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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-SIXTH MEETING

Held at Headquarters, New York,
on Thursday, 6 January 1955, at 2.55 p.m.

CONTENTS

Study of discrimination in the field of education: progress report
by the Special Rapporteur (E/CN.4/Sub.2/163)(continued)

55-01517

11p.

PRESENT:

<u>Chairman:</u>	Mr. SORENSEN	(Denmark)
<u>Rapporteur:</u>	Mr. INGLES	(Philippines)
<u>Members:</u>	Mr. AMMOUN	(Lebanon)
	Mr. AWAD	(Egypt)
	Mr. DIAZ CASANUEVA	(Chile)
	Mr. CHATENET	(France)
	Mr. EMELYANOV	(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

Representatives of specialized agencies:

Mr. DUNAND)	(International Labour Organisation)
Mr. METALL)	
Mr. METRAUX	United Nations Educational, Scientific and Cultural Organization

Representatives of non-governmental organizations:

<u>Category A:</u>	Miss SENDER	International Federation of Free Trade Unions
	Miss KAHN	World Federation of Trade Unions
	Mrs. FOX	World Federation of United Nations Associations

Representatives of non-governmental organizations (continued):

<u>Category B:</u>	Mr. JOFTES	Co-ordinating Board of Jewish Organizations
	Mrs. DODD	International Alliance of Women
	Mr. LONGARZO	International Conference of Catholic Charities
	Mrs. MAHON	International Social Service
	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
<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. ROY congratulated Mr. Ammoun on the important work which he had undertaken, but pointed out that under resolution B of the Sub-Commission (E/CN.4/703) the Rapporteur should have indicated in his report the methods which he had adopted or intended to adopt in carrying out his work. He would be glad, therefore, if Mr. Ammoun would explain how he envisaged his study of discrimination, so that the members of the Sub-Commission could make known their views on the subject. Governmental sources of material were not the most important and no information, whatever its origin, should be overlooked.

He wondered whether the members of the Sub-Commission, who were in the privileged position of independent experts, shared Mr. Ammoun's concept of the report. The Sub-Commission could not lay too much stress on the cases of intentional discrimination, which fully deserved condemnation.

Mr. KRISHNASWAMI explained some points he would like to have included in the special report.

The definition recommended by the Sub-Commission did not seem to be very apposite, because every classification or distinction was not necessarily discrimination. It must not be forgotten that progress in education had been largely the work of private institutions, which were compelled to classify school children, for example, according to their aptitudes. The diversity of cultural activities also entailed a certain amount of classification. The recommended definition must not, therefore, be taken literally.

What really mattered was the discriminatory act and not the attitude which might be adopted towards it. The cases of discrimination about which the victims protested must not be the only ones to be studied: to take an extreme case, even slaves who wished to remain in slavery would in fact still be victims of discrimination.

(Mr. Krishnaswami)

On the other hand, all acts involving distinctions did not necessarily constitute discriminatory practices. For example, after having proclaimed the principle of universal education, it might well be found that there were not sufficient financial resources to make education available to everyone.

It was a question, therefore, of deciding when there was discrimination. It would be said that there was discrimination when individuals were prevented on grounds of sex, race, political or religious opinions from attending the schools to which they should be admitted. Care must be taken, however, not to confuse those cases with others where the decision was taken by parents or tutors, who must be allowed a certain freedom of choice.

The distinction between static discrimination and discrimination imposed by the State was justified: when the State opposed certain discriminatory practices it was easier to eliminate them, and State intervention made it easier also to eliminate such practices when they were the result of historical development, as the recent decision of the Supreme Court of the United States indicated. Schools must not be open exclusively to minorities of a given country. In India, for instance, the Anglo-Indian schools were given conditional grants if 40 per cent of the pupils belonged to other communities.

When the school system involved separation, although the tuition given was of equal value, there was discrimination in principle, but it was necessary to study the exact situation in each case. It was common knowledge that in South Africa, for example, not only were the appropriations for the education of the coloured inhabitants insignificant, but their schools were often situated in relatively inaccessible areas, which was a much more subtle form of discrimination. The Rapporteur should therefore inquire into the subsidies which the various categories of schools received in the different countries, the situation of the schools, the distances which had to be covered to reach them and the extent to which the various members of the community were eligible to attend them.

