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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Seventh Session

SUMMARY RECORD OF THE FIRST PART* OF THE
HUNDRED AND SIXTY-THIRD MEETING

Held at Headquarters, New York,
on Wednesday, 19 January 1955, at 14.55 p.m.

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* The summary record of the second part of the meeting (closed) will appear as document E/CN.4/Sub.2/SR.163/Add.1 (restricted distribution).

12 p.

PRESENT:

<u>Chairman:</u>	Mr. SORENSEN	(Denmark)
<u>Vice-Chairman:</u>	Mr. AWAD	(Egypt)
<u>Rapporteur:</u>	Mr. INGLES	(Philippines)
<u>Members:</u>	Mr. CASANUEVA	(Chile)
	Mr. CHATENET	(France)
	Mr. ROY	(Haiti)
	Mr. KRISHNASWAMI	(India)
	Mr. AMMOUN	(Lebanon)
	Mr. KULAGA	(Poland)
	Mr. FOMIN	(Union of Soviet Socialist Republics)
	Mr. HISCOCKS	(United Kingdom of Great Britain and Northern Ireland)
	Mr. HALPERN	(United States of America)

Representative of specialized agencies:

Mr. DUNAND	International Labour Organisation
Mr. METRAUX)	United Nations Educational Scientific and Cultural Organization
Mr. ARNALDO)	

Representatives of non-governmental organizations:

Category B and Register:

Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. JOFTES	Co-ordinating Board of Jewish Organizations
Mrs. HITCHCOCK	International Alliance of Women
Mr. LONGARZO	International Conference of Catholic Charities

PRESENT: (continued)

Representatives of non-governmental organizations: (continued)

Category B and Register: (continued)

Miss ROBB	International Federation of University Women
Mr. BAKER	International League for the Rights of Man
Mrs. WALSER	Women's International League for Peace and Freedom
Mr. JACOBY	World Jewish Congress
Mr. PENCE	World's Alliance of Young Men's Christian Associations
Mrs. POLSTEIN	World Union for Progressive Judaism

Secretariat:

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

PROCEDURE TO BE FOLLOWED IN CARRYING OUT STUDIES OF DISCRIMINATION IN THE MATTER OF
(a) POLITICAL RIGHTS MENTIONED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS,
(b) RELIGIOUS RIGHTS AND PRACTICES, AND (c) EMIGRATION, IMMIGRATION AND TRAVEL
(continued)

A. REPORTS BY MESSRS. SANTA CRUZ (E/CN.4/Sub.2/165), HALPERN (E/CN.4/Sub.2/162)
AND INGLES (E/CN.4/Sub.2/167)

Mr. INGLES was pleased to note that his analysis of the two possible interpretations of the Economic and Social Council resolution had been of some use since it had led to a debate which had disclosed a divergence of views among members of the Sub-Commission. The point to be decided was not whether the Sub-Commission should or should not observe the terms of the Council resolution, but what interpretation should be placed on that resolution.

Mr. Hiscocks had said that the Council would have clearly expressed its intention if it had wished the Sub-Commission to undertake the whole of the study proposed in resolution D. However, if it had really been its intention to limit the Sub-Commission to a study of discrimination in emigration and travel, the Council would have deleted the word "immigration" from resolution D, or would have expressly invited the Sub-Commission to limit its study to emigration and travel. For the same reason that Mr. Hiscocks thought that a study of discrimination in emigration would shed light on the problem of discrimination in immigration, a study of discrimination in the latter field would undoubtedly cast light on the study of discrimination in emigration and hence contribute to that objective.

But in view of the difference of opinion in the Sub-Committee as to the interpretation to be placed on the resolution, he felt that it would be preferable to request the Economic and Social Council to make its intention quite clear. It was, in fact, with that object in mind that Mr. Roy was preparing a draft resolution giving the Sub-Commission's interpretation of the Council resolution.

