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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-SEVENTH MEETING

Held at Headquarters, New York,  
on Monday, 24 January 1955, at 11 a.m.

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PRESENT:

<u>Chairman:</u>	Mr. SORENSEN	(Denmark)
<u>Vice Chairman:</u>	Mr. AWAD	(Egypt)
<u>Rapporteur:</u>	Mr. INGLES	(Philippines)
<u>Members:</u>	Mr. AMMOUN	(Lebanon)
	Mr. CASANUEVA	(Chile)
	Mr. CHATENET	(France)
	Mr. FOMIN	(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 Status of Women

Representatives of specialized agencies:

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

Representatives of non-governmental organizations:

<u>Category A:</u>	Mr. THORMANN	International Confederation of Christian Trade Unions
	Miss SENDER	International Confederation of Free Trade Unions
	Mr. BARRET-BROWN	World Federation of United Nations Associations

Representatives of non-governmental organizations: (continued)

<u>Category B:</u>	Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
	Mr. JOFTES	Co-ordinating Board of Jewish Organizations
	Mrs. DODD	International Alliance of Women
	Mr. SIENIEZICZ	<u>Nouvelles équipes internationales</u>
	Mr. JACOBY	World Jewish Congress
	Mrs. POLSTEIN	World Union for Progressive Judaism
	Miss PEZZULLO	Young Christian Workers
<u>Secretariat:</u>	Mr. HUMPHREY	Director, Division of Human Rights
	Mr. LAWSON	Secretary of the Sub- Commission

1. 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/Rev.1, L.86/Rev.1, L.87, L.88)

The CHAIRMAN said that the Committee had before it a draft resolution (E/CN.4/Sub.2/L.88) the text of which was familiar since all members had taken part in drafting it. It would not require lengthy discussion.

Mr. FCMIN requested that the Russian text of the draft resolution should be amended to make clear that two studies were to be undertaken in 1956.

The draft resolution (E/CN.4/Sub.2/L.88) was adopted unanimously.<sup>1/</sup>

Mr. HALPERN warmly thanked the members of the Sub-Commission who had taken an active part in preparing the draft resolution. He hoped it would not cause too much disappointment to the non-governmental organization who had offered to help in the proposed study in discrimination in religious rights and practices to learn that the study could not be initiated until 1956. It might be possible to turn to advantage the delay which had been imposed upon the Sub-Commission. In the intervening year it was to be hoped that the non-governmental organizations would take up the subject with their executive boards and would proceed to gather information which might be used in the contemplated study. He stated that he would continue to study the subject upon which he had prepared a preliminary report and would be happy to receive comments and suggestions from all sources with respect to it. In that way, the intervening time could be used to advantage and the additional preparatory work would be helpful when the study was initiated, as he hoped, in 1956. Furthermore, if the Sub-Commission's request was complied with and two studies were undertaken in 1956, the delay would be wholly offset.

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<sup>1/</sup> Mr. Hiscocks, who was absent during the vote, later announced that he was in full agreement with the decision taken.

The CHAIRMAN said that the vote made it unnecessary for the Sub-Commission to take a formal decision on the draft resolutions submitted respectively by Mr. Ammoun (E/CN.4/Sub.2/L.85/Rev.1) and Mr. Casanueva (E/CN.4/Sub.2/L.87).

Mr. Halpern and Mr. Ingles had been present during the drafting of the resolution adopted and had accepted the idea of omitting a vote of thanks. He thanked them warmly on behalf of the Sub-Commission. He also invited Mr. Casanueva to convey the Sub-Commission's thanks to Mr. Santa Cruz for his report on discriminatory practices in the matter of political rights.

Mr. HISCOCKS asked the representative of the Secretary-General why the Secretariat had not announced earlier that, because of the financial situation, it could not undertake any further study in 1955.

Mr. HUMPHREY (Secretariat) replied that nearly two weeks ago he had referred to the possible administrative and budgetary implications of such a study. Since then, the matter had been studied at the highest levels of the Secretariat.