The problem was complicated and the Special Rapporteur's work would be difficult. He wondered whether Mr. Ammoun might not be advised to limit the scope of his study and for the time being to examine only certain aspects of discrimination in education. It was true that the resolution of the

(Mr. Krishnaswami)

Commission on Human Rights instructed him to proceed with the study in question "on a global basis", but that precaution was intended to ensure that the report, which must cover every country, remained objective. A fuller report could be prepared later. For the time being it was important that the study should concentrate on methods of discrimination and on possible countermeasures. Naturally the specific countermeasures varied in each case, but they depended basically on joint action by the legislative and educational authorities.

Mr. HALPERN felt that Mr. Krishnaswami's suggestion was fraught with great dangers, which had probably escaped its author's attention. If the scope of the study were restricted, the Special Rapporteur would necessarily be led to consider discrimination only where it was most apparent, in other words in those countries where there was freedom of the Press and of information media. The study must certainly not be limited to those countries; it should deal also with discrimination in countries where the slightest criticism was prohibited; that was the best way of mobilizing public opinion where there was no freedom of expression. Resolution B provided for a study "on a global basis" and the terms of the resolution should be respected.

The Special Rapporteur would undoubtedly be faced with a very difficult task. When the resolution had been adopted everyone had believed that active support would be forthcoming from the United Nations Economic, Scientific and Cultural Organization, as would be seen from Mr. Ingles' report (E/CN.4/Sub.2/157, paragraph 62) and the summary record of one of the Sub-Commission's meetings (E/CN.4/Sub.2/SR.124), which he read. It was unfortunate that circumstances had not allowed UNESCO to give all the assistance expected of it and that its final decision had run counter to the Sub-Commission's wishes. Nevertheless he was grateful to UNESCO for making provision in its budget to meet the expenditure its co-operation entailed. In the meantime, however, the problem remained: Mr. Amoun was not an educational specialist; either UNESCO should be asked to review its decision or the Secretary-General should be requested to engage a consultant.

(Mr. Halpern)

Referring to some of the suggestions made by previous speakers, he said that he saw no reason for excluding economic and social factors from the study of the causes of discrimination. Nor could he agree that discrimination could be said to have disappeared in those countries where it had been eliminated from primary education. The claim that there was no discrimination was valid only if the countries in question had no secondary education, which would be a very surprising state of affairs; where there was secondary education, discrimination existed if instead of being accessible to each according to his merits it was the privilege of a few by reason of race, language, religion, political views, or means. Any restriction of opportunity gave rise to the danger of discrimination and it was particularly important to ensure that no loopholes for discrimination were left, as they might well be if there was any classification, as some members had suggested; the rules in that matter should permit of no exception.

In that connexion he had been astonished to hear that distinctions based on sex did not constitute discrimination if the opportunities available to the two sexes in an educational establishment, for instance, were equal. In his opinion discrimination existed as soon as one section of the population was deprived of the advantages of daily association with the other sections. There must be equality between the sexes in that respect, too, and that was the sense in which the United States Supreme Court's recent decision to which reference had been made on more than one occasion, should be interpreted. That decision had been handed down after long discussion. It introduced a new conception of discrimination - that of psychological inequality, even though the tangible or physical facilities were equal.

He agreed with Mr. Hiscocks about the weight to be attached to the writings of recognized scholars and scientists as sources of information: there was no reason to relegate such studies to the background. The Commission on Human Rights had decided that they should be reinstated among the main sources of material and they should be studied as carefully as the information supplied by Governments; not only could they fill certain gaps but they embodied the findings of impartial specialists and were therefore a means of verification

(Mr. Halpern)

supplied by persons who were as much experts as the members of the Sub-Commission. Their contribution would be particularly valuable with regard to those countries where there was no freedom of expression and the final report could not but gain from it.

The CHAIRMAN, speaking in his personal capacity, thought that it would be going too far to rule out institutions where the two sexes were separated but the principle of equality was respected. Zeal in the fight against segregation must of necessity know some limits; one obvious limit was the physical separation of pupils of the two sexes in residential establishments.

However useful Mr. Ammoun's distinction between intentional and static discrimination might be, he would not like to see it used, as Mr. Krishnaswami wished, to restrict the scope of the study. In his view the study should cover a vast area, particularly since in Europe for example, it was often impossible to dissociate one type of discrimination from another.

If, as the Director of the study of racial regulations at the Royal Institute of International Affairs had said, discrimination was a device to stabilize the relative status of certain groups at a given point in history, any discrimination - even deliberate discrimination - was static, if only because its effect was to crystallize the situation.

