

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/Sub.2/SR.303
1 March 1960
ENGLISH
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Twelfth Session

SUMMARY RECORD OF THE THREE HUNDRED AND THIRD MEETING

Held at Headquarters, New York,
on Wednesday, 27 January 1960, at 10.30 a.m.

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PRESENT:

<u>Chairman:</u>	Mr. INGLES	(Philippines)
<u>Rapporteur:</u>	Mr. SAARIO	(Finland)
<u>Members:</u>	Mr. HALPERN	(United States of America)
	Mr. HISCOCKS	(United Kingdom of Great Britain and Northern Ireland)
	Mr. JUVIGNY	(France)
	Mr. KETRZYNSKI	(Poland)
	Mr. KRISHNASWAMI	(India)
	Mr. MAKKAWI	(Lebanon)
	Mr. MATSCH	(Austria)
	Mr. MIRGHANI	(Sudan)
	Mrs. MIRONOVA	(Union of Soviet Socialist Republics)
	Mr. RODRIGUEZ FABREGAT	(Uruguay)
	Mr. SCHAULSOHN	(Chile)
	Mr. SHARAF	(United Arab Republic)

Observers from Member States:

Mr. RASY	Cambodia
Mr. ELIZUR	Israel

Observer from a non-Member State:

Mr. WIECK	Federal Republic of Germany
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Representatives of specialized agencies:

Mr. ZMIROU	International Labour Organisation
Mr. AKRAWI	United Nations Scientific, Educational and Cultural Organization

Secretariat:

Mr. HUMPHREY	Director, Division of Human Rights
Mr. LAWSON	Secretary of the Sub-Commission

STUDY OF DISCRIMINATION IN THE MATTER OF RELIGIOUS RIGHTS AND PRACTICES
(E/CN.4/Sub.2/200, 202, 204, 205; E/CN.4/Sub.2/NGO/12, 13, 15; E/CN.4/Sub.2/L.159,
L.169, L.196 to L.199, L.203 and L.204) (continued)

The CHAIRMAN invited discussion of Mr. Halpern's draft resolution
(E/CN.4/Sub.2/L.203) concerning travel arrangements for the Special Rapporteur.

Mr. LAWSON (Secretary of the Sub-Commission) pointed out that the
Special Rapporteur's trip to Geneva and his stay there would cost \$1,315 (\$1,065
for travel and \$250 in daily subsistence allowance) and that his return to
Headquarters would cost \$1,043 (\$868 for the trip from Geneva to New York and
\$175 for daily subsistence). If the Special Rapporteur should have to make a
special trip from Madras to New York, the additional cost would be \$1,002.

Mr. HISCOCKS, recalling the arrangements which had been made to enable
Mr. Announ to attend the session of the Commission on Human Rights at which his
report on discrimination in education had been considered, fully supported the
part of the draft resolution dealing with the Special Rapporteur's trip to Geneva.
However, as the Special Rapporteur himself had stated on several occasions that
he did not intend to make any substantial alterations in his final report, there
might not be any need for him to return to Headquarters for the final editing
unless the Secretariat considered it desirable; the financial implications of
that trip might evoke criticism on the part of the competent bodies.

Mrs. MIRONOVA shared Mr. Hiscocks' views. It had been her impression,
from conversations she had had with the Special Rapporteur, that he did not
propose to come to Headquarters. The Sub-Commission should not take a decision
which would run counter to the Special Rapporteur's wishes. Accordingly, she
proposed the deletion of the second preambular paragraph and of the last part of
the operative paragraph following the words "28 February 1960".

Mr. HALPERN said that he had submitted his draft resolution to the
Special Rapporteur and that the latter had raised no objection to it. It would be
particularly regrettable if the Sub-Commission did not afford its Special
Rapporteur the opportunity of revising his report in the light of the comments
made by the members of the Sub-Commission. While it was true that the report was
solely that of the Special Rapporteur, it had been discussed by the Sub-Commission

(Mr. Halpern)

and the Rapporteur should have the opportunity to make such revisions as he thought desirable. In the course of the discussion, the Rapporteur's attention had been called to serious omissions and to statements which might give rise to erroneous impressions and he would undoubtedly wish to correct them.

The CHAIRMAN, speaking as a member of the Sub-Commission, proposed, in the interests of economy, the deletion from the operative paragraph of the words "at a later date"; thus, the Special Rapporteur would only be asked to make one trip.

Mr. HALPERN pointed out that Mr. Krishnaswami would be detained in India by his parliamentary duties and would find it difficult to be away for more than a week in March. Consequently, he suggested that the Secretariat should be asked to settle the details of the trip with Mr. Krishnaswami.

Mr. SCHAULSOHN thought that the Sub-Commission should adopt Mr. Halpern's draft resolution as it stood. It should respect the important work accomplished by the Special Rapporteur in the past four years and enable him to complete the final editing of his report.

