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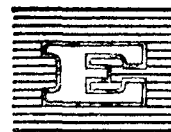
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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Seventh Session

SUMMARY RECORD OF THE HUNDRED AND FIFTY-FOURTH MEETING

Held at Headquarters, New York,
on Wednesday, 12 January 1955, at 3 p.m.

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55-02778

PRESENT:

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

Representatives of specialized agencies:

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

Representatives of non-governmental organizations:

<u>Category A:</u>	Miss SENDER	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

Representatives of non-government organizations: (continued)

Category B and Register:

Mr. LEWIN	Agudas Israel World Organization
Mr. NOLDE	Commission of the Churches of International Affairs
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Miss HITCHCOCK } Miss DODD }	International Alliance of Women
Mr. LONGARZO	International Conference of Catholic Charities
Mr. SIENIEWICZ	Nouvelles Equipes Internationales
Mr. JACOBY	World Jewish Congress
Mr. PENCE	World's Alliance of Young Men's Christian Associations
Mrs. POLSTEIN	World Union for Progressive Judaism
Mr. HUMPHREY	Director, Division of Human Rights
Mr. LAWSON	Secretary of the Sub-Commission

Secretariat:

METHODS TO BE ADOPTED BY THE SUB-COMMISSION IN CARRYING OUT FUTURE STUDIES
(E/CN.4/Sub.2/L.82)(continued)

Mr. AMMOUN observed that the Sub-Commission had been created in a moment of enthusiasm and in order to meet the objectives of the United Nations, but that there had subsequently been a tendency to disregard the implications of its existence. Consequently, the Sub-Commission had never been adequately equipped to carry out its task. A special rapporteur appointed by the Sub-Commission had felt that anomaly more acutely than anyone else.

Another embarrassing feature was the constant reference to the Sub-Commission as a group of "experts". The higher bodies doubtless used the term because they genuinely believed in the Sub-Commission's faith and goodwill. In fact, however, real experts on discrimination, corresponding to acknowledged experts on legal or scientific questions, probably did not exist. That was the very reason why the Sub-Commission required technical help from persons who had at least carried out some extensive research in the field of discrimination and were in a position to collate the relevant material. The role of the Special Rapporteur should be confined to the evaluation of that material.

As to the question of sources, his own views could be found in his progress report on the study of discrimination in education (E/CN.4/Sub.2/163), in paragraphs 79 et seq. That method seemed equally applicable to any future studies which the Sub-Commission might undertake. The information collected would be summarized and communicated to each Government concerned for comment and the risk of error would thus be reduced to a minimum.

Each of the three preliminary reports to be considered under agenda item 8 contained a constructive suggestion as to the best method of conducting a study and the three suggestions could probably be combined into a single formula. In view of the understandable reluctance of the Secretariat to touch on political issues, the Sub-Commission was bound to conclude that the appointment of a special rapporteur was the only solution. Although a special rapporteur could not now be remunerated, he could not agree with Mr. Hiscocks that only a person of means could accept the appointment. Nor could he support Mr. Halpern's view that the work could be done by a three-man committee; it was sufficiently difficult even for a single rapporteur to arrive at fully objective conclusions.

(Mr. Amoun)

The Secretariat's contribution to a special rapporteur's work was already very valuable and he himself had been supplied with a great deal of material. The Sub-Commission would, however, greatly appreciate any further assistance, such as the services of a person exceptionally well versed in the subject under study.

He was inclined to favour Mr. Casanueva's suggestion that the Sub-Commission should formally stress its need of adequate support. The higher bodies should be made to realize that if no results were achieved, the fault did not lie with the Sub-Commission but with those who failed to provide it with the necessary resources.

Mr. KRISHNASWAMI said that although there was almost unanimous agreement in the Sub-Commission that expert assistance was required, the higher bodies had failed to understand the Sub-Commission's point of view. The Sub-Commission's had repeatedly stressed that its work affected millions of people throughout the world, but to no avail.

