the idea of the rights of groups, Mr. Ivanov's proposal might involve the Sub-Commission in a prolonged debate. He hoped that Mr. Ivanov would agree to the text drawn up by the Working Group.

The CHAIRMAN, speaking in his individual capacity, said that there could be no doubt whatsoever that the right to take part in the Government included that of participating in determining the structure of a country. Moreover, the notion of participation in public affairs which was expressed in sub-paragraph (a) of the Working Group's document reinforced that idea.

Mr. FERGUSON said that while he appreciated Mr. Ivanov's motives for wishing to mention the rights of groups, he was afraid that that concept might give rise to serious difficulties. Since the rights in question derived from membership of a group and not from the merits of the individual members, the proposal departed from the sphere of individual rights and might lead to discrimination in reverse. If the Sub-Commission were to follow that course, it would be changing its approach. It should confine itself to the individual and define everything which might harm the rights of the individual.

Mr. BOUQUIN pointed out several mistakes in the French text of document E/CN.4/Sub.2/L.333. In sub-paragraph (b) the words "les propagandes organisées" should be replaced by the words "les activités de propagande organisées". Moreover, the Sub-Commission had decided to replace the word "ou" in the same paragraph by the word "et", but that change had not been made in the French text.

The meeting rose at 4.30 p.m.