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COMMISSION ON HUMAN RIGHTS

Tenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND FIFTY-NINTH MEETING

Held at Headquarters, New York,
on Friday, 2 April 1954, at 10.55 a.m.

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(13 p.)

54-10126

PRESENT:

<u>Chairman and 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. RAJAN	India
	Mr. PIRACHA	Pakistan
	Mr. BIRECKI	Poland
	Mr. ASIROGLU	Turkey
	Mr. SAFOZHNIKOV	Ukrainian Soviet Socialist Republic
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
	Mrs. LORD	United States of America
	Mr. MONTERO BUSTAMANTE	Uruguay

Representatives of specialized agencies:

Mr. ARNALDO	United Nations Educational, Scientific and Cultural Organization
Mrs. MEAGHER	World Health Organization

Representatives of non-governmental organizations:

<u>Category B:</u>	Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
	Mr. PENCE	World's Alliance of Young Men's Christian Association

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; E/CN.4/L.360, 361/Rev.2, 365 and 367/Rev.1) (continued)

The CHAIRMAN said that there were no further speakers on the list for the discussion on the Sub-Commission's draft resolution A and the amendments thereto. He proposed that the following order should be adopted before the Commission voted on the various texts:

Preamble of draft resolution A (E/CN.4/703, annex I).

Paragraph 1 of the United States draft amendments (E/CN.4/L.361/Rev.2).

The text was identical to that of the first paragraph of the United Kingdom draft amendments (E/CN.4/L.365) except that the word "modification" in the English text of the United States draft was in the singular.

Amendments proposed by the United States and the United Kingdom to Section I of resolution B.

Amendments proposed by the United Kingdom to Section II of resolution B.

Amendment proposed by the United Kingdom to Section III of resolution B.

Joint amendment proposed by China, Egypt, Pakistan and the Philippines to draft resolution A (E/CN.4/L.367/Rev.1).

Amendment proposed by Lebanon to the operative part of draft resolution A (E/CN.4/L.360).

Paragraph 2 of the United States draft amendment to draft resolution A;

Mr. HOARE (United Kingdom) pointed out that the four-Power joint amendment had been submitted last and dealt with a general question. The Commission should not vote on that amendment until it had taken a decision on the various amendments to the programme of work outlined in resolution B.

Mr. WHITLAM (Australia) thought that the order proposed by the United Kingdom representative would be more logical, especially as the attitude of some representatives towards the joint draft amendment might depend on whether the second part of the United States amendment was adopted or rejected.

The CHAIRMAN recalled that the Egyptian representative had stated that the four-Power amendment should be regarded not as replacing the other amendments but as an additional provision. The Commission would, however, vote on the four-Power draft amendment last.

A vote was taken on the preamble of draft resolution A.

The preamble of draft resolution A was adopted unanimously, one member being absent when the vote was taken.

Mr. MOROZOV (Union of Soviet Socialist Republics), supported by Mr. ORTEGA (Chile), pointed out that the first paragraph of the United States and United Kingdom draft amendments was simply a prefatory sentence and that it would therefore be preferable either to vote on the first United States amendment as a whole or to vote first on the substantive proposal following that introductory sentence.

Mr. HOARE (United Kingdom) had no objection to the Commission's voting first on the first United States amendment as a whole, on condition that it then voted on the United Kingdom amendments, regardless of the decision it had taken on the United States amendment and on the understanding that the prefatory sentence applied to each of the United Kingdom amendments.

Mr. MOROZOV (Union of Soviet Socialist Republics) proposed that the Commission should not vote on the prefatory sentence until it had voted on each of the United States and United Kingdom amendments; the word "modification" in the English text would then be put into the plural if necessary.

Mr. HOARE (United Kingdom) felt that that procedure was logical.

Paragraph 1 of the United States amendment was adopted unanimously by the members present.

The first United Kingdom amendment to section I of resolution B was rejected by 8 votes to 8, with 1 abstention.

The second United Kingdom amendment to section I of resolution B was rejected by 8 votes to 7, with 2 abstentions.

The first United Kingdom amendment to section II of resolution B was rejected by 9 votes to 7, with 1 abstention.

Mr. GHORBAL (Egypt) requested that the second United Kingdom amendment to section II of resolution B should be voted on in parts. He would like the Commission to vote first on the words "in each instance" and then on the phrase "and those resulting from a policy evidently intended to originate, maintain or aggravate such practices".

The proposal to delete the words "in each instance" was rejected by 9 votes to 8.

The proposal to delete the last phrase of sub-paragraph (a) (iv) was rejected by 9 votes to 7, with 1 abstention.

The original United Kingdom proposal to delete sub-paragraph (a) (iv) in section II of resolution B was rejected by 10 votes to 7.

The third United Kingdom amendment to section II of resolution B was rejected by 10 votes to 6, with 1 abstention.

At the request of the representative of the United Kingdom, a vote was taken by roll-call on the fourth United Kingdom amendment to section II of resolution B, namely, the insertion of the word "general" after the word "such" in sub-paragraph (b) (ii) of section II.