It was essential to have special rapporteurs, for the responsibility for conclusions and recommendations had to be borne by the Sub-Commission itself. The Secretariat could not be asked to formulate proposals which might meet with criticism. The Sub-Commission's duty was to give meaning and content to the Charter and to the Universal Declaration of Human Rights. Those instruments were frequently violated and public opinion had to be aroused. Only a special rapporteur could undertake that task, which required great circumspection: he had to avoid antagonizing governments and ensure that the Sub-Commission's work did not alarm the public.

Notwithstanding those basic facts, the higher bodies apparently viewed the Sub-Commission's work with disfavour. Although the case for remunerating special rapporteurs seemed irrefutable, any further attempt to obtain a reconsideration of General Assembly resolution 677 (VII) was doomed to failure. The Secretary-General had already done his best by supporting the Sub-Commission's attitude, as was shown by the passage which Mr. Hiscocks had read from document A/2687.

The draft resolution which he had just submitted (E/CN.4/Sub.2/L.82) traced the background of the problem. The fact that the Economic and Social Council itself had rejected the Sub-Commission's request as unworthy of further consideration showed that it might even be dangerous to discuss the rights and wrongs of resolution 677 (VII). For that reason, it might be better to adopt the course suggested in the operative paragraphs of the resolution and to address a

(Mr. Krishnaswami)

general request to the Secretary-General in the form of operative paragraph 3. The expert assistance requested should be designed to throw light on specified questions and did not have to be confined to the provision of documentary material.

As to the sources of material, certain members held the extreme view that only government sources should be considered. Such a ruling would stifle much useful information. Another view was that every possible source should be considered, as that might help to arouse public opinion on the widest scale. He personally felt that the matter should be left to the discretion of the Special Rapporteur. The report would in any event be submitted to the Sub-Commission for discussion and transmission to the higher bodies. Consequently, there was no need to fear any irresponsible allegations in the document finally adopted. For those reasons, the question of sources did not seem vital; government communications were certainly the most cogent evidence, but light might be thrown on a problem also from other quarters.

In attempting to give content and meaning to the Universal Declaration of Human Rights the Sub-Commission had to stress that basic rights could never be denied on grounds of alleged necessity. Whatever restrictions a State might be forced to impose, those basic rights had to remain inviolate. That was a factor which the Special Rapporteur would always have to bear in mind if he was to discharge his task courageously. Ultimately, if the Sub-Commission's work proved constructive, even those now hostile to the Sub-Commission might change their attitude, and the higher bodies, confronted with solid achievement, might agree to furnish the Sub-Commission with adequate means.

Mr. FOMIN pointed out that the fact that a rapporteur's work would be reviewed by a series of United Nations organs was no guarantee of objectivity. He recalled that the report on freedom of information and the report on forced labour had both undergone such treatment with the result that the main subject of discussion at the different levels had been the objectivity of the procedures followed by the Rapporteur rather than the substance of the question.

Of course, in the case of so competent a person as Mr. Ammoun, he had no doubts about the objectivity of his procedures but there had been unfortunate experiences in the past with Rapporteurs who seemed to have forgotten their role. The

(Mr. Fomin)

essential thing was to do the work in a business-like and objective manner that would not contribute to international tension. That was why the Sub-Commission must be careful in dealing with material furnished for its studies.

Mr. Ammoun had said that information obtained from non-governmental sources might be valuable. The main point was that the information must be objective and reliable. That could not be the case if, for example, refugees who had deserted their country were invited to furnish material.

The function of the Sub-Commission was to make recommendations for the prevention of discrimination in certain fields, in accordance with the Charter. Its competence remained the same irrespective of the methods used in the preparation of its studies. He would not repeat his objections to the appointment of rapporteurs for future studies. The difficulties confronting the Sub-Commission in that respect had been mentioned by a number of speakers and in his earlier statement he had sought to show that the Sub-Commission did not need the services of a rapporteur to carry out its task.

