

UNITED NATIONS



ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/Sub.2/SR.144
24 January 1955
ENGLISH
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Seventh Session

SUMMARY RECORD OF THE HUNDRED AND FORTY-FOURTH MEETING

Held at Headquarters, New York,
on Wednesday, 5 January 1955, at 2.50 p.m.

CONTENTS

Adoption of the agenda (E/CN.4/Sub.2/158/Rev.1, E/CN.4/Sub.2/L.77)
(continued)

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

PRESENT:

<u>Chairman:</u>	Mr. SORENSEN	(Denmark)
<u>Rapporteur:</u>	Mr. INGLES	(Philippines)
<u>Members:</u>	Mr. AMMOUN	(Lebanon)
	Mr. AWAD	(Egypt)
	Mr. DIAZ CASANUEVAS	(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	(Commission on the Status of Women)

Representatives of specialized agencies:

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

Representatives of non-governmental organizations:

Category A:

Miss SENDER	International Federation of Free Trade Unions
Mr. THORMANN	International Federation of Christian 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. LONGARZO	International Conference of Catholic Charities
	Mr. SIENIEWICZ	<u>Nouvelles Equipes Internationales</u>
	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

ADOPTION OF THE AGENDA (E/CN.4/Sub.2/158/Rev.1, E/CN.4/Sub.2/L.77) (continued)

The CHAIRMAN suggested that the Sub-Commission should consider the draft resolution submitted by Mr. Hiscocks (E/CN.4/Sub.2/L.77) before voting on the agenda.

Mr. HISCOCKS explained the considerations which had led him to submit his draft resolution: the necessity of complying with rule 5 of the rules of procedure of the functional commissions, the difficulty and complexity of the subjects on the Sub-Commission's agenda, and the fact that the prestige of the United Nations was involved.

The draft resolution was not aimed at any particular person or organization; he was merely requesting that energetic administrative action should be taken to enforce rule 5 which was likely to become totally ineffective. In 1954 the deadline for transmitting documents was 23 November, but out of the seven basic documents, five, including one from the Secretary-General and one from the ILO were dated between 8 and 17 December and not transmitted until later. The two other documents were dated 19 and 30 November but not transmitted until 6 December. Although rule 5 provided that the reasons for delay should, in every case, be stated in writing, the Secretariat had given no explanation for the delay in transmitting the documents. He asked the Secretariat strictly to respect the time-limits for transmitting documents and, in the exceptional cases where documents were not distributed in time, to state the reasons for the delay.

He asked the members of the Sub-Commission to adopt a constructive attitude and to consider the future rather than the past. All those who had acquiesced in the non-observance of rule 5 shared responsibility for the present situation. His draft resolution, if adopted, would make it possible to remedy the present state of affairs.

Mr. EMELYANOV shared Mr. Hiscock's views and expressed dissatisfaction regarding the delay in the distribution of documents and translations. He would vote for the draft resolution which stressed the necessity of respecting the rules of procedure and of correcting an unsatisfactory state of affairs.

Mr. AMMCUN said that he would vote against the draft resolution which would, he felt, serve no useful purpose as the members of the Sub-Commission did not know the real reasons for the delay in the distribution of the documents.

Mr. DIAZ CASANUEVA felt that the representative of the Secretariat should be heard before the resolution was put to the vote.

Mr. HUMPHREY said that it was impossible for the Secretariat to distribute documents before it received them from the experts who had written them. The fact that Russian was not a working language explained the delay in translating documents into that language. Rule 5 referred only to the basic documents and some of the documents transmitted late were not of that type. In the circumstances, the Sub-Commission's criticism of the Secretariat did not seem to be justified.

The CHAIRMAN felt that, as Mr. Hiscocks had suggested, the Sub-Commission should concern itself with the future rather than with the past. The draft resolution was not intended as a criticism, it was intended to facilitate the future work of the Sub-Commission.

Mr. CHATENET felt that it was unnecessary to put the draft resolution to the vote. He wondered whether it would not be sufficient if Mr. Hiscocks' remarks were included in the record.

Mr. KULAGA said that he would vote for the draft resolution which was intended to ensure that the rules of procedure were respected and would help the United Nations in its future work.

Mr. HISCOCKS regretted that two speakers had taken the resolution in a personal sense. Though he did not wish to let down members of the Sub-Commission who had supported him, he was prepared to withdraw his draft resolution in order to avoid misunderstanding.

Mr. KRISHNASWAMI asked Mr. Hiscocks to withdraw his draft resolution which might be regarded as a criticism.

Mr. EMELYANOV said that although he considered that it was essential to observe the rules of procedure in order to maintain the prestige of the United Nations, he had no objection to the withdrawal of the draft resolution.

Mr. HISCOCKS withdrew his draft resolution but stated that nothing that had been said during the course of the discussion had caused him to alter the opinion which had led him to present the resolution. He withdrew it as there seemed some chance that it might be interpreted, in spite of his assertion to the contrary, as a criticism of an individual person or organization.

The CHAIRMAN put to the vote the provisional agenda as amended at the previous meeting (E/CN.4/Sub.2/158/Rev.1).