It had been said that the right to enter a country was not clearly set forth in the Universal Declaration of Human Rights and that the Sub-Commission ought to abide by the terms of the Declaration. It was his impression, however, that that right had been omitted from the Universal Declaration simply because the authors of the document had been at a loss to define it. The Universal Declaration did not mention the right of minorities to special protection, either, but the

Sub-Commission was nevertheless concerning itself with that problem, though it had not yet succeeded in defining it.

He recalled the Chairman's comment that it was understandable that certain countries should wish to preserve their homogeneity. If racial homogeneity was meant, the restrictions they placed on immigration would be equivalent to measures of racial discrimination. And as everyone knew, from the scientific if not from the social point of view no race was superior to any other and the human race itself was homogeneous. He failed to understand why discriminatory measures based on political opinions or religious beliefs should provoke more indignation among some members of the Sub-Commission than discriminatory measures based on the colour of the skin.

He noted that in exercising their sovereign rights, States could restrict immigration. Moreover, article 29 of the Universal Declaration of Human Rights permitted "such limitations as are determined by law solely for the purpose ... of meeting the just requirements of morality, public order and the general welfare in a democratic society". He wondered, however, if States which restricted immigration on racial, linguistic or religious grounds were not contravening the provisions of Article 2, of the Declaration. He recalled, too, that paragraph 3 of Article 1 of the Charter condemned discrimination in requiring "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". That consideration, he thought, was overriding, even if it were contended that immigration was not included among the rights mentioned in the Declaration.

He agreed that the ILO was particularly competent to study discriminatory measures in the field of immigration, but he pointed out that that organization was interested in immigrants after their arrival in their country of destination and was not concerned with the problem of their admission.

Mr. HISCOCKS thought that it was for reasons of diplomacy that the Economic and Social Council had drafted its resolution as it had. He agreed that a study of immigration might make it easier to solve the problem of emigration, but the fact remained that the Economic and Social Council had not wished the Sub-Commission to undertake such a study.

Mr. ROY said that all members of the Sub-Commission had now expressed their views and they were divided on the fundamental question of the interpretation to be given to the Economic and Social Council's recommendation. Even among those who favoured the second interpretation opinion was divided, for some members were satisfied with the restriction introduced by the Council while others deplored it.

He had prepared a draft resolution inviting the Commission on Human Rights to ask the Economic and Social Council to explain the interpretation it wished to be placed on the resolution. There was therefore no need for the Sub-Commission to go any further in its discussion since its vote would show whether or not the majority was in favour of the interpretation that, in stressing the special importance of article 13, paragraph 2 of the Universal Declaration, the Economic and Social Council had not intended either to restrict the scope of any studies which might be carried out by the Sub-Commission or definitely to exclude from its programme any consideration of discriminatory measures which might exist in the field of immigration.

Mr. AWAD thought that the Sub-Commission was perfectly entitled to propose a study on a right not included in the Universal Declaration of Human Rights since such a proposal was in the spirit of that Declaration. As to the question of interpretation, he felt that the Economic and Social Council should be asked to clarify its intention. He thought that the Sub-Commission should retain the item on its agenda for the next session and, pending a decision from the Council, prepare a brief memorandum to show that a study of the kind proposed ought not to be restricted to emigration and travel. In any case, the Economic and Social Council ought to be given an opportunity of reconsidering the position it had adopted at its eighteenth session.

Mr. CASANUEVA pointed out that he had in no way intended to justify discrimination in immigration, but had merely stated the limitations which the capacity to absorb immigrant population and the relative shortage of natural and financial resources imposed on the wish of countries of immigration to accept immigrants on a large scale. He was fundamentally opposed to any policy of racial

(Mr. Casanueva)

discrimination, unless that meant the selection made among various groups of possible immigrants, according to ease with which they could be absorbed into the population of the country of immigration, both from the occupational and social points of view.

Unfortunately the debate had been mainly on discrimination in immigration. He would have liked to hear the views of other members of the Sub-Commission on freedom of movement as recognized in the Universal Declaration. Moreover, the Sub-Commission had not paid sufficient attention to the question of involuntary immigration, that is to the problems of exile and of the position of refugees.

