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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 SIXTY-FIFTH MEETING

Held at Headquarters, New York,
on Thursday, 20 January 1955, at 3 p.m.

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PRESENT:

<u>Chairman:</u>	Mr. SORENSEN	Denmark
<u>Vice-Chairman:</u>	Mr. AWAD	Egypt
<u>Rapporteur:</u>	Mr. INCLES	Philippines
<u>Members:</u>	Mr. AMMOUN	Lebanon
	Mr. CASANUEVA	Chile
	Mr. CHATENET	France
	Mr. FGMIN	Union of Soviet Socialist Republics
	Mr. HALPERN	United States of America
	Mr. HILCOCKS	United Kingdom of Great Britain and Northern Ireland
	Mr. KRISHNASWAMI	India
	Mr. KULAGA	Poland
	Mr. ROY	Haiti
<u>Representatives of Specialized Agencies:</u>		
	Mr. DUNAND	International Labour Organisation
	Mr. METRAUX	United Nations Educational, Scientific and Cultural Organization
<u>Representatives of non-governmental organizations:</u>		
<u>Category A:</u>	Mrs. C.B. FOX	World Federation of United Nations Associations
<u>Category B:</u>	Mr. LEWIN	Agudas Israel World Organization
	Mrs. GIROUX	Catholic International Union for Social Service
	Mrs. DODI	
	Miss HITCHCOCK	International Alliance of Women
	Mrs. WALSER	Women's International League for Peace and Freedom
<u>Secretariat:</u>	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)

B. CONSIDERATION AS TO WHICH FURTHER STUDY OF DISCRIMINATION SHOULD BE
UNDERTAKEN IN 1955 (E/CN.4/Sub.2/L.85, E/CN.4/Sub.2/L.86, E/CN.4/Sub.2/L.87)

Mr. ROY explained that in the preamble to his draft resolution (E/CN.4/Sub.2/L.86) he had traced the history of the item. The draft recalled that, in the work programme established at the Sub-Commission's fifth session and approved by the Commission on Human Rights and the Economic and Social Council, it had been provided that among the measures to combat discrimination the Sub-Commission would study the fields of "immigration and travel"; and that furthermore at its sixth session the Sub-Commission had decided that the study should also cover "emigration". Lastly, the text noted that the Council had requested the Sub-Commission to take as the objective of its study article 13, paragraph 2, of the Universal Declaration of Human Rights.

The operative part of the draft was meant to state his own position but, at the same time, to reflect the views of the majority of the members of the Sub-Commission. While the Sub-Commission had recognized the emphasis placed by the Council on the special importance of article 13, paragraph 2, of the Declaration, several members had felt that the Council's resolution implied no intention to restrict the scope of the Sub-Commission's studies or to remove from its programme all consideration of discrimination in the matter of emigration.

His text therefore drew attention to that interpretation and asked the Commission on Human Rights to request confirmation of it from the Economic and Social Council.

Mr. FOMIN said that he would vote in favour of Mr. Roy's draft resolution, as the only course open to the Sub-Commission was to seek further enlightenment from the Economic and Social Council.

Mr. HISCOCKS pointed out that the members of the Sub-Commission whose interpretation of the Council's resolution differed from Mr. Roy's would have to vote against the draft resolution, even if they believed that the Council should be asked to clarify the meaning of resolution 545 D (XVIII).

Mr. AWAD was convinced that the Council had intended to restrict the scope of Sub-Commission's study. Nevertheless, the Sub-Commission should give the Council an opportunity to reconsider its position and he would therefore vote in favour of Mr. Roy's draft resolution.

Mr. HALPERN thought that it was quite clear from the discussion in the Economic and Social Council that the sponsors of resolution 545 D (XVIII) had wished the word "immigration" to be omitted from the text of resolution D submitted by the Sub-Commission. He could not understand how Mr. Awad, who thought that the Council resolution clearly said one thing, was nevertheless prepared to vote in favour of a draft resolution which interpreted it as meaning something different. The Sub-Commission should merely request the Economic and Social Council to reconsider its position. If a draft resolution to that effect were submitted, he would not vote against it; he would abstain.

The CHAIRMAN felt that the Sub-Commission should invite the Commission on Human Rights to ask the Economic and Social Council to say which interpretation of resolution 545 D (XVIII) was correct, instead of asking the Council to confirm the interpretation placed on the resolution by some members of the Sub-Commission.