The agenda was adopted unanimously.

STUDY OF DISCRIMINATION IN THE FIELD OF EDUCATION: PROGRESS REPORT BY THE SPECIAL RAPPORTEUR (E/CN.4/Sub.2/163)

Mr. AMMOUN (Special Rapporteur), introducing his report, thanked the United Nations Secretariat and all those whose advice had helped him in his work. He did not propose to discuss the contents of the report in detail, but wished to make a number of general remarks. In particular, he pointed out that the circumstances which had made it impossible for him to submit a final report at the present session were indicated in paragraphs 118 to 121. He was awaiting the observations of the members of the Sub-Commission which would enable him to complete his work, and was particularly anxious to know whether his conception of his task, as he had explained it in his report, was in accordance with the spirit of his terms of reference.

He wished to stress one fact he had been able to observe in the course of his work; discrimination in education was declining. The decline was evidenced by several events, in particular by the recent decision of the United States Supreme Court, and would continue more rapidly under the pressure of public opinion, to which reference had rightly been made in the resolution laying down the Rapporteur's terms of reference.

The CHAIRMAN proposed to open a general debate which could be followed by a discussion chapter by chapter.

Mr. HALPERN felt that a debate on an interim report might not further the Sub-Commission's work. It would be better if the Sub-Commission merely took note of the present report pending the submission of a final report.

Mr. KRISNASWAMI considered that the general principles stated in the report should be examined. The discussion would facilitate the Rapporteur's future work. The Commission must know exactly what it was discussing and how to discuss it. In that connexion, there were many important questions and it was important that the Commission should be able to deal with them in an orderly fashion.

Mr. AMMOUN (Special Rapporteur) pointed out that the principles on the basis of which his report had been drafted could not be discussed as they had been laid down by a resolution. What could be discussed was the spirit in which he had interpreted those principles and which he had indicated in his report. With regard to the substance of the question, he agreed with Mr. Halpern that discussion would not be helpful. He would gladly give the members of the Sub-Commission information about his work but it would be impossible for him to go into detail and deal with the substance of the question without violating his terms of reference.

Mr. HISCOCKS considered that the procedural problem was important as the way in which it was settled might establish a precedent. He doubted whether a general discussion was desirable and suggested that the best course would be, after Mr. Ammoun had made a preliminary statement, for members of the Sub-Commission to make suggestions regarding the method to be adopted by the Special Rapporteur in his future work. There would be some matters on which it would be useful to have a thorough discussion so that the attitude of the Sub-Commission could be made quite clear to Mr. Ammoun.

Mr. HALPERN said that that point had already been settled and that Mr. Ammoun had himself stated that he was awaiting the observations of his colleagues. It was evident that the Rapporteur had worked on the basis of all the

documents which had been made available to him and it was commendable that he had described the methods he had adopted and which he intended to adopt in carrying out his work. However, no useful purpose would be served by discussing the substance of the question.

Mr. DIAZ CASANUEVA regretted that the report did not include a summary of the information collected. It was the first preliminary study on discrimination and a summary of the replies of Governments and non-governmental organizations received by the Rapporteur would be useful in discussing the substance of the problem.

The CHAIRMAN, speaking in his personal capacity, suggested that it would be better not to discuss the substance of the problem at the present stage as the documentation collected, although extensive, was still incomplete. On the other hand, it was desirable that the members of the Sub-Commission should discuss not what had been done but what might be added to or emphasized in the work which the Rapporteur had undertaken. Thus, a discussion on the draft definitions given in the historical survey of discrimination in education might serve as a basis for the report. The Sub-Commission might also discuss the list of non-governmental organizations given in the report which did not seem to include all the organizations that might assist the Sub-Commission in its work. The examples he had mentioned showed the value of a discussion on questions of method leaving aside questions of substance.

Mr. KRISHNASWAMI did not wish to discuss the problem in detail but pointed out that the report itself, particularly in paragraph 130, raised questions which could not be ignored. The importance, scope and spirit of the report depended on the interpretation of the words "discrimination", "minority" and "protection".

That did not mean that the Sub-Commission must work only on the basis of complete definitions. It would be unrealistic to attempt to do so and the Commission on Human Rights had been wrong to reject the Sub-Commission's definition of minorities without pointing out its shortcomings. When the word "minorities" was used everyone knew what was meant and even if there was not

general agreement on a complete and absolute definition, it was possible to list the various categories of known minorities. The main point was to provide the Rapporteur with guidance, which he could accept or reject, as to what constituted a minority and it was the Sub-Commission's duty to examine the question. In that connexion, he read out a number of articles from the Indian constitution which showed that there were various categories of minorities. Discrimination was a completely different problem as it was not necessarily directed against minorities. In the case of discrimination, a definition was necessary to avoid difficulties.