In connexion with Mr. Krishnaswami's draft resolution, he wished to know exactly what was meant by the phrase "such special rapporteurs as it may appoint" in paragraph 3 of the operative part. If that referred to the case of Mr. Ammoun, he had no objection. However, if the phrase was intended to cover the possibility of future rapporteurs, it should be deleted because that question had not been decided by the Sub-Commission.

Mr. KRISHNASWAMI explained that the paragraph in question had been drafted in general terms in order to provide for possible future appointments and to allow the Secretary-General full discretion to decide to what extent assistance would be provided.

The CHAIRMAN observed that in his view the paragraph implied that the question of rapporteurs was undecided. It did not say that rapporteurs should or would be appointed.

Mr. HISCOCKS felt that Mr. Krishnaswami's draft resolution dealt primarily with the assistance the Sub-Commission might require from the Secretariat in future studies. As it would not be proper to adopt two resolutions on the same question, he wondered whether Mr. Krishnaswami would be agreeable to a deferment of action on his draft until the Sub-Commission had decided which particular study in item 8 of the agenda it would pursue. The Sub-Commission would then have a much clearer picture of its needs.

Mr. FOMIN supported Mr. Hiscocks' suggestion. After considering item 8, the Sub-Commission would be in a position to specify the type of assistance required from the Secretariat.

Mr. AWAD shared the view of the two previous speakers. He had not anticipated more than a general debate on the item under consideration. The three operative paragraphs of the draft resolution served no useful purpose at the present stage. There was no need to thank the Secretary-General formally for assisting the Sub-Commission; he was doing that constantly. Nor was it advisable to make the formal concessions set out in paragraph 2, and the proper time to call on the Secretary-General for assistance was in connexion with a particular project.

Mr. ROY agreed fully with Mr. Krishnaswami's views and the principles underlying his draft resolution. However, the draft resolution failed to deal with one important aspect of the question: the situation that would exist if expert assistance, paid or unpaid, was not obtained.

There were two main phases in the preparation of a study: the assembling and compilation of documentation; and the elaboration of the report, which meant the selection and presentation of material, and the formulation of conclusions. He agreed completely that the Secretariat, by its nature, was fully competent to deal with the first phase, but by the same token it could not undertake the responsibilities connected with the second.

If expert assistance to deal with the second phase could not be obtained, then the only possible solution was for the Sub-Commission itself to carry out the task, but that was conceivable only if the whole of an annual session was devoted to a single study or, at most, two.

Mr. HALPERN wished to associate himself with Mr. Krishnaswami's views and in particular with his approach. As the sponsor of the proposal to include item 7 in the agenda, he felt that the discussion had been very useful but he did not think that a resolution was necessary. The discussion had shown that the differences existing in the Sub-Commission were differences of emphasis. He agreed that the Sub-Commission should avoid increasing international tension and should bear that in mind in its work, but he insisted that it should not permit that consideration to prevent it from doing its work properly.

Nearly everyone agreed that the entire task of preparing a study could not be entrusted to the Secretariat, which could not make evaluations or recommendations. The best solution was to appoint a rapporteur from the members of the Sub-Commission who would be assisted by the Secretariat. He hoped that when a decision was taken on item 8 of the agenda the Chairman would succeed as he had done at the last session, in persuading one of the members of the Sub-Commission to undertake the work. If that failed, the idea of a group of three members who could prepare a report between sessions with the assistance of the Secretariat should not be abandoned. It seemed to him that the task of selecting and summarizing a large amount of material did not lend itself to execution by the whole Sub-Commission as Mr. Roy had suggested. Finally, he pointed out that he had frequently been asked, in private discussions with members of higher bodies on the question of reopening the matter of a paid rapporteur in the General Assembly, whether any ~~attempt~~ had ever been made to obtain the services of an unpaid independent expert. He thought that that possibility, as he had suggested at the morning meeting, should not be lost sight of, and that it should be exhausted before any request was made to reopen the question of compensation for rapporteurs.