Article 14 of the Universal Declaration merely laid down the right "to seek and to enjoy" asylum in other countries, but did not oblige any State to receive refugees or exiles. The Organization of American States had been concerned by that omission and had studied the extent to which it would be possible to impose such an obligation upon States.

He stressed the importance of the studies which the International Labour Organisation had conducted on discrimination against migrants. The ILO had drawn up a convention and a recommendation on migrant workers and its Permanent Migration Committee had studied the discriminatory measures applied to migrants in various countries. It was not enough for a State to open its frontiers to immigration; it must also ensure immigrants the protection of the law and the advantages of social security on an equal footing with its own nationals. It might be advisable to ask the ILO to make available to the Sub-Commission any documentation which it regularly received or drew up on discrimination against migrants.

B. CONSIDERATION AS TO WHICH FURTHER STUDY OF DISCRIMINATION SHOULD BE UNDERTAKEN IN 1955

The CHAIRMAN invited the Sub-Commission to consider what studies it wished to carry out or to have carried out in 1955. He pointed out that the Sub-Commission had before it a draft resolution introduced by Mr. Ammoun (E/CN.4/Sub.2/L.85) and the draft resolution introduced by Mr. Roy (subsequently distributed as document E/CN.4/Sub.2/L.86).

Mr. FOMIN asked the representative of the Secretary-General whether the Secretariat might not undertake several studies, since that possibility was not excluded a priori.

Mr. HUMPHREY (Secretariat) recalled the contents of the statement made by the Secretary-General to the Economic and Social Council at its eighteenth session (E/2598) and said ~~that~~ the Secretariat could not give the Sub-Commission more assistance than it was already doing. The personnel of the Division of Human Rights was helping Mr. Ammoun in his study on discrimination in education. Any new study than the Sub-Commission might request from the Secretariat would entail either the transfer or seconding of personnel within the Secretariat or an increase in the staff of the Division, with the resulting financial implications.

Mr. CHATENET observed that the possibilities of practical or financial assistance from the Secretariat were strictly limited. The Division of Human Rights did not seem to have enough available staff to conduct any studies other than those in which it was already co-operating. The rule of the annual budget imposed further restrictions. Nevertheless, it was not only the means available to the Secretariat that were limited, but also the time and energy which members of the Sub-Commission might devote to any studies which might be decided upon. In those circumstances, if it wished to keep up its reputation for soundness and efficiency, the Sub-Commission should choose a moderate solution. It should not disperse its efforts, but confine itself to a single study.

He preferred the study undertaken by Mr. Ammoun and dealt with in Mr. Halpern's report. The scope of a study on discrimination in the matter of religious rights and practices was very limited. The choice of that subject would not raise the difficult problems of interpretation to be found in the subjects dealt with by Mr. Santa Cruz and Mr. Ingles. There was reason to hope that the study might be, if not completed, at least considerably advanced by the Sub-Commission's eighth session; at that time, the Sub-Commission could undoubtedly make recommendations and reach conclusions. That was the decisive factor in favour of the choice suggested by Mr. Ammoun.

Mr. FOMIN asked the representative of the Secretary-General whether administrative or financial difficulties might not result in delaying the work to be undertaken even if the Sub-Commission confined itself to a single study, and how long such a delay would be.

Mr. HUMPHREY (Secretariat) replied that the study might have administrative implications and might make it necessary to second personnel from one section of the Secretariat to another. The administrative difficulties would not necessarily entail any delay in the study which would be chosen. On the other hand, a study which would impose new expenditure on the United Nations should be postponed until later. If the Sub-Commission were to decide to undertake a study for which there were no financial provisions in the budget, the Secretariat could not commit itself in any way.

Mr. CASANUEVA, while recognizing the cogency of the arguments that could be advanced in favour of Mr. Ammoun's proposal, thought that priority should be given to the study on discrimination in the matter of political rights; that opinion was shared by Mr Santa Cruz. Those rights constituted the basis of all other rights. For example, the extent of the recognition of women's political rights had been commensurate with the reduction of the discrimination to which women had been subjected in education, employment and professional activities. Elimination of discrimination against religious groups was also subject to the development of political rights. Finally, he was convinced that the position of immigrants would improve considerably if they were enabled to achieve without delay civil and political equality in the countries which received them. Thus, the exercise of all rights basically depended on the free exercise of political rights and discrimination could be eliminated only by democracy.