The CHAIRMAN invited the Committee to take a decision on the draft resolution submitted by Mr. Krishnaswami (E/CN.4/Sub.2/L.82) consideration of which it had previously decided to postpone. He recalled that it had been decided to amend paragraph 3 of the operative part to make clear that the assistance expected from the Secretary-General would be more effective in the future than in the past.

Mr. AWAD thought that the draft resolution was no longer justified as the Sub-Commission had adopted the draft resolution in document E/CN.4/Sub.2/L.88. He hoped that Mr. Krishnaswami would withdraw it.

Mr. FOMIN agreed with Mr. Awad that the draft resolution in question was superfluous. According to the resolution in document E/CN.4/Sub.2/L.88, the Sub-Commission requested the Commission on Human Rights to ask the Economic and Social Council to take adequate measures with a view to providing the Sub-Commission with the necessary assistance for the pursuit of its studies. The request for assistance in paragraph 3 of the operative part of the draft resolution proposed by Mr. Krishnaswami would duplicate that request.

Furthermore, he wondered if it was really wise to thank the Secretary-General for having attempted, in his report to the General Assembly, to help the Sub-Commission. Paragraph 1 of the operative part of the draft resolution would give the impression that there was disagreement between the Secretary-General and the General Assembly about the amount of assistance to be given to the Sub-Commission. Even if there was a divergence of views between the Secretary-General and the General Assembly, the Sub-Commission should refrain from taking sides.

Mr. ROY thought there would be no harm in asking the Secretary-General, as the Sub-Commission did in paragraph 3 of the operative part, to provide expert assistance more generously than before for any studies that the Sub-Commission might undertake. The Sub-Commission needed to be quite clear about the amount of assistance that it could expect from the Secretariat.

Mr. CHATENET agreed with Mr. Roy that paragraph 3 of the draft resolution submitted by Mr. Krishnaswami was still perfectly justified. The Sub-Commission still had two studies in course of preparation, one on discriminatory practices in education and the other on discrimination in employment. In those circumstances it was normal that it should ask the Secretary-General to continue to provide it with expert assistance and if possible to increase that assistance.

Mr. HALPERN, reverting to a suggestion made by Mr. Hiscocks during the drafting of the resolution in document E/CN.4/Sub.2/L.88 wondered whether a paragraph should not be inserted in Mr. Krishnaswami's draft resolution to

the effect that the Sub-Commission had decided that any studies on discrimination that it undertook in the future would be carried out by special rapporteurs with the assistance of the Secretary-General and, where available, the specialized agencies, as in the case of the study on discrimination in education. A paragraph along those lines might be substituted for operative paragraph 3 of the draft resolution in document E/CN.4/Sub.2/L.82. It would help the Secretary-General to implement the resolution just adopted (E/CN.4/Sub.2/L.88).

Mr. HISCOCKS asked the representative of the Secretary-General whether he thought that the resolution that had been adopted would enable the Secretariat to obtain from the senior United Nations organs the credits necessary to give the Sub-Commission the assistance it sought. He proposed that further discussion of Mr. Krishnaswami's draft resolution should be postponed until the afternoon meeting, in order to allow its sponsor to "reconsider" it in the light of the adoption of the resolution in document E/CN.4/Sub.2/L.88.

Mr. HUMPHREY (Secretariat) assured the Sub-Commission that, in preparing the 1957 budget, the Secretary-General would bear in mind the views of the Sub-Commission and also any relevant resolutions that might be adopted by the Commission on Human Rights, the Economic and Social Council and the General Assembly.

Mr. FOMIN thought that Mr. Halpern's suggestion ran counter to the penultimate paragraph of the resolution in document E/CN.4/Sub.2/L.88, in which the Sub-Commission decided to postpone a decision as to the priority to be accorded to the proposed studies until its eighth session. The proper time for the Sub-Commission to consider whether the study in question should be assigned to a special rapporteur or to the Secretariat was when it decided on the type of study to be undertaken. That time had not yet come.

Mr. ROY agreed with Mr. Fomin. He reminded the Sub-Commission that he had proposed that the penultimate paragraph of the resolution in document E/CN.4/Sub.2/L.88 should be amended to postpone to the eighth session any decision not as to the priority to be accorded to the proposed studies but as to the conditions in which such studies would be undertaken.