In reply to a question from Mrs. MIRONOVA, the CHAIRMAN said that the Special Rapporteur had deliberately refrained from taking part in the discussion on the draft resolution.

Mr. SAARIO pointed out that the last part of the operative paragraph did not impose any obligation on the Special Rapporteur and was intended merely to afford him the opportunity of returning to Headquarters if he should so desire.

Mrs. MIRONOVA said that the fact that Mr. Halpern had submitted his draft resolution to the Special Rapporteur seemed sufficient and she concurred in Mr. Saario's view. Accordingly, she withdrew her proposal.

The CHAIRMAN put to the vote Mr. Halpern's draft resolution (E/CN.4/Sub.2/L.203).

The draft resolution was adopted unanimously.

Mr. HISCOCKS said that he would have voted for Mrs. Mironova's proposal if it had been maintained. He would have abstained on the last part of the operative paragraph, since the alterations which the Special Rapporteur expected to make in his final report were of a secondary nature and he would not like the competent bodies to accuse the Sub-Commission of wanting to incur excessive expenditure.

Mrs. MIRONOVA shared Mr. Hiscocks' doubts. She had nevertheless voted for the draft resolution because she had full confidence in the Special Rapporteur.

The CHAIRMAN called for discussion on part B of the draft resolution submitted by Mr. Hiscocks, Mr. Juvigny and Mr. Schaulsohn (E/CN.4/Sub.2/L.169), which contained a draft resolution on discrimination in matters of religious rights to be submitted to the Economic and Social Council, and of the amendment to that draft resolution submitted by Mr. Makkawi, Mr. Mirghani and Mr. Sharaf (E/CN.4/Sub.2/L.204).

Mr. RODRIGUEZ FABREGAT recalled that, at the previous meeting, he had requested that the first preambular paragraph of the Economic and Social Council draft resolution should be inserted in the operative part. In order to take account of the various views expressed during the meeting, he was submitting the following amendment: "Urges the Governments of States Members of the United Nations and members of the specialized agencies to undertake and sustain educational efforts to eradicate all forms of discrimination based on religion or belief". Taking into consideration Mr. Schaulsohn's arguments, he agreed that his amendment should form sub-paragraph (b) of operative paragraph 2.

With regard to the amendment to part B (E/CN.4/Sub.2/L.204), he regarded it as very important that the documents to be forwarded to Governments should accurately reflect the views of the minority as well as the majority.

Mr. SCHAULSOHN suggested that Mr. Rodriguez Fabregat's amendment should constitute sub-paragraph (a) of operative paragraph 2 of the Economic and Social Council draft resolution in order to preserve the structure of the paragraph and maintain its balance. On the other hand, he did not see the need for the amendment

(Mr. Schaulsohn)

submitted by Mr. Makkawi, Mr. Mirghani and Mr. Sharaf (E/CN.4/Sub.2/L.204). That amendment would be out of line with paragraph 4 of part A of the draft resolution and would reopen the whole question of the Sub-Commission's work on discrimination in the matter of religious rights and practices; Mr. Krishnaswami's report was the fruit of four years of study based on different documents, the country monographs in particular. Indeed, the amendment would make for delay, and what the Sub-Commission wished to do was to help eliminate discrimination in the matter of religious rights and practices as soon as possible.

Mr. JUVIGNY fully endorsed Mr. Schaulsohn's remarks concerning the amendment contained in document E/CN.4/Sub.2/L.204. He asked Mr. Rodriguez Fabregat to replace the words "to undertake and sustain" in his oral amendment by the words "to continue and if necessary, to extend", for many States had already taken steps to combat prejudice and some had adopted on the technical level very advanced legislation for that purpose.

Mr. RODRIGUEZ FABREGAT accepted Mr. Juvigny's proposal; the second verb to be adopted might be "intensify" rather than "extend".

Mr. ELISCOCKS strongly supported the views expressed by Mr. Rodriguez Fabregat and Mr. Juvigny. He also concurred in Mr. Schaulsohn's criticisms of the amendment submitted by Mr. Makkawi, Mr. Mirghani and Mr. Sharaf; the proposed addition would conflict with the confidence in Governments implicitly expressed in the second part of operative paragraph 2 of the draft resolution in part B.

Mr. HALPERN wondered whether Mr. Rodriguez Fabregat's amendment did not imply the deletion of the words "on an international scale" from the first preambular paragraph of the draft resolution for adoption by the Council. He would like the amendment to refer not only to Governments but also to private educational establishments so as to bring it into line with the text the Sub-Commission had decided to insert after the third paragraph of the preamble of the basic rules (E/CN.4/Sub.2/L.200), but he would not press the matter.