He warned the members of the Sub-Commission against the danger of arbitrarily dissociating educational discrimination from action directed against minorities or from discrimination in other fields. It was not difficult, for instance, to imagine that a State might put pressure on parents belonging to a minority group to send their children to certain schools. Such intervention would constitute both discrimination in education and denial of the rights of a minority. Similarly, it was conceivable that a State or a trade union might threaten to deprive a worker of employment if his children did not attend a given school. In that case discrimination in education would be coupled with discrimination in employment. It would be unfortunate if the Sub-Commission were to instruct its Special Rapporteur to exclude such cases from the scope of the study.

Mr. CASARIEVAS thought it undesirable to attempt to restrict the scope of the study and the freedom of the Special Rapporteur, when millions of children were either deprived of the type of education to which every human being was entitled or received no education at all. This was actual static discrimination against the under-developed countries, which could devote only meagre resources to education. If the Sub-Commission asked its Special Rapporteur to deal with deliberate discrimination only, it might give the impression that it accepted a situation which the lack of resources might explain but could never justify. The Universal Declaration of Human Rights stated that everyone had the right to education and it did not make that right dependent on the resources of the State providing the education. To disregard such a situation would be tantamount to accepting discrimination based on income or social class. That would be an anti-democratic attitude.

The Sub-Commission should strive to bring to the under-privileged countries, through international co-operation, the facilities they needed to provide their entire population with broad educational facilities. It should stimulate and mobilize public opinion. Above all, it should leave its Special Rapporteur free to study all types of discrimination, deliberate or static, and to establish parallels between the different countries, using judicious criteria of comparison and appreciation.

Mr. INGLES explained that although he had not thought a general debate on discrimination justifiable, mainly because of the inadequacy of the information at the Sub-Commission's disposal, he had not opposed a general discussion of the progress report. He would not like his silence to be interpreted as meaning that he agreed with all the views expressed.

He wondered, in particular, whether the Supreme Court's decision mentioned by Mr. Halpern really had the significance he attributed to it. If a similar judgment had been pronounced by a similar body in the Philippines, its scope would have been limited to the specific facts of the case which related to the segregation of a racial minority. It could not be extended to segregation of the sexes in education.

Mr. HISCOCKS felt that the study of discrimination in education should not be restricted to countries on which ample material was available. The Rapporteur's task was to make world-wide study but he would then have to concentrate on those cases which provided particularly good examples of the problem of discrimination in its various forms, or of successful solution of the problem.

With regard to the definition of discrimination, he presumed that the Special Rapporteur would take full account of the definition formulated by the Sub-Commission but that he would interpret it flexibly in the light of his investigation. No definition had absolute validity, and the Special Rapporteur could not be bound by any one definition.

Mr. HALPERN agreed with Mr. Hiscocks that the definition of discrimination should be fairly flexible. Discrimination was a refusal to grant equal treatment to certain groups. He felt that the widest latitude should be left to the Rapporteur and the members of the Sub-Commission in interpreting that definition. He was against the classification of sources of information into different categories, for it was not the task of the Rapporteur to decide on their relative importance; an impartial body such as the Sub-Commission could decide, as did public opinion, whether decisions taken by Governments were arbitrary or justified. He had not meant to indicate that the Supreme Court decision necessarily applied to segregation of the sexes, but it was a pioneer decision which introduced a new concept. An unjustified separation might be regarded as a violation even though the facilities were of equal quality. No definition of discrimination ought to be adopted which would "freeze" existing concepts. We ought to accelerate the trend in the direction of full equality of the sexes.

Mr. EMELYANOV pointed out how valuable a study of the different education systems would be. At its sixth session, the Sub-Commission had acknowledged that such a study would facilitate its task but it had taken no decision on the point. He felt that an objective study could not be undertaken except on the basis of reliable documentation, and he therefore stressed the necessity of specifying the sources of the information used in the report. Discrimination in education consisted in using certain considerations of race, political opinion or religious belief to deprive some groups of the advantages enjoyed by the rest of the community. He did not consider that the practice of sending boys and girls to different schools constituted discrimination on grounds of sex.

(Mr. Emelyanov)

He failed to see what advantage the Sub-Commission would gain from a theoretical definition of discrimination. He was opposed, too, to the idea of restricting the scope of the Sub-Commission's study.

The CHAIRMAN said the debate had shown that the study might suffer if the Rapporteur and the Sub-Commission were tied down by an over-rigid definition of discrimination. He noted, too, that there was still some difference of opinion with regard to the value of the sources of information.

The meeting rose at 5 p.m.