Mr. KRISHNASWAMI said that although subsidiary bodies must obviously bow to the wishes of higher bodies, it was their duty to draw the attention of such higher bodies to the difficulties which they encountered in discharging their responsibilities. In the case in point, it was the Sub-Commission's duty to ask the higher bodies to reconsider their decisions in the light of the views expressed by its members. That was precisely what the draft resolution under discussion sought to achieve.

There was a regrettable tendency to cut down the staff and resources at the disposal of the Division of Human Rights, in flagrant contradiction to the desiderata expressed in the Economic and Social Council in 1946 and 1947.

Regardless of whether the future studies were assigned to the Secretariat, as Mr. Fomin wished, or to special rapporteurs assisted by the Secretariat, as Mr. Halpern wished, the staff of the Division of Human Rights would clearly have to be increased before it could give the assistance which would be asked of it.

He was prepared to accept Mr. Halpern's amendment which had the advantage of emphasizing the need for close co-operation between the Secretariat and any special rapporteurs who might be appointed by the Sub-Commission. The Sub-Commission could not transfer to the Secretariat the responsibility for carrying out its work. Such delicate tasks as reconciling the provisions of the Universal Declaration of Human Rights and the Charter should preferably be entrusted to experts who would assume full responsibility for the opinions they expressed. Unlike certain national administrations, the Secretariat was not in a position to accept such responsibility.



He did not, however, wish to advocate any rigid solution: in some cases the study could profitably be assigned to the Secretariat; in others, it would be preferable to appoint a special rapporteur. He was prepared to consider all proposed amendments and to reconsider the text together with the other members of the Sub-Commission. The Sub-Commission would be failing in its duty if it did not draw the attention of higher bodies to the need for giving it the resources and expert assistance that it needed to discharge its functions properly. He was not adamant about the form of his draft resolution but he insisted that the substance should be retained.

Mr. AWAD said that, while Mr. Krishnaswami's draft resolution was open to criticism from the substantive point of view - exception could be taken, for instance, to operative paragraph 2 which would tie the Sub-Commission's hands in the future - it was also open to a much more serious criticism, namely that it was premature. The time had not yet come to act on it. Much might certainly be gained by knowing immediately whether or not the Sub-Commission intended to appoint rapporteurs to undertake certain studies, but, as it had become impossible for the Sub-Commission at that time to decide exactly which studies were to be made there was no immediate necessity to consider the draft resolution. The Sub-Commission would only waste time in trying to amend it; it should be withdrawn.

Mr. HISCOCKS supported the draft resolution because it would give the Sub-Commission an opportunity to make its position quite clear to the Secretary-General and the higher bodies and to show that it had not been altogether discouraged by its recent set-back. He admitted, however, that, in view of the resolution that had just been adopted (E/CN.4/Sub.2/L.88), Mr. Krishnaswami's draft might create confusion; that was why he was in favour of postponing further discussion to give Mr. Krishnaswami and Mr. Halpern a chance to agree on certain amendments.

Mr. FOMIN pointed out that Mr. Krishnaswami's statements that there was no need for the moment to consider whether the special rapporteurs should be paid or not ran counter to his draft resolution which was based on the assumption that they would not be paid. In any case, he would be unable to accept the draft resolution even if it were amended to that effect, since he agreed Mr. Awad that it was premature until some decision had been reached on the studies to be undertaken. He was surprised that the question of the rapporteur, whether premature or not, was the only question that seemed to be bothering the Sub-Commission; all the other questions, such as the method to be followed and the sources to be used, were being ignored. Moreover Mr. Halpern apparently wanted all the studies to be prepared by rapporteurs, although the Sub-Commission had decided, in connexion with item 9 of its agenda, that the Secretariat should be asked to do some preparatory work. The system of rapporteurs was far from having all the advantages attributed to it: it was costly to appoint a ~~rapporteur~~, who would not necessarily be as objective as the Secretariat ~~and~~, as numerous experiments in other bodies had shown, his report might prejudice the Sub-Commission's work which would certainly not be the case were it prepared by the Secretary-General.