Mr. ROY pointed out that the three members of the committee suggested by Mr. Halpern would meet between the Sub-Commission's sessions to draw conclusions and formulate recommendations on the basis of documentation prepared and submitted by the Secretariat. That was a task which the Sub-Commission itself might very well perform. Members could study the documentation between sessions and be prepared to take positive action at regular sessions. Moreover, the cost of holding committee meetings between sessions would be difficult to justify.

Nevertheless, the Sub-Commission should not consider that course unless and until all alternative measures had failed.

Mr. AMMOUN felt that the Sub-Commission should press the debate to its logical conclusion by adopting the draft resolution which Mr. Krishnaswami had submitted. He himself saw no difficulty in voting for a text which so lucidly explained the Sub-Commission's position.

On a procedural point, he reminded members that contact between the Chairman and the Sub-Commission's higher bodies had proved useful in the past. The Chairman might be requested to inform the Commission on Human Rights and the Economic and Social Council of the difficulties with which the Sub-Commission was confronted.

The CHAIRMAN observed that the majority of members seemed to feel that further consideration of the draft should be deferred until the Sub-Commission had disposed of item 8 of its agenda.

The debate had nevertheless allowed members to take a position on the basic issues involved in the question of methods to be adopted by the Sub-Commission in carrying out future studies. Faced with the decision by the higher bodies that a rapporteur working between sessions should not receive remuneration, some members felt that the Sub-Commission should not acquiesce in that decision but should persuade those bodies to reconsider the matter. Others felt that the higher bodies should not be approached until further efforts had been made to resolve the problem. They felt that the Sub-Commission's position would be strengthened if it was able to complete a study on discrimination in a particular field and present it to the higher bodies. If that view prevailed, the Sub-Commission must continue its work with the means available to it. Some members took the position that the study should be entrusted to the Secretary-General who would report directly to the Sub-Commission which would then attempt to arrive at conclusions and formulate recommendations. The other view, apparently that of the majority, was that an attempt should be made to persuade a member of the Sub-Commission to assume the functions of special rapporteur without remuneration and to undertake the study with the full assistance and co-operation of the Secretariat.

Mr. ROY could not see any objection to the immediate adoption of Mr. Krishnaswami's draft resolution. Exception could not be taken to any of its provisions.

Mr. FOMIN supported Mr. Roy's suggestion that the Sub-Commission itself should draw conclusions and formulate recommendations on the basis of documentation compiled and transmitted by the Secretariat. That procedure was followed by the Commission on the Status of Women.

As regards the desire expressed by some members of the Sub-Commission that informal steps should be taken to find a rapporteur, he felt that the Sub-Commission must first decide in principle whether or not rapporteurs should be appointed, with or without pay. As he had stated earlier, he was in principle opposed to the appointment of rapporteurs.

Mr. HISCOCKS hoped that Mr. Krishaswami would agree to hold up his draft resolution until the Sub-Commission had reached a decision on the next item on its agenda, when it could be more usefully considered.

Mr. HALPERN agreed. The Sub-Commission's decisions with regard to item 8 should be reflected in its draft resolution. However, it must first settle the question of the appointment of special rapporteurs.

Mr. ROY said that he would vote in favour of a proposal which would maintain the system of special rapporteurs.

Mr. KRISHNASWAMI, while feeling that his draft resolution was couched in sufficiently general terms to warrant its adoption, deferred to the wishes of his colleagues who felt that it should not be put to a vote until item 8 had been considered.

He agreed that the Sub-Commission should decide whether or not to appoint special rapporteurs to undertake studies in discrimination. He himself felt that a special rapporteur would have greater freedom of action than the Secretariat.

The CHAIRMAN announced that further debate on item 7 would be postponed until the Sub-Commission had considered item 8. Members would have a full opportunity later to discuss Mr. Krishnaswami's draft resolution.

The meeting rose at 5 p.m.