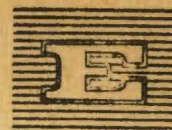


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PRESENT:

<u>Chairman:</u>	Mr. AZMI	(Egypt)
<u>Rapporteur:</u>	Mr. INGLES	Philippines
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. ORTEGA	Chile
	Mr. CHENG PAONAN	China
	Mr. GHORBAL	Egypt
	Mr. JUVIGNY	France
	Mr. ROUSSOS	Greece
	Mr. DAYAL)	
	Mr. RAJAN)	India
	Mr. TYABJI	Pakistan
	Mr. BIRECKI	Poland
	Mr. ASIROGLU	Turkey
	Mr. SAPOZHNIKOV	Ukrainian Soviet Socialist Republic
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
	Mr. GREEN	United States of America
	Mr. BRACCO	Uruguay

Representatives of specialized agencies:

Mr. MANNING	International Labour Organisation
Mr. ARNALDO	United Nations Educational, Scientific and Cultural Organization

Representatives of non-governmental organizations:

<u>Category B:</u>	Mr. MANUIA	International Association of Penal Law
	Mr. LONGARZO	International Conference of Catholic Charities
	Miss McGILLICUDDY	International Federation of University Women
	Mr. RONALDS	World Union for Progressive Judaism
	Miss ZIZZAMIA	World Union of Catholic Women's Organizations

Secretariat:

Mr. HUMPHREY	Director of the Division of Human Rights
Mr. SCHWELB	Deputy Director of the Division of Human Rights
Mrs. BRUCE) Mr. DAS)	Secretaries of the Commission

REPORT OF THE SIXTH SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES: DRAFT RESOLUTION A, STUDY OF DISCRIMINATION IN EDUCATION (E/CN.4/703, Annex 1, E/CN.4/L.360, 361/Rev.1, 365, 367 and 367/Rev.1)
(continued)

Mr. GREEN (United States of America) introduced a revised text (E/CN.4/L.361/Rev.1) of his delegation's amendments to draft resolution A. In point 1, he had inserted a reference to "writings of recognized scholars and scientists" to meet the wishes of the USSR representative; the word "scientists" was to be understood in its broadest sense, as including, for example, political and social scientists. In the first paragraph of point 2, he had taken into account the comments of the French representative. He had been unable to think of language for the second paragraph which would satisfy the Greek representative's criticism that the present wording was unduly harsh, but he was open to suggestions on that score.

Mr. JUVIGNY (France) was entirely satisfied with the change made in the first paragraph of point 2 of the United States amendment.

Mr. WHITLAM (Australia) was generally in favour of the revised United States draft. The changes made clarified the previous text. While he agreed with the statement in the second paragraph of point 2 - since the Sub-Commission's resolution B contained all the elements needed for the proposed study and the reference to resolution G merely created confusion - he felt, like the Greek representative, that some milder form of words might be found.

The United Kingdom amendments (E/CN.4/L.365) were entirely consistent and he was in general agreement with their purpose, that of establishing clearly the limits within which the proposed study should be carried out. The United Kingdom amendments to section I complemented the United States amendment and eliminated any possible confusion with regard to what sources were to be consulted. He favoured the United Kingdom amendments to section II, sub-paragraph (b) (ii), for it could hardly be denied that the Special Rapporteur should frame general conclusions and proposals and that the sub-Commission's recommendations for action should be submitted to the Commission. The United Kingdom amendment to section II,

sub-paragraph (a) (i) would eliminate a passage that might be interpreted too broadly, but it would in no way alter the substance, since the same elements were contained in sub-paragraph (a) (iii). Similarly, he had no objection to the proposed deletion of sub-paragraph (a) (iv) of that section. He was in favour of deleting sub-paragraph (a) (v), for the simple reason that the purpose of the report was not to educate world opinion but to enable the Sub-Commission to do effective work which would achieve that purpose. In a sense, all the work of the United Nations was educative in its effects; but if any attempt were made in the report to influence world opinion directly, the report might be a less useful one for the Sub-Commission's purposes. He was also in agreement with the United Kingdom amendment to section III.

Mr. DAYAL (India) thought that draft resolution A, and the Sub-Commission's own resolution B to which it referred, were unexceptionable. They set forth a practical programme indicating to the Special Rapporteur all possible sources of information and offering him guidance on the nature and preparation of his report. Nevertheless, several amendments had been submitted. Point 1 of the United States amendment (E/CN.4/L.361/Rev.1) was acceptable, since it would increase the material to be used by the Rapporteur and was therefore clearly an improvement. He was unable to support point 2, however; in examining material relating to discrimination in education, the Special Rapporteur was bound to encounter instances of such discrimination as applying to minorities and there was no justification for instructing him to disregard them. His delegation had complete confidence in the ability and impartiality of the Special Rapporteur, Mr. Ammoun, and he would consider it unfortunate if the Commission took a decision which could unduly restrict the scope of his enquiries into the field of discrimination in education, or make the satisfactory completion of its task difficult or impossible.

