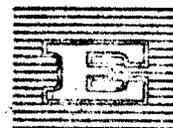


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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION
OF MINORITIES

Seventh Session

SUMMARY RECORD OF THE HUNDRED AND FIFTY-THIRD MEETING

Held at Headquarters, New York,
on Wednesday, 12 January 1955, at 10.50 a.m.

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<u>Rapporteur:</u>	Mr. IGLES	(Philippines)
<u>Members:</u>	Mr. AMOUN	(Lebanon)
	Mr. AWAD	(Egypt)
	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. FOY	Haiti

Representatives of specialized agencies:

Mr. DUJAND	International Labour Organisation
Mr. MEYERAU	United Nations Educational, Scientific and Cultural Organization

Representatives of non-governmental organizations:

<u>Category A:</u>	Miss SEIDER	International Confederation 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

Category B and Register:

Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Miss HITCHOCK	International Alliance of Women
Mr. HARDMIND	National Baptist Convention U.S.A., Inc.
Mr. SIENIEWICZ	<u>Nouvelles équipes</u> <u>internationales</u>
Mrs. WALSER	Women's International League for Peace and Freedom
Mr. PENCE	World's Alliance of Young Men's Christian Associations
Mr. JACOBY	World Jewish Congress
Mrs. POLSTEIN	World Union for Progressive Judaism
Miss PEZZULO	Young Christian Workers
<u>Secretariat:</u> Mr. HUMPHREY	Director, Division of Human Rights
Mr. LAWSON	Secretary of the Sub- Commission

METHODS TO BE ADOPTED BY THE SUB-COMMISSION IN CARRYING OUT FUTURE STUDIES

Mr. FOMIN explained that in his opinion the only official sources the Sub-Commission could use were those provided by Governments directly or through the specialized agencies. In order to avoid a long procedural discussion, however, he would refrain, at that juncture, from questioning the decision of the Commission on Human Rights to authorize the Sub-Commission also to use information supplied by non-governmental organizations. That information might be useful in certain circumstances if it was really objective, but it would be advisable at least to keep to the non-governmental organizations which had consultative status with the Economic and Social Council and its organs.

The CHAIRMAN asked the Sub-Commission to continue consideration of the appointment of the persons to whom it would entrust any studies it undertook.

Mr. INGLES recalled that in resolution 677 (VII) the General Assembly had recognized that the appointment of a person as rapporteur of a United Nations body conferred honour upon his country and distinction upon himself and had considered that no such appointment should carry remuneration. The resolution was applicable to all United Nations organs and had been confirmed by the General Assembly at its ninth session, when the Assembly, on the recommendation of the Fifth Committee, had adopted resolution 237 (IX). The words the General Assembly had used at its ninth session were less categorical than the terms of resolution 677 (VII) and there were "special circumstances" in which a rapporteur of a United Nations organ could be remunerated. Thus an exception had been made to the general rule, in favour of the rapporteur of the International Law Commission. No doubt, the Sub-Commission, in view of the importance and scope of its task, should be able to explain to the General Assembly the special circumstances justifying an exception in favour of its Special Rapporteur who worked between sessions of the Sub-Commission. He realized that the work of the Sub-Commission was more delicate in nature because it implied requests for information which Governments were sometimes loath to give and to Governments which were not always well-disposed. It seemed, however, that it would do so with a better chance of success when the report on discrimination in education was completed.

(Mr. Ingles)

While the Economic and Social Council had not welcomed resolution J of the Sub-Commission on "Measures to expedite the work of the Sub-Commission", the Commission on Human Rights had not objected to the idea of remuneration since it had transmitted the resolution to the General Assembly and drawn its attention to the purpose of the requests it contained. It was to be hoped that the decision of the Economic and Social Council and that of the General Assembly were not irrevocable.

It was not true that the bodies to which the Sub-Commission was responsible had shown an intransigent attitude on the question of the appointment of a rapporteur. The Economic and Social Council had not continued the office of the Rapporteur on freedom of information because it had considered that he had completed his work. At its seventeenth session, by resolution 525 (XVII), it had decided to appoint the representative of Norway to the United Nations as Rapporteur to prepare a summary of the replies of the Governments to the questionnaire on slavery. The Economic and Social Council did not therefore view the appointment of a rapporteur on special subjects with disfavour.