Mr. RODRIGUEZ FABREGAT said that he could not accept Mr. Halpern's last proposal, which would be tantamount to placing private educational establishments on the same footing as Governments. The draft resolution was addressed to

(Mr. Rodriguez Fabregat)

Governments and it was on Governments that the responsibility for taking measures to combat discrimination lay. Schools and other educational establishments could only conform to those measures. Mr. Halpern's proposal would only weaken the appeal to Governments and confuse matters.

Mr. SHARAF, speaking for himself and his co-sponsors Mr. Makawi and Mr. Mirghani, withdrew their amendment (E/CN.4/Sub.2/L.204), as it did not appear to have the support of the Sub-Commission.

Mr. RODRIGUEZ FABREGAT asked whether the appeal in operative paragraph 2 of the draft resolution in part B should be addressed to all Governments or only to the Governments of States Members of the United Nations and members of the specialized agencies.

Mrs. MIRONOVA said that, in view of the fact that the Sub-Commission had adopted principles for combating discrimination in education and in religious matters, she found it surprising that the appeal was not addressed to the Governments of all States.

The CHAIRMAN said that the Special Rapporteur's terms of reference had provided for a study of universal scope, but the Commission on Human Rights had decided that the Sub-Commission and the Special Rapporteur should confine their activities to Member States.

Mr. SCHAULSOHN said that, although what the Chairman had said was perfectly true, that should not necessarily influence the Sub-Commission's decision in the present case. He wondered whether the appeal contained in the resolution could not be broadened so as to make no distinction between Member and non-Member States, as was the case in Article 50 of the Charter in the context of preventive and enforcement measures against a State. He formally proposed that the words "Governments Members of the United Nations and of the specialized agencies" should be replaced by the words "Governments and the specialized agencies of the United Nations".

Mr. JUVIGNY felt that, although Mr. Schaulsohn's solution was ingenious it was not acceptable. The Special Rapporteur's study and the principles adopted by the Sub-Commission dealt with a question which lay outside the scope of some

(Mr. Juvigny)

of the specialized agencies; to appeal to them would therefore be pointless. The main objection, however, was that, as the Chairman had pointed out, the Sub-Commission was bound by the decision of the Commission on Human Rights and, even if the usual procedure was abandoned by the Sub-Commission, it would certainly be restored by the Commission on Human Rights and the Economic and Social Council.

Mr. SCHAULSOHN withdrew his amendment, which he had proposed only so as to shorten the debate.

The CHAIRMAN invited the Sub-Commission to vote on the draft resolution in part B of document E/CN.4/Sub.2/L.169, as amended by Mr. Rodriguez Fabregat and Mr. Juvigny.

The draft resolution, as amended, was adopted unanimously.

Mr. KETRZYNSKI said that, although he understood the limitations imposed by the Sub-Commission's terms of reference, it was regrettable that the principles had been weakened by being addressed only to Member States; he had nevertheless voted for the draft resolution.

The CHAIRMAN invited the Sub-Commission to consider the draft resolution (E/CN.4/Sub.2/L.159) relating to recent manifestations of anti-Semitism and other religious and so-called racial prejudices and the amendments to it submitted by Mrs. Mironova (E/CN.4/Sub.2/L.196) and Mr. Krishnaswami (E/CN.4/Sub.2/L.199).

Mrs. MIRONOVA, speaking on a point of order, said that the question was too important to be dealt with under the narrow heading of agenda item 5; she therefore proposed that it should be discussed either in connexion with item 7 or that items 5 and 7 should be discussed together, so as to extend the scope of the debate. Whatever decision was taken, that procedural question should be decided before there was any consideration of substance.

After an exchange of views, in which Mr. HALPERN, Mrs. MIRONOVA, Mr. KETRZYNSKI and Mr. SCHAULSOHN took part, the CHAIRMAN ruled that the question should be discussed in connexion with item 5, to which all the relevant documents referred (E/CN.4/Sub.2/L.159, L.196, L.199 and E/CN.4/Sub.2/NGO/12). Any members who did not wish to be restricted to that item and wished to combine it with item 7 were free to make formal proposals to that effect.

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Mr. HALPERN hoped that the draft resolution which he had prepared jointly with Messrs. Hiscocks, Juvigny, Matsch, Rodriguez Fabregat and Saario (E/CN.4/Sub.2/L.159) would be supported by the Commission on Human Rights and by the Governments of all Member States. He expressed gratitude to the International League for the Rights of Man for having in its statement (E/CN.4/Sub.2/NGO/12), called attention to the problem raised by the recent manifestations of anti-Semitism. The fact that those events had occurred at a time when the Sub-Commission on Prevention of Discrimination and Protection of Minorities was meeting enabled the latter to lay the problem before the major organs of the United Nations. He was pleased to note that the amendments which had been submitted were designed to effect only formal changes in the draft resolution.