The amendments proposed by the United Kingdom (E/CN.4/L.365) were far-reaching and he was opposed to most of them. The amendments to section I would result in unduly limiting the material to be consulted by the Special Rapporteur, who should rather be encouraged to study as much relevant material as possible; in fact, if strictly interpreted, those amendments would prevent his considering United Nations documents dealing with his subject. The proposed deletion in

section II, sub-paragraph (a) (i) was harmful: the only way to detect general tendencies was by studying typical specific instances, since general tendencies were, in the last analysis, merely a collection of such instances; the object of the proposed study being to overcome discrimination in education, a study of instances where such discrimination had been successfully overcome was clearly indicated. He was equally opposed to the deletion of sub-paragraph (a) (iv). There was a great difference between anachronistic discriminatory practices, which could be overcome by influencing public opinion, and discrimination which was the result of a deliberate government policy. The second type was much more serious and difficult to combat and the study should certainly make it clear to which of the two types various forms of discrimination belonged, so that the gravity of the situation might be accurately appraised. Sub-paragraph (a) (v) of section II should be maintained, because the most common type of discrimination, that arising from ignorance and prejudice, could best be eliminated by educating world opinion. Lastly, he was strongly opposed to the insertion of the word "general" in sub-paragraph (b) (ii): it would be illogical to prevent the Special Rapporteur from framing a specific conclusion or proposal even if he encountered a specific case of discrimination.

The remaining two amendments of the United Kingdom were of a drafting nature and he was prepared to accept them.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that his delegation found draft resolution A satisfactory in the main; it set forth a plan under which the Sub-Commission would be able to accomplish useful work.

A striking characteristic of the amendments to the draft resolution was their exaggerated solicitude; the Commission appeared eager to offer guidance in matters of detail best left to the Sub-Commission's own judgment, and that at a very early stage, since the draft resolution merely called for the preparation of a report which was not a goal in itself but would be only one of the sources on the basis of which the Sub-Commission would eventually draft its recommendation. He was therefore in general agreement with the Indian representative's analysis of the United Kingdom and United States amendments. Where the United Kingdom amendments were concerned, he merely wished to add that he was prepared to accept the amendment to section III for reasons of substance: the report, when it was

ready, could be discussed and commented upon, but it could be neither amended nor adopted. He shared the Indian representative's objections with regard to the other United Kingdom amendments, and in addition was opposed to the introduction of the words "to the Human Rights Commission" in section II, sub-paragraph (b) (ii). Those words were unnecessary, for the Sub-Commission's recommendations would be submitted to the Commission in any event, and they might be interpreted as limiting the scope of action of the Sub-Commission, which ought not to be deterred from preparing recommendations intended for adoption by the General Assembly and addressed to Member States, the Secretary-General, the specialized agencies etc.

His delegation would support point 1 of the United States amendment, because the addition of the proposed sub-paragraph (e) improved the text. He could not, however, approve of point 2. The idea of sparing the Special Rapporteur unnecessary work was undoubtedly prompted by worthy motives; nevertheless, the Rapporteur had not objected to undertaking the work referred to in internal resolution G, paragraph 1, of the report and, since the Sub-Commission had had more time than the Commission to discuss the matter exhaustively and had had access to more extensive data, its decisions should be respected. Moreover, the Rapporteur was bound to be confronted in the course of his study with instances of discrimination against national minorities in the use of their own languages and cultural sources in education. The protection of the culture and languages of national minorities was one of the Sub-Commission's primary tasks and could not be separated from the question of discrimination in education by an artificial barrier such as that proposed by the United States delegation. The fact that such a division did not exist in practice was clear from the fact that a proposal to split the Sub-Commission into two had been rejected in that organ's early days. It seemed unreasonable to organize the Sub-Commission's work in such a way that valuable information on national minorities would be cast aside on the academic and dogmatic premise that the subject of discrimination should not be confused with that of national minorities. The close connexion between the two questions could not be disregarded.

Mr. TYABJI (Pakistan) said that his delegation approved wholeheartedly of the existing text of draft resolution A and of internal resolution B, on which the draft resolution was based, and agreed with the Egyptian and Indian representatives that the United Kingdom amendments would unduly curtail the Special Rapporteur's terms of reference. The Commission should rely on Mr. Ammoun's acumen and circumspection and should give him the greatest possible latitude, instead of restricting his work. The Pakistan delegation would abstain from voting on the deletion of the word "main" before the word "sources" in Section I but would oppose the deletion of the words "though the collection of material should not be limited to these sources". It felt strongly that the deletions proposed by the United Kingdom delegation in Section II, paragraph (a), should not be effected, for the reasons clearly stated by the Egyptian and Indian representatives. His delegation would, however, support the United Kingdom amendments to section II, paragraph (b)(ii), and to section III.