Mr. ROY said that he had submitted his draft resolution in the belief that the members of the Sub-Commission had agreed to ask the Council to interpret its resolution. Perhaps the Council had intended to restrict the scope of the Sub-Commission's study without categorically removing from its programme all consideration of discrimination in the matter of immigration. The Sub-Commission should not ask the Council to reconsider its position, but should inform it that the majority of the members of the Sub-Commission believed that, in approving resolution 545 D (XVIII), the Council had not intended to eliminate the study of immigration from the Sub-Commission's programme.

Mr. AWAD proposed that the meeting should be suspended for a quarter of an hour so that a drafting committee could work out a generally acceptable text.

Mr. HISCOCKS explained that he had voted for the draft resolution on the "future work programme of the Sub-Commission in the field of prevention of discrimination" which had subsequently become resolution D. He had not therefore opposed the idea of a very broad study of discrimination in the matter of immigration, emigration and travel. He would point out, however, that in resolution VIII, adopted at its 472nd meeting, the Commission on Human Rights had drawn the attention of the Sub-Commission to the observations made upon the plan proposed for the studies provided for by the Sub-Commission's resolution D, and to the debate on the United States proposal relating to the subject (E/CN.4/L.362). During that debate several members of the Commission had argued strenuously in favour of a more limited study. The Economic and Social Council had been still more categorical when it had requested the Sub-Commission to take as the objective of its study in the field of discrimination in relation to immigration, emigration and travel, article 13, paragraph 2 of the Universal Declaration, namely - the right of everyone to "leave any country, including his own, and to return to his country". In his opinion the Sub-Commission would appear in a rather ridiculous light if it were to ask the Economic and Social Council to confirm the interpretation of its decision contained in Mr. Roy's draft resolution. Opinion in the Sub-Commission itself was sharply divided on that interpretation. The Council would be likely to conform the restrictive interpretation placed on its resolution. The Sub-

(Mr. Hiscocks)

Commission's prestige was at stake and he therefore supported Mr. Awad's motion for adjournment; that would give Mr. Roy and any members of the Sub-Commission who wished to help him a chance to tone down his draft resolution and to prepare a text acceptable to all or a substantial number of the members of the Sub-Commission.

Mr. ROY did not think that the adjournment suggested by Mr. Awad would help to reconcile such divergent views as those, on the one hand, of Mr. Hiscocks and Mr. Halpern, who appeared to be satisfied with the Council resolution, and of Mr. Ammoun, on the other, who apparently regretted the restrictions or at least the ambiguity of resolution 545 D (XVIII). Furthermore, the purpose of his draft resolution was not so much to give a watered down and modified expression of the opinions of the Sub-Commission members as to make the Council state its own position clearly.

Mr. AWAD was sorry that the sponsor of the draft resolution could not support his motion of adjournment, which he accordingly withdrew. He would nevertheless vote for the draft resolution introduced by Mr. Roy, so as to emphasize the importance he attached to the problem of immigration: if it were not included in the proposed study, the concept of freedom of movement would be weakened and entirely deprived of its vital content.

Mr. CHATENET said the idea of requesting clarification of a text which had been variously interpreted was not wrong in itself. However, there were two ways of requesting the Council to dispel all doubt; one was simply to ask what it had meant, and the other was first to give an interpretation, and then to ask whether the interpretation was correct. Personally, he preferred the first method. It was a pity that Mr. Roy had not followed it, and that, instead of using his draft resolution to express a kind of a preliminary opinion which did not prejudge the substance, he had meant it as a procedural device while at the same time being too specific with regard to substance. Perhaps Mr. Roy would consent to tone down the draft resolution.

Mr. AMMOUN said Mr. Roy's draft resolution contained an interpretation as expressed a hope. If, as he hoped, the draft resolution was adopted, the Sub-Commission would ask the Council to confirm its interpretation, but it would in reality be expressing the hope that it would be authorized to extend the scope of the study it was considering.

Mr. ROY confirmed Mr. Ammoun's interpretation of his draft resolution, and stated that he had deliberately given it the form of which Mr. Chatenet had spoken. By requesting the Council to state that it had not intended to restrict the scope of the Sub-Commission's studies, the Sub-Commission would, if the draft resolution obtained a majority of the votes, indirectly be expressing the hope that the Council would specifically authorize it to study discrimination in the matter of immigration.