In the selection of sources of information the Sub-Commission should not feel itself bound by the limitation the Council had imposed upon itself by using no sources other than Governments and specialized agencies. The Council had reasons for excluding other sources of information which were not valid for an organ composed of experts, such as the Sub-Commission. Besides, the Council had approved the Sub-Commission's decision to ask its Special Rapporteur on discrimination in education to obtain his information from sources other than Governments and specialized agencies, for example, from the Secretary-General, non-governmental organizations and even scholars and scientists whose work and personal standing provided the guarantees the Commission on Human Rights required. It seemed that the Sub-Commission could follow its present procedure, unless Mr. Ammoun's study or its own experience led it to exclude sources of information of doubtful objectivity, which might jeopardize the success of its work.

Mr. KULAGA doubted whether the General Assembly would reconsider its resolution 237 (IX), which had categorically reaffirmed resolution 677 (VII) ruling out remuneration of rapporteurs of United Nations organs. It had made an exception for the International Law Commission because it had been bound by a previous resolution which had been reaffirmed. Nor was the remuneration of each of the members of the Central Opium Board and the Drug Supervisory Body any more convincing: the Assembly had only decided on that after a long and critical debate and after the Secretary-General's initial proposals had been referred to the Advisory Committee on Administrative and Budgetary Questions.

The Economic and Social Council had approved the appointment of a rapporteur to study discrimination in education "in order not to cause any delay in the study" and had added that future studies should normally be carried out by the Sub-Commission itself in co-operation with the Secretary-General (resolution 502 H (XVI)).

The procedure Mr. Halpern suggested, of entrusting the proposed study to a drafting committee composed of three members of the Sub-Commission working on the basis of the conclusions reached by an outside consultant, was too complicated. The experience of a similar committee in the past did not provide a convincing argument; it was not an example worth following.

The idea of entrusting the study directly to a special rapporteur with the status of a consultant was equally unattractive. That formula had already been severely criticized by the Fifth Committee of the General Assembly and specific proposals to reduce the budget estimates for consultants had been unable at the ninth session. Moreover, in view of the need to preserve the prestige and ideals of the United Nations, no person outside the Organization should be entrusted with the work the Sub-Commission should do. He proposed as a solution to call upon the Secretariat of the United Nations, thanks to its constant contacts with Governments, specialized agencies and non-governmental organizations and to the competence and integrity of its personnel, the Secretariat was in a position successfully to carry out any studies it might be asked to undertake. It was in the best position to conduct the study in conformity with the ideal of international co-operation on which the United Nations was based. That opinion

was, moreover, in keeping with the views expressed by the Advisory Committee on Administrative and Budgetary Questions in its second report to the General Assembly for the ninth session, paragraph 268 (a), (b) and (c).

He fully agreed with Mr. Fomin's observations on the need to use only sources of information of guaranteed impartiality and objectivity. Among the non-governmental organizations those which had consultative status with the Economic and Social Council and its organs should be consulted. He was surprised that Mr. Halpern had stated in his report on discrimination in the field of freedom of religion and religious practices (E/CN.4/Sub.2/162, paragraph 48) that in certain cases, it might be necessary to question escapees from the country concerning whose conduct information was sought. Statements by those persons, could no more serve as a basis for an objective and impartial study of the problems which the Sub-Commission might consider including in its working programme than the individual communications addressed to the Secretary-General, which Mr. Halpern also mentioned as possible sources of information.

Mr. HALPERN pointed out to Mr. Fomin that at the 458th meeting of the Commission on Human Rights, Mr. Green, representative of the United States, had said that he had added to the list of the sources of information mentioned in the draft resolution dealing with the study of discrimination in education a reference to "writings of recognized scholars and scientists", in order to meet the wishes of the representative of the Union of Soviet Socialist Republics. The amendment as originally introduced by the United States representative had referred to the writings of experts but Mr. Morosov, the representative of the Union Soviet Socialist Republics, had asked that the other phrase be substituted. That had been agreed to and the USSR representative had thereafter supported the proposal and voted for it.