The concern shown by the sponsors of the draft resolution was justified by the extent of the outbreak of racial and religious hatred. The latest information revealed that anti-Semitic manifestations had occurred in thirty-four countries. The sponsors of the draft were particularly apprehensive because those events recalled, in a striking way, the odious acts committed by the Nazis before and during the Second World War.

The sponsors of the draft resolution were satisfied that the members of the Sub-Commission were entitled to express their views as experts in their individual capacity and that was done in part A of the resolution. In part B of the resolution, the Commission on Human Rights was asked to adopt a resolution condemning the anti-Semitic manifestations. He recognized that the Commission on Human Rights ordinarily transmitted its resolutions to the Economic and Social Council for approval before addressing Members of the United Nations and of the specialized agencies but that, he believed, was not a legal requirement and he hoped that it would be dispensed with in the present case because of the urgency of the matter. That was, of course, for the Commission on Human Rights to decide.

The phrase "programmes of education" was intended, by the sponsors of the draft resolution, to be understood in a very broad sense. There were several ways in which education could play its part. First, it should enable people to "unlearn" the false ideas which had been inculcated in them in the past.

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It should also fill the gaps which inadequate instruction might have left in their lives; a whole generation should not be allowed to grow up in ignorance of the events which had taken place in the 1930's. In that connexion he was glad to note that the Governments most concerned, especially the Government of the Federal Republic of Germany, had been the first to recognize the need for filling those gaps and had shown a spirit of co-operation which was particularly encouraging. Again, the education contemplated should emphasize the part played, in doctrines of bigotry and anti-Semitism, by emotion and "subconscious" motivation. Lastly, it was for the psychiatrists to help persons who were maladjusted to society, and among whom bigoted fanatics were most frequently found, to readjust themselves.

The sponsors of the draft resolution had wanted to avoid forming preconceived notions about the underlying causes of the recent events. That was why they had asked the Commission on Human Rights to request States and non-governmental organizations, as well as the members of the Sub-Commission itself, to transmit to the Secretary-General all the information they could obtain on the matter. They had regarded it as of prime importance to stress, both that public opinion had reacted spontaneously and soundly against the manifestations of anti-Semitism, and that the United Nations was determined to act. The Sub-Commission would be able next year, on the basis of the information received, to draw conclusions and make recommendations.

Paragraphs 6, 7 and 8 of the draft resolution provided that the members of the Sub-Commission would transmit to the Secretary-General, and receive from him, all information collected; the Sub-Commission's members would thus continue, from one session to another, their study of the problem raised by manifestations of anti-Semitism. That procedure had the dual purpose of showing public opinion that the international organizations were watching the problem, and of preventing repetition of that type of occurrence.

Mrs. MIRONOVA considered that the draft resolution before the Sub-Commission did not sufficiently stress the need for discovering the causes of the recent manifestations and for taking steps to stop them. She pressed for a firm condemnation of those acts, which were indicative of a revival of

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fascism. In her criticism of the joint draft resolution, she stressed that the spread of anti-Semitism could not be explained just by the existence of certain prejudices; such acts, in her view, constituted a campaign of incitement to national and racial animosity and hatred, conducted by organized groups of fascist elements. It was, to a much greater extent, the case of an organized action in which fascist ideology was playing a prime part. The campaign at present directed against the Jews could be directed, tomorrow, against the Slavs or other ethnic groups stigmatized by the Nazis, before the Second World War, as inferior peoples. She therefore regretted that the sponsors of the draft resolution had not emphasized that the wave of anti-Semitism now sweeping across the world recalled, in an alarming way, the Nazi crimes which had been formally condemned by the International Nurnberg Tribunal. The recent events constituted not merely a "violation of human rights" but also a violation of the very principles of the United Nations Charter and of the Universal Declaration of Human Rights; action should therefore be taken by the United Nations as a whole.

She pointed out that the changes which she proposed should be made to the draft resolution were purely formal, and expressed the hope that, given the serious nature of the problem, the Sub-Commission would unanimously adopt the draft resolution as thus amended.

Mr. KRISHNASWAMI was glad to note that the Sub-Commission was entitled to express its views on the serious problem created by the manifestations of anti-Semitism. Before the Second World War, the League of Nations had had to deal with petitions concerning events of a similar nature; it had become involved in a long procedural discussion as to its competence in the matter, and had been unable to achieve any concrete results. He urged the Sub-Commission's members not to engage in a debate of that kind, for the seriousness of the situation required immediate action. If the draft resolution was to have a determining influence on public opinion, it should receive the Sub-Commission's unanimous support.

Unlike the sponsors of the draft resolution, he thought that it was for Governments, not for private individuals or non-governmental organizations, to take action. Education