Turkey, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium, Egypt, France, Greece.

Against: Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Chile, China, India, Pakistan, Philippines, Poland.

Absent: Lebanon.

The fourth United Kingdom amendment to section II of resolution B was rejected by 9 votes to 8, one member being absent when the vote was taken.

The fifth United Kingdom amendment to section II of resolution B was adopted by 11 votes to 3, with 3 abstentions.

The United Kingdom amendment to section III of resolution B was adopted unanimously by the members present.

The prefatory sentence: "Considers that the study of discrimination in education should be carried out in the manner described in resolution B, with the following modifications" was adopted unanimously.

The CHAIRMAN called upon the Commission to vote on the second paragraph of draft resolution A and the Lebanese amendment thereto (E/CN.4/L.360).

The Lebanese amendment was adopted unanimously.

The second paragraph of draft resolution A, as amended, was adopted by 12 votes to 4, with 1 abstention.

The CHAIRMAN called upon the Commission to vote on paragraph 2 of the United States amendment.

Mr. CHENG PAONAN (China) requested that the two sub-paragraphs of the paragraph should be put to the vote separately.

Mr. WHITLAM (Australia) pointed out that if the two sub-paragraphs were put to the vote separately and the second sub-paragraph was rejected, the first having been adopted, the English version of the text finally retained would conclude with the words "and therefore". That being so, it would obviously be necessary to attach those words to the second sub-paragraph when the vote was taken.

Mr. MOROZOV (Union of Soviet Socialist Republics) pointed out that the essence of the amendment lay in the second paragraph, the first paragraph being only a kind of introduction. If the second paragraph were to be rejected after the first had been adopted, it was hard to see what the Commission's final decision would amount to. Furthermore, even supposing that the first paragraph could stand alone, votes against that paragraph might be taken to mean that the delegations so voting wanted confusion to be created, a supposition which would be manifestly absurd. He himself intended, if the two paragraphs were put to the vote separately, to vote against the first paragraph, not because he was an advocate of confusion but because in reality the Sub-Commission's resolution provided only that two parallel studies should be made - one on discrimination in education and the other on specific questions relating to national minorities. The Sub-Commission certainly did not advocate that the two problems should be merged.

That being so, there were two alternatives: either the two paragraphs should be voted on together, or - if its parts were voted on separately - the amendment should be regarded as having been rejected as a whole if the first paragraph was adopted and the second rejected. He was not making a formal proposal to that effect but he thought the Commission should take care not to adopt a procedure which might result in its making a meaningless decision.

Mr. ORTEGA (Chile) shared the USSR representative's opinion. The first paragraph was only a kind of preamble and if it alone were adopted the result would be an absurdity. He was therefore of the opinion that the two paragraphs should be put to the vote simultaneously.

The CHAIRMAN pointed out that according to rule 59 of the rules of procedure Parts of a proposal should be voted on separately if a member so requested.

Mr. MOROZOV (Union of Soviet Socialist Republics) pointed out that there was another possibility: the Commission could vote first on the second paragraph; if it were adopted, a vote could be taken on the first paragraph; if it were rejected, the first paragraph would be automatically rejected.

Mr. CHENG PAONAN (China) said that in view of the Chilean representative's observations he withdrew his request that the two parts of the proposal should be voted on separately.

Mr. MOROZOV (Union of Soviet Socialist Republics) was of the opinion that the most logical procedure would be to vote first on the second paragraph, which was, as it were, the operative part of the text. He therefore formally proposed the adoption of that procedure.

Mr. ROUSSOS (Greece) pointed out that according to rule 59 of the rules of procedure, if all the operative parts of a proposal had been rejected, the proposal should be considered to have been rejected as a whole. Consequently, whatever voting procedure the Commission adopted, the first paragraph would be automatically rejected if the second paragraph was rejected.

Mrs. LORD (United States of America) was prepared to accept any procedure, but she pointed out that the two paragraphs were closely connected and should be voted on together.

The CHAIRMAN thought the Commission should vote on the USSR representative's proposal that the second paragraph should be voted on first. While rule 59 stipulated that parts of a proposal should be voted on separately if a member so requested, it made no provision for the possibility of reversing the order of the various parts of a text in voting. He therefore put the USSR proposal to the vote.

The proposal was rejected by 7 votes to 5, with 5 abstentions.

The CHAIRMAN put the whole of paragraph 2 of the United States amendment to the vote.

Paragraph 2 of the United States amendment was rejected by 8 votes to 7, with 2 abstentions.

Mr. GHORBAL (Egypt) said that, in view of the observations made at the preceding meeting, China, Egypt, Pakistan and the Philippines had decided to withdraw their joint text (E/CN.4/L.367/Rev.1).

The CHAIRMAN put to the vote draft resolution A, as amended.

Draft resolution A, as amended, was adopted by 11 votes to 4, with 2 abstentions.