(Mr. Halpern)

With regard to the methods the Sub-Commission might use in carrying out its future studies, it seemed useless at the present time to ask the higher bodies to re-examine the possibility of offering the Sub-Commission the services of a paid expert. Furthermore, the Secretariat would be loath to undertake a study which might be critical of the attitude of some Governments. In order to solve that difficulty he proposed that the Secretariat should collect information but that it should be submitted to one of the members of the Sub-Commission, who would take full responsibility for the conclusions. He therefore asked the members of the Sub-Commission to think over the possibility of dividing the work between a member of the Secretariat, or an expert retained by the Secretary-General and a member of the Sub-Commission.

The method was complicated, and it would be better to call upon an expert outside the United Nations to do the whole job. But in view of the fact that compensation could not be paid, an effort should be made to obtain the services of a scientist of the impartiality required by the Commission on Human Rights, who would undertake the work free of charge. Some universities would probably be prepared to give leave of absence with pay to one of their professors and allow him to devote all his time to the task.

He was particularly concerned about the difficulty of persuading a member of the Sub-Commission to accept the duties of special rapporteur. He proposed that a three-member committee should be set up and he had no doubt that the Secretary-General would agree to pay the moderate cost of its meetings.

In certain matters the Sub-Commission could not call upon any specialized agency.

Mr. AWAD regretted that the other United Nations bodies underestimated the scope of the Sub-Commission's work. Experts could not draft a document on such important questions as discrimination and the protection of minorities in a few weeks, especially when there appeared to be a desire to saddle them with all the preliminary work. After all, the Second World War had arisen out of a minority problem.

In present circumstances, the Sub-Commission had no choice but to alter its methods of work and appeal to the Secretariat and non-governmental organizations. It was unfortunate to have to advise the Sub-Commission to give up the idea of undertaking a global study of discrimination, but the circumstances admitted of no alternative.

Mr. HISCOCKS said that he did not share the view advanced by Mr. Fomin and Mr. Kulaga, and supported to some extent by Mr. Halpern, that the Sub-Commission's work should be handed over to the Secretariat. The Secretary-General had made his views on the subject known and thanks were due to him for the efforts he had made to influence the General Assembly's attitude. The fact remained, however, that the Secretary-General could not be asked to do more than he was prepared to do if he followed the two main criteria set forth in document A/2687, paragraph 24, B, 1 and 19.

In view of the nature of the Sub-Commission's task, however, it should be able to rely on someone who was given all the time needed and would be responsible for the whole work. The only way of securing the services of such a person was to offer remuneration. Mr. Kulaga had thought that he must necessarily be connected with the United Nations, but that was not necessarily so; the Organization was universal enough in character for even those who were not directly connected with it to be imbued with its spirit.

The Sub-Commission's wish to avail itself of the services of a paid expert had always been denied and in that connexion it was unfortunately necessary to observe, as Mr. Awad had done, that the Sub-Commission's work had not always enjoyed the appreciation that was its due. There were no doubt a number of reasons why a paid expert had not been made available. Some delegations were perhaps not fully aware of the nature of the Sub-Commission's work. Others might have a lukewarm attitude to its success, excessive financial misgivings, or a fear of giving the Sub-Commission some small power of patronage by approving the payment of a rapporteur. There was some force in the principle behind that last argument and he was himself opposed to a paid rapporteur being chosen from the membership of the Sub-Commission. In any case the Sub-Commission was now forced to consider other solutions. The difficulties reflected in the preliminary reports of three of its members showed how hard it was to find a solution.

He regretted that he was unable to support the solutions proposed by Mr. Halpern (E/CN.4/Sub.2/162, paragraph 42-44). The idea of entrusting the work to a group of three was impracticable. Such a group would have to meet from time to time and the travelling expenses involved would cost more than the amount required to pay a single expert. Moreover, the work being of a

(Mr. Hiscocks)

creative nature it was essential to entrust it to a single person. Again, if it was decided to ask for the unpaid services of an expert outside the Sub-Commission, that expert, even supposing that one could be found, could only be a person in very easy circumstances, which would introduce an element of discrimination. Finally, with regard to Mr. Halpern's third proposed solution, it was not certain that the Secretary-General would be prepared to make consultants available to the Sub-Commission on the conditions mentioned.