In conclusion he repeated that it was both premature and academic to consider the question at the moment.

The CHAIRMAN noted that of the two questions under discussion - assistance from the Secretariat and the appointment of paid or unpaid special rapporteurs - there was disagreement only on the second. He approved of Mr. Hiscocks' suggestion that the discussion on that point should be adjourned so that a compromise text could be prepared.

Mr. ROY agreed with the Chairman's summing up of the situation. In that context, there was some merit in Mr. Halpern's proposal. If it was considered as inserted between paragraphs 2 and 3 of the operative part of Mr. Krishnaswami's draft, it would only be following logically on Mr. Krishnaswami's own conclusion in the operative part. There was, however, a third point, which the Chairman had omitted to mention. As a result of the recent adoption of the resolution (E/CN.4/Sub.2/L.88), a question of principle arose: it had to be decided whether

the procedure to be followed in making the study which had now been postponed for a year was to be determined in the current year or in 1956. He agreed with Mr. Fomin that all aspects should be considered and not merely the questions of a special rapporteur, as in fact, had been provided for in the draft resolutions of Mr. Ammoun (E/CN.4/Sub.2/L.85/Rev.1) and Mr. Casanueva (E/CN.4/Sub.2/L.87) regarding the studies which it had been thought possible to undertake in 1955.

Mr. HALPERN proposed that the discussion should be adjourned until the next day, so that those members of the Sub-Commission who agreed with Mr. Krishnaswami that special rapporteurs were required could agree upon a text. He would, however, make a few observations which might be of some use to them.

He did not agree with Mr. Awad that it was premature to discuss the question of special rapporteurs at the moment, for it had been definitely decided by the Sub-Commission that it wished to undertake two studies in 1956, and it would be of great assistance to the Secretary-General in planning his work for 1956 to know exactly what kind of studies the Sub-Commission intended to undertake. He could then make definite proposals in his budget. The Sub-Commission's action in asking the Secretariat for a report on the measures mentioned in item 9 of the agenda should not be taken as a precedent, for that had been simply a matter of listing the legislative provisions and administrative and judicial practices in force in the various States.

Leaving aside for the moment the points of substance raised by Mr. Fomin and restricting his observations to questions of procedure, he urged the Sub-Commission to reach some positive conclusion. The decision on the choice of the study had been deferred, but it would be advisable for the Sub-Commission to take a decision on the nature of the studies. He saw no reason why it should not confine itself to the question of rapporteurs since, so far as the other matters were concerned, all the members of the Sub-Commission appeared to have agreed to follow the resolution adopted with regard to the study of discrimination in education.

He would like the Secretariat to say whether it would be helpful to it if the Sub-Commission made a decision at the present session as to whether the study should be conducted with the aid of a rapporteur.

Mr. FCMIN did not think that Mr. Halpern's question could be put to the Secretariat in the form in which he had formulated it, for that would compel the Secretariat to prejudge a question which it was for the Commission on Human Rights, the Economic and Social Council and the General Assembly to reply. He was surprised, too, that Mr. Halpern, who had raised the question of sources in his report, should consider that subject exhausted. The very fact that the sources proposed by Mr. Halpern had not been unanimously accepted proved that the question was still open.

Mr. ROY believed that Mr. Halpern's reply to Mr. Awad's objection revealed the need to ask and answer a preliminary question: whether the majority of the Sub-Commission wished to decide on the procedure to be followed in making the studies at the current or at the next session.

Mr. HISCOCKS did not agree with Mr. Roy; the Sub-Commission ought to vote on a draft resolution before it and not consider further the question of procedure. He did not think that the terms of that resolution duplicated those of the resolution which had just been adopted (E/CN.4/Sub.2/L.88).

Mr. HUMPHREY (Director of the Division of Human Rights) agreed with Mr. Fomin that the Secretary-General could not take a stand on a question under discussion in the Sub-Commission. He could assure the Sub-Commission, however, that if the Secretary-General and the relevant organs were given a clear idea of its intentions, it would be much easier for them to draw up their plans.