He also pointed out that attempts should be made to assimilate minorities by concessions, generous treatment and the granting of complete citizenship. The Commission on Human Rights had emphasized that the Sub-Commission's recommendations should not be simply scientific and technical but should be informative and aimed at educating world opinion. Those considerations could not be ignored and should be discussed by the Sub-Commission. A distinction should also be made between discriminatory measures which were the result of historical development and those which were the result of action taken by State. The latter were by far the most important. In that connexion, the recent decision of the United States Supreme Court was a matter for gratification and a milestone in the prevention of discrimination. The Rapporteur should also take that distinction into account if his work was to make an impression on world opinion.

Lastly he pointed out that the mere granting of formal equality did not necessarily ensure that the recipients would actually enjoy it. There might be a certain lapse of time before people entitled to education which was available to all decided to make use of it. Any State which really intended to promote social justice should establish the material conditions in which that justice could flourish. The Rapporteur should give attention to that aspect of the problem too.

The year in which the Sub-Commission was holding its current session would see the tenth anniversary of the signing of the Charter. There might be a revision of the Charter in the course of the year; in any event a balance-sheet would be drawn up. The Sub-Commission could make a useful contribution. Moderation of language need not diminish the boldness of the underlying concept.

It would be for the Commission on Human Rights to decide whether the Sub-Commission's recommendations went too far. Those recommendations might even be superfluous; it might be that the analysis carried out by the members of the Sub-Commission would be self-explanatory.

The CHAIRMAN pointed out that, although the questions of prevention of discrimination and protection of minorities were sometimes closely connected, as they were in the case of instruction in minority languages, the Sub-Commission intended as far as possible to treat them separately. It would deal with the second question when it turned to item 10 of its agenda.

Mr. AMMCUN (Special Rapporteur) agreed with Mr. Halpern, Mr. Hiscocks and Mr. Krishnaswami that if the Sub-Commission, when debating its report, opened a debate on the substance of the question of discrimination, it would be exceeding its terms of reference and that such a debate would prejudice the final success of the inquiry undertaken. On the other hand, he thought that a discussion of the definition of discrimination would undoubtedly be helpful.

He rejected Mr. Diaz Casanueva's suggestion and remarked that it would be unfair to Governments which had not sent in replies to circulate the replies of Governments which had done so. He had in fact promised some of those Governments that he would confine himself to giving his own opinion. It was for that reason that he had refrained from making use of the existing documentation concerning Trust Territories. In his opinion such information should be communicated direct by the Governments concerned.

In reply to the Chairman, he pointed out that his report dealt primarily with discrimination and only secondarily with the question of minorities.

He emphasized the importance of co-operation with non-governmental organizations and suggested that greater advantage might be taken of the assistance which they were generously prepared to give.

He agreed with Mr. Krishnaswami that a moral or ethical definition of discrimination might be adopted with advantage. As Mr. Awad had stressed at the previous session, discrimination was sometimes practised deliberately, but sometimes it was a result of historic or social circumstances. He wondered to what extent his inquiry should deal with those two types of discrimination respectively.

Mr. HALPERN was aware that it was difficult to define the protection of minorities. Nevertheless the Special Rapporteur, while pointing out that difficulty in part II, section IV, of his report, had reproduced in part I, section II, the text of the definition of discrimination submitted by the Sub-Commission to the Commission on Human Rights at its second session (paragraph 6 of the report)(E/CN.4/Sub.2/163). That definition had been approved by the Sub-Commission and by the Commission on Human Rights.

He wondered whether UNESCO could not co-operate more effectively in the study of discriminatory measures in the field of education.

Mr. AWAD thought that Mr. Ammoun should be congratulated on the fact that UNESCO had earmarked \$10,000 of its modest budget for his projected study. The Special Rapporteur had stressed the practical aspect of the co-operation given by UNESCO. He had obtained the services of an assistant of grade P-1 and a secretary; without that staff, which would be increased in the future in accordance with the requirements of the study, he would have been unable to perform his task.

In the speaker's opinion the study of discriminatory measures in the field of education should include a description of discrimination, which became a reality when the universal right to education ceased to be recognized, as analysis of the causes of that state of affairs and an indication of the international measures required to eliminate it.

Miss BERNARDINO (Commission on the Status of Women) said that the Commission on the Status of Women had studied the question of discriminatory measures based on sex in the field of education. She thanked the Special Rapporteur for having included in his provisional report the resolutions on that subject adopted by the Commission on the Status of Women at several of its sessions. As the Secretary-General had observed in his memorandum (E/CN.4/Sub.2/169), since the publication of the interim report the Economic and Social Council had adopted, on 12 July 1954, at its eighteenth session, a resolution on educational opportunities for women recommended to the Council by the Commission on the Status of Women at its own eighth session.

(Miss Bernardino, Commission
on the Status of Women)

In her view her participation in the work of the Sub-Commission was tangible proof of the desire of both bodies to co-operate in order to avoid overlapping and to work more effectively. The two bodies were working towards the same end, i.e. the elimination of discriminatory measures based on sex in the field of education. The Commission on the Status of Women would welcome any resolution adopted by the Sub-Commission which would help to attain that end.

Mr. ROY asked that the Sub-Commission should not merely take note of the report but should undertake a general discussion of the substance of the matter.

The meeting rose at 5.20 p.m.