Mr. Santa Cruz (E/CN.4/Sub.2/165, paragraph 19) and Mr. Ingles (E/CN.4/Sub.2/167, paragraph 55) had both proposed that a rapporteur should be chosen from among the members of the Sub-Commission, as Mr. Ammoun had been, and Mr. Ingles had also referred to the possibility that the Chairman might plead the Sub-Commission's cause before the Fifth Committee of the General Assembly.

Although he would have preferred to leave it to other bodies to choose for the Sub-Commission among the solutions which the Sub-Commission itself regarded as makeshifts, he felt that he must make a definite suggestion and therefore proposed that the Sub-Commission should appoint from among its members another rapporteur, working on the same basis as Mr. Ammoun, in the hope that he might, like Mr. Ammoun, enjoy the assistance of UNESCO. The selection of that member would not, however, be easy, in view of the difficulties of the work to be done. For his part, Mr. Ammoun had shown that he would not have been able to carry out his task without UNESCO's assistance. Moreover, that solution was itself open to objection, since the Sub-Commission would then be forced to rely on finding someone with private means or an official paid by his Government and authorized to undertake the work.

If the Sub-Commission failed in that endeavour, it should formally address its higher bodies, explain to them all that it had already done and that it hoped to do and ask them to give it the necessary facilities. It could even proceed immediately to appoint a special committee, consisting, perhaps of the Chairman a member of the Secretariat and a UNESCO official, to select the experts when the Sub-Commission had been granted the facilities for them. To judge by the Secretary-General's attitude in the past, there was reason to believe he would support that suggestion.

Mr. CASANUEVA agreed with Mr. Awad's account of the Sub-Commission's position. The solution of the problems facing the Sub-Commission and the selection of the methods it should adopt depended on the replies to certain preliminary questions affecting its very existence: the amount of money to be made available to it and, above all, the importance its higher bodies attached to it. There had been a consistent tendency in the Commission on Human Rights and the Economic and Social Council to underestimate the Sub-Commission and to withhold the facilities it needed. For their part, the specialized agencies sometimes feared that the Sub-Commission would trespass on their preserves. The result was a feeling of insecurity, which in the end gave uniformed representatives an unfavourable impression. Mr. Awad had been right to object to the idea that the fact that the members of the Sub-Commission were experts justified their being asked to undertake all the work of inquiry. It might be asked whether the higher bodies had really been made to understand the material limitations under which the Sub-Commission had to work.

He himself did not feel qualified to suggest a specific solution. On the other hand, he would be inclined to look favourable on another effort, which might be of some value in practice, to bring out the need to grant the Sub-Commission the necessary facilities by showing how important its work was. Such a move might take the form either of a formal statement or of a personal interview between the Chairman of the Sub-Commission and the Chairman of the higher bodies or the Secretary-General.

If the Sub-Commission did not receive the necessary support, it would be condemned to stagnation or to academic debate, which was certainly not its purpose.

Mr. FOMIN said that in view of the refusal of the higher bodies to permit the Sub-Commission to employ a paid expert, there was no way of having that decision reconsidered. Thus, there were only two solutions, either to find an unpaid rapporteur from among a necessarily very small number of people - Mr. Hiscocks had rightly doubted whether that was possible - or else to fall back on the services of the Secretariat. He himself favoured the latter solution in view of the really positive results achieved with that method by other United Nations bodies, in particular the Commission on the Status of Women.

(Mr. Fomin)

With regard to Mr. Halpern's remark, the fact that the Soviet delegation in the Commission on Human Rights had favoured an additional source of information did not mean that it had to agree to use the work of scholars and scientists in every instance. It was permissible for that source to be used by the Secretary-General, since it was certain that he would use it with discretion. In the case of a special rapporteur, however, the question of using such a source depended on the person who would use it and the method of using it. Naturally, there was no objection to the use of sources of proven scientific value.

The meeting rose at 1.50 p.m.