Mr. ROY thought that the majority of members of the Sub-Commission might wish further examination of Mr. Krishnaswami's draft resolution to be deferred, not until the next day, but until the next session.

Mr. AWAD requested the Chairman to put the question of adjournment to the vote.

The CHAIRMAN inquired whether the Sub-Commission wished to continue its consideration of Mr. Krishnaswami's draft resolution or to adjourn the debate on it.

Mr. HALPERN thought that it would be unfair to decide to defer consideration of a draft resolution which its sponsor was prepared to amend, before the Sub-Commission had perused the revised text.

Mr. ROY formally proposed that consideration of the resolution submitted by Mr. Krishnaswami should be deferred until the next morning.

The proposal was adopted by 10 votes to none, with 2 abstentions.

2. PROTECTION OF MINORITIES: FURTHER STUDY OF THE WHOLE QUESTION, INCLUDING THE DEFINITION OF THE TERM "MINORITY" (E/CN.4/Sub.2/L.83, E/CN.4/Sub.2/L.89)  
(continued)

Mr. HISCOCKS hoped that the Sub-Commission would adopt his draft resolution unanimously. He reminded it that the draft was the outcome of lengthy discussions and close collaboration between its members. He outlined the history of the Sub-Commission's work on the problem of minorities. It had endeavoured to define the term "minority" and to that end the Secretariat had prepared a document (E/CN.4/Sub.2/85) on the definition and classification of minorities, but the Commission on Human Rights, without giving its reasons, had rejected the Sub-Commission's definitions twice and had offered no constructive proposal on the way in which it might arrive at a definition. It had therefore been obliged to give up the attempt to reach a general definition and had recommended measures of protection based, not on a general definition, but on a careful study of the present position of minority groups throughout the world.

He was perfectly well aware of the difficulties and dangers inherent in any study relating to the protection of minorities. There were two possible methods of approach: the one, that of pointing out the differences between

(Mr. Hiscocks)

minority groups and the rest of the population, the other, that of encouraging harmonious relations between minority groups and the population at large of the countries where they lived, in other words, of considering the possibility of integration. In resolution F, adopted at its sixth session, the Sub-Commission had decided that it would be unwise to take measures which would impede the integration of minorities into the population of the countries where they lived. The Sub-Commission had, moreover, requested the Commission on Human Rights to recommend that the Economic and Social Council should appoint an impartial expert to study the present position of minorities throughout the world. He regretted that the Commission on Human Rights had rejected the Sub-Commission's resolution and recalled that, during the discussion at the Commission's tenth session, Mr. Ortega, the representative of Chile, had expressed his regret that the Commission had shown no constructive spirit in its deliberations. He wished, further, to thank Mr. Ingles for his lively defence of the Sub-Commission before the Commission on Human Rights. The decision recently taken by the latter body would make the Sub-Commission's work more difficult. In view of the criticisms of the Sub-Commission and of its total lack of instructions, it could but adjourn its consideration of the question of the protection of minorities.

Having outlined the background to the whole question, he explained the purport of his draft resolution. At the beginning of the preamble, the Sub-Commission recalled the negative attitude displayed by the Commission on Human Rights. He had stressed the two aspects of the problem of minority groups, in order to show clearly that the Sub-Commission would not neglect the first aspect, that of respecting the principle of equality of treatment. With regard to the protection of minority groups in need of special measures of protection, it recognized that it was impossible to give a satisfactory definition of such groups. It then observed, in the same spirit as in resolution F adopted at its sixth session, that no recommendations for the protection of such minority groups could be made without a thorough knowledge of the present position of those groups throughout the world. Finally, it invited the Commission on Human Rights to issue a specific directive on the subject and clearly stated that the Sub-Commission would do its best to comply with resolution G (sixth session) by examining any

facts relevant to the question of minorities brought on its attention by Mr. Ammoun or which might emerge in connexion with its other work on discrimination.

In brief, his draft resolution urged the Commission on Human Rights, in moderate terms to take cognizance of its responsibilities and abandon the discouraging attitude it had adopted towards the Sub-Commission.

The meeting rose at 1.p.m.