Mr. AWAD said that he still supported the draft resolution. Either the proposed interpretation was correct, in which case the Council would not hesitate to confirm it, or it was not, and the Council would then have the opportunity of modifying its position, if it so wished, and of expressly recognizing the importance of the problem of immigration.

Mr. HALPERN pointed out that under the draft resolution introduced by the United States representative at the tenth session of the Commission on Human Rights the words "immigration and travel" in the Sub-Commission's resolution D were to have been replaced by the words "and the right to return to one's country as provided in paragraph 2 of article 13 of the Universal Declaration of Human Rights"

The Commission had drawn the Sub-Commission's attention to the debate on that proposal, which had been withdrawn by the United States representative at the 472nd meeting. But it had been pointed out in the course of that debate that the reason why the question of immigration was not mentioned in the Universal Declaration was not that it had been accidentally omitted, but that in the opinion of the authors the right to immigration could not for the time being be included

(Mr. Halpern)

in such a Declaration. It was clear from the records of the Economic and Social Council's debates, in the light of which the Council's resolution was adopted, that the interpretation given in Mr. Roy's draft resolution was untenable. The Sub-Commission should not endorse it.

Mr. HISCOCKS said that he had not welcomed the Council resolution. However, whether or not it deplored the limits placed on the scope of its study, the Sub-Commission had to respect the Council's wishes. The Sub-Commission had sometimes been accused of lacking a proper sense of its duties and its dignity. Such an accusation would be justified if the Sub-Commission submitted to higher bodies a draft resolution that had not been thoroughly thought out. He proposed therefore that the debate should be adjourned to the following day in order to give the sponsor of the draft resolution time to bring the text into line with the views expressed during the debate.

The CHAIRMAN drew attention to rule 45 of the rules of procedure of the functional commissions of the Council, under which, in addition to the proposer of the motion, one member might speak in favour and one against the motion.

Mr. HALPERN opposed the motion.

Mr. AWAD spoke in favour of the motion.

The CHAIRMAN put to the vote the motion that the debate should be adjourned to the following day.

The motion to adjourn was adopted by 5 votes to 3, with 4 abstentions.

The CHAIRMAN therefore requested Mr. Roy in consultation with other members of the Sub-Commission, to work out a revised text of his draft resolution that would take account of the views expressed during the debate.

He invited the Sub-Commission to consider agenda item 9.

LEGISLATIVE AND JUDICIAL PRACTICES CONCERNING MEASURES TO BE TAKEN FOR THE CESSATION OF ANY ADVOCACY OF NATIONAL, RACIAL OR RELIGIOUS HOSTILITY THAT CONSTITUTES AN INCITEMENT TO VIOLENCE (E/CN.4/Sub.2/164)

The CHAIRMAN invited debate on agenda item 9. He recalled that the Secretary-General had presented a preliminary report on the item (E/CN.4/Sub.2/164) and drew attention particularly to the suggestion made in paragraph 7 of that document that the final report should be presented at its eighth session. He asked for a decision on that point.

Mr. FOMIN said the Sub-Commission had agreed that that important item should be studied thoroughly and without delay. It was unfortunate that the Secretary-General had been unable to produce a full report, but in the circumstances there was no better solution than to approve the Secretary-General's suggestion. He hoped that at its eighth session, the Sub-Commission would have a detailed report in the light of which it could discuss the item.

The CHAIRMAN asked the Sub-Commission to approve the Secretary-General's suggestion.

The suggestion was agreed to.

The CHAIRMAN said that item 10, relating to the protection of minorities, was next on the Sub-Commission's agenda. For practical reasons connected with the organization of the work, he would suggest, however, that the Sub-Commission should postpone consideration of that item until it had disposed of the item concerning discrimination.

After an exchange of views in which Mr. AMMOUN, Mr. CASANUEVA, Mr. FOMIN, Mr. HALPERN, Mr. ROY, and Mr. HUMPHREY (Secretariat) took part, the CHAIRMAN decided, with the concurrence of the Sub-Commission, that agenda item 10 would not be discussed until the draft resolution introduced by Mr. Ammoun (E/CN.4/Sub.2/L.85/Rev.1), Mr. Roy (E/CN.4/Sub.2/L.86) and Mr. Casanueva (E/CN.4/Sub.2/L.87) had been disposed of.

The meeting rose at 4.20 p.m.