He agreed with point 1 of the United States amendments but could not support point 2, because resolution G, paragraph 1, laid the proper emphasis on the need to foster the culture of minorities and to protect that culture from discrimination.

His delegation had co-sponsored the joint amendment (E/CN.4/L.367), because it provided a graceful compromise between the stand taken by the supporters of the original draft resolution and the position of the authors of the other amendments.

Mr. GHORBAL (Egypt) stated that his delegation had co-sponsored the joint amendment because it considered that the views expressed in the Commission and the various amendments proposed to draft resolution A would provide valuable guidance for the Sub-Commission and the Special Rapporteur. The joint amendment would also eliminate the need for any final decision on the texts before the Commission.

Mr. MOROZOV (Union of Soviet Socialist Republics) expressed his doubts concerning the utility of the joint amendment, which in effect proposed that the Special Rapporteur should merely take into account the contradictory views which members of the Commission had expressed about his work. The Commission was morally and formally responsible for guiding the Sub-Commission's work and should therefore take a more positive stand. The transmission of the question of reservations to the General Assembly was an understandable instance in which the Commission had sought the guidance of a higher and more representative body, but the procedure of referring the Commission's documents to an organ to which it was supposed to give directives was patently incorrect. In any event, the Special Rapporteur would undoubtedly peruse the Commission's documents as a matter of course. Furthermore, it would be difficult, from the point of view of principle, for any representative to advise the Special Rapporteur to take into account views which were diametrically opposed to those held by that representative.

Mr. TYABJI (Pakistan) thought that the meaning of the expression "take into account" made it perfectly clear that the Special Rapporteur would have both sides of the picture in mind when carrying out his work. His delegation had great faith in the impartiality of Mr. Ammoun and was convinced that he would consider both aspects of the question and would reach equitable decisions in drawing his conclusions and preparing his report.

Mr. INGLES (Philippines) drew the Commission's attention to the provision in Section II, paragraph (b) (i), of internal resolution B that the Special Rapporteur should bear in mind the observations made in the debates by members of the Sub-Commission during its fifth and sixth sessions. It was therefore correct to ask the Special Rapporteur to take into account not only the comments of the Sub-Commission but also those of the Commission. There were precedents for that procedure in the United Nations; for example, the Economic and Social Council in its resolution 502 H (XVI) had requested the Sub-Commission to undertake further consideration of its general work programme in the light of the discussions in the Commission on Human Rights and in the Council. He agreed with the Pakistan representative that the Commission could

rely on the sound judgment of the Special Rapporteur in considering the views of members and in appraising the prevailing opinion of the Commission as a whole.

The Philippine delegation could not support the United Kingdom proposal to delete the last part of section II, sub-paragraph (a) (i), as also sub-paragraphs (a) (iv) and (v). There was no justification for the elimination of the provision in sub-paragraph (a) (i) that special attention should be given to instances of discrimination, especially in the light of sub-paragraph (a) (ii), the deletion of which had not been proposed and which provided that the report should be factual and objective and should deal with the de facto as well as the de jure situation. It was difficult to see how a report could be factual if it did not contain references to specific instances of discrimination. Moreover, the Sub-Commission had exercised great moderation in referring only to instances of discrimination that were typical of general tendencies and instances where discrimination had been successfully overcome, and not to all the possible instances that might arise.

The deletion of sub-paragraph (a) (iv) was also undesirable. Any study properly so-called must take into account not only the facts but the causes of discrimination. Where discrimination resulted from deliberate governmental policy, Member States should be recommended to abolish discrimination by enacting legislation, but when it arose from other causes the best remedy was to point out how the cause had given rise to the practice and to educate public opinion. That consideration led to the need to maintain both sub-paragraph (a) (v) and the reference in sub-paragraph (a) (i) to instances where discrimination had been successfully overcome, since States wishing to eliminate discrimination in their own territories could learn from the examples of other countries. Moreover, all those measures were in full conformity with the purposes and principles of the United Nations as expressed in Article 1, paragraph 3, and Article 56 of the Charter.

The fears expressed by certain delegations were exaggerated, since the report of the Special Rapporteur was preliminary and tentative; the Sub-Commission would draw its final conclusions after studying the Special Rapporteur's report, and those conclusions and the Sub-Commission's recommendations would be subject to revision by the Commission and, perhaps, by some higher body.