Mrs. LORD (United States of America) said she had had some hesitation in voting in favour of draft resolution A. She was sorry the amendments proposed with a view to correcting the defects of the resolution had not been favourably received and she pointed out that some of the United Kingdom amendments (E/CN.4/L.365) had been rejected by a small majority only. She hoped the suggestions and comments made during the discussion would be brought to the attention of the Sub-Commission and the Special Rapporteur, for them to bear in mind.

Mr. ROUSSOS (Greece) said his delegation's vote had been prompted by the desire to define the Special Rapporteur's area of investigation and provide him with specific terms of reference. The study of discrimination in education was intended to be a "pilot study" and he thought the United Kingdom (E/CN.4/L.365) and United States (E/CN.4/L.361/Rev.2) amendments had suggested useful and constructive changes. Since some of the most important of those amendments had been rejected, the Greek delegation had abstained from voting on draft resolution A as a whole. At any rate he was convinced that, despite the imperfections of the text adopted, Mr. Ammoun would successfully discharge the task which had been entrusted to him.

Mr. JUVIGNY (France) recalled that during the general discussion the French delegation had said it did not wish to re-open discussion on the principle of using special rapporteurs. He had abstained from voting, however, owing to the rejection of important amendments which not only concerned the substance of draft resolution A but were designed to facilitate the Special Rapporteur's work. He hoped the Special Rapporteur would display more moderation than had the majority of the Commission in discharging the task entrusted to him.

Mr. HOARE (United Kingdom) said that, as he had explained during the discussion, his reasons for voting against draft resolution A as a whole had not been that he disapproved of a study of discrimination in education, of the idea that the study should be complete, or of its being entrusted to a Special Rapporteur. He pointed out, however, that the rejected United Kingdom amendments (E/CN.4/L.365) had dealt with important points of principle, particularly the amendment proposing the deletion of sub-paragraph (a) (iv) of section II of the Sub-Commission's resolution B. The retention of the sub-paragraph was a violation of Article 2, paragraph 7, of the Charter. He regretted, too, that the Commission had been unwilling to add the word "general" in sub-paragraph (b) (ii) of section II, thus agreeing that the conclusions and proposals that the Special Rapporteur would

submit might be of a particular nature, in which case they would go beyond the limits laid down in Article 2, paragraph 7, of the Charter. He was bound to conclude that the Commission had deliberately decided, though by small majorities, that the studies should be removed from the scope of Article 2 (7) of the Charter. In those circumstances the Government of the United Kingdom reserved the right to ensure that the proposed study was in fact global in character and should relate, if the conditions in particular countries were to be examined, to all the territories of the world, without regard to their constitutional or international status. Lastly, in connexion with sub-paragraph (a) (vi) of section II, the United Kingdom delegation, though it had not objected to the general terms of that sub-paragraph, did not thereby in any way accept the use of reports of any bodies whose establishment they considered to be illegal.

Mr. MOROZOV (Union of Soviet Socialist Republics) said he had voted in favour of the amended draft resolution A as a whole and against most of the United Kingdom amendments, particularly the one proposing the insertion of the word "general" in sub-paragraph (b) (ii) of section II. In his view, the rejection of that amendment in no way rendered the text of the sub-paragraph contrary to the Charter.

Mr. HOARE (United Kingdom) remarked that in the English language the opposite of "general" was "particular".

Mr. WHITLAM (Australia) said that in voting against draft resolution A as it had the Australian delegation had had no intention of underestimating the Sub-Commission's report or its resolution B but it had seemed important to his delegation that the Commission should consider the Special Rapporteur's terms of reference very carefully. The Australian delegation would have liked the Special Rapporteur's area of investigation to be more clearly defined, an end towards which the United Kingdom amendment had been directed. It was sorry

the Commission had adopted a text providing excessively wide terms of reference and in particular allowing the Special Rapporteur to consider particular cases. He supported the United Kingdom representative's stand on the word "general". He would like to say that, despite the apprehension which his delegation had expressed, it had no doubt that Mr. Armmoun would discharge his task in a way which would meet with general approval.

Mr. NISOT (Belgium) wished the fact that the Belgian delegation had voted against draft resolution A to be mentioned in the record.

Mr. RAJAN (India) said that in voting in favour of draft resolution A his delegation did not consider that it had in any sense infringed Article 2, paragraph 7 of the Charter. The Sub-Commission, when it adopted unanimously the resolution on which resolution A was based, was evidently convinced that it had acted consistently with the Charter; by so doing it had merely acted in accordance with the clear conclusions of the General Assembly when, at its seventh session, by a decisive majority, it had voted in favour of creating a special body to study a specific problem of discrimination in a specific area of the world.

Mr. ORTEGA (Chile) said he had voted in favour of the first United States amendment and the United Kingdom amendments of form but against any amendment whose effect would have been to change the method of work the Sub-Commission had outlined. He considered that the adoption of such amendments would have had a deleterious effect on the quality of the Sub-Commission's work.

The CHAIRMAN, speaking as the representative of the Philippines, expressed his delegation's satisfaction at the adoption of draft resolution A. He was confident that the Special Rapporteur would discharge his task without fear or favour but with justice, moderation and a high sense of responsibility.

The meeting rose at 12.25 p.m.