Mr. AWAD felt that the question of priority was all the more crucial as in the present circumstances the Secretariat could not take on extra work to help the Sub-Commission. Since there was no unanimous agreement on the scope of the study of discrimination in the matter of emigration, immigration and travel,

(Mr. Awad)

the choice would naturally have to be made between the other two studies. Without denying the great importance of political rights, he would prefer the Sub-Commission to begin with the study of discrimination in the matter of freedom of religion and religious practices. Not only was the subject easy to handle, but it left less room for prejudice, lent itself to a more scientific approach and was of more immediate usefulness. He would therefore vote in favour of Mr. Ammoun's draft resolution.

Mr. HISCOCKS was of the same opinion. The two studies of which Mr. Awad had spoken were equally important. Political rights, however, were too controversial a subject, and a study of it should either remain above the controversy, which would reduce its value to nothing, or become involved in it, and thus inevitably add to international tension. Religious disputes, too, were violent, but there were so many different factions and controversies that they could tend to cancel one another out. While the world was divided into two camps, those camps were political, rather than religious. The difference were so deep that no agreement could be reached on fundamental concepts. He recalled in that connexion article 21 of the Universal Declaration of Human Rights, and pointed out that every one of the political concepts therein dealt with had a different meaning in the people's democracies and the Western democracies. Even such common terms as "hunger" or "a good meal" could have different meanings, depending on whether the person using them was rich or poor. For his part, he preferred the political concepts of the West and believed that only the state of poverty and social injustice prevailing at the time when Marx had written his works could explain that he should have regarded the democratic ideals of the West as a sham and should have advocated violence as a means of putting an end to it. It was his personal hope that with improved living conditions, the countries which had espoused the Marxist doctrine would finally move in the direction of Western concepts. Meanwhile, however, any special rapporteur appointed to carry out a study on discrimination in political rights would either have to adopt the political standards of Western democracies, in which case he would alienate the people's democracies, or he would have to base his study on the political standards of the people's democracies which would alienate the Western democracies.

(Mr. Hiscocks)

At present the world was divided and it would serve no purpose to exacerbate the differences by making a study on the very premises of which there was disagreement. For the Sub-Commission to do so would be all the more improper since, as a United Nations organ, it was its duty to reconcile divergent views and to encourage the tendency towards greater harmony which had become apparent in recent times.

For that reason he would vote in favour of Mr. Ammoun's draft resolution. He proposed that the study of emigration, and the right to return to one's own country should be put second on the list, and that the study of political rights should be postponed to a more suitable time.

Mr. FOMIN regretted that Mr. Hiscocks had found it necessary to stress international differences of opinion. Such statements were out of place in United Nations bodies. The United Nations should proceed on the premise that peaceful co-existence of peoples was possible and make every effort to strengthen friendly relations between peoples.

No useful purpose would be served by his commenting in detail on Mr. Hiscocks' attempts to distort the teachings of Marx, as that part of Mr. Hiscocks' statement had nothing whatever to do with the Sub-Commission's work; it simply showed Mr. Hiscocks' complete ignorance of the subject.

Mr. Hiscocks' attempts to force the Sub-Commission to discuss existing political regimes and to depict as ideal the regime obtaining in the "Western" world were equally unwarranted.

Instead of praising the "Western" regime, Mr. Hiscocks would have done better to consider the distressing position of the colonial peoples who had no rights at all, and the other "attractions" of that regime. The Sub-Commission's work should be based on the United Nations Charter and not on some political system which was fortunate enough to meet with Mr. Hiscocks' approval.

Mr. HALPERN said that he would vote in favour of Mr. Ammoun's draft resolution.

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The CHAIRMAN stated that the public part of the meeting was ended and that the meeting would continue behind closed doors, for the consideration of item 4 of the agenda.

The public meeting rose at 4.55 p.m.