Mr. GREEN (United States of America) expressed his delegation's satisfaction that point 1 of its amendment seemed to meet with general agreement. With regard to point 2, however, he could not agree with the USSR representative that there was no clear distinction between the Sub-Commission's work on the prevention of discrimination and the protection of minorities. The Sub-Commission itself had divided its report into two distinct parts and had prepared two separate programmes and two sets of resolutions. The purpose of point 2 of the United States amendment was to help the Special Rapporteur to confine his activities to the prevention of discrimination, in order that he should not be overburdened with work which was not strictly relevant to his study.

He agreed with the USSR representative's criticism of the joint amendment, the effect of which could only be to confuse the Rapporteur by presenting him with the views of eighteen representatives instead of the opinion of the majority of the Commission. It was incumbent on the Commission to give directives to the Sub-Commission and to take decisions on the question before it.

Mr. CHENG PAONAN (China) denied that the joint amendment would cause the Special Rapporteur undue difficulties. His general terms of reference were embodied in resolution B. The joint amendment should be construed as giving him authority to take into account, within those terms of reference, any views expressed by members of the Commission which he considered of sufficient weight to warrant his attention. It did not mean that he must take all views into account.

Mr. ORTEGA (Chile) said that he would abstain on the joint amendment. It lacked clarity; to "take into account" usually meant to attribute enough weight to a view for it to influence an attitude towards a matter. It was not at all clear what comments the Special Rapporteur would have to take into account, since he obviously could not take all of them. In any case, the instruction was unnecessary, for he would certainly read the records of the Commission's discussion for guidance.

Mr. HOARE (United Kingdom) was surprised that the USSR representative could not understand why the United Kingdom delegation had felt it necessary to submit detailed amendments to resolution B. The USSR representative had said that the study was still at a preliminary stage and was entirely within the Sub-Commission's own scope. It was precisely because the resolution gave the terms of reference for the study - a most important study which might become a pilot project for other similar studies - that the amendments had been submitted. The argument that the Commission should not concern itself with the matter at that stage would not hold water in view of the Economic and Social Council's express instruction to the Sub-Commission to report to the Commission on the specific proposals it had formulated.

He could agree with the Indian representative that discrimination was often due to prejudice and ignorance which might be eliminated by educating the public, but he still held that section II (a) (v) should be deleted, since the study should not be given the slant of a public relations document. It was to be hoped that the requisite effect would be obtained by the publicity the study would gain as a United Nations document and by any action taken as a result of it.

He appreciated the argument that it was hard to draw a line between instances of discrimination and general tendencies, but there was a great difference between the proposition that a global study should be made as a basis for general recommendations and the proposal that the Special Rapporteur should specifically draw attention to particular instances, which would concern particular cases or particular countries. To accept the latter proposal would be to instruct the Rapporteur to infringe Article 2, paragraph 7, of the Charter. Hence, too, the word "general" should be inserted in section II (b) (ii); the recommendations should be general in nature even if based on material which included some reference to specific instances; specific recommendations on specific instances, as suggested by the Indian representative, could not be made. That was an important matter of principle, on which his delegation stood firm. The Commission should ask itself whether the Special Rapporteur's terms of reference, on which it seemed possible to obtain a large measure of agreement, should include provisions to which some delegations strongly objected in principle.

He agreed with the USSR, United States and Chilean representatives on the inappropriateness of the joint amendment.

Mr. MOROZOV (Union of Soviet Socialist Republics) explained that he had not meant that the Commission should not concern itself with the Special Rapporteur's terms of reference; what had surprised him was that the Sub-Commission's work was being adversely criticized even before it had got under way. The United Kingdom amendments narrowed the terms of reference unduly. The joint amendment was unacceptable, because to tell the Special Rapporteur to take such restrictive proposals into account would weaken the proposed study. The joint amendment had probably been intended as a compromise, but the only way to settle the matter was by voting.

Mr. TYABJI (Pakistan) said that he disagreed that too great a burden would be put on the Special Rapporteur by the eighteen points of view, since there were in fact only two each: for or against the United States and United Kingdom amendments.

Mr. GHORBAL (Egypt) introduced a revised version of the joint amendment (E/CN.4/L.367/Rev.1), which took into account the arguments of those who had opposed the original draft. Under it, the Commission would be able to vote on the other amendments.

MEMBERSHIP OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES (continued)

The CHAIRMAN read a letter from Mrs. Lord (United States of America) announcing her resignation from the Sub-Commission on Prevention of Discrimination and Protection of Minorities. That meant that there were now two vacancies to be filled on the Sub-Commission. He proposed that the time-limit for nomination should be extended from Friday, 2 April 1954, to Tuesday, 6 April 1954.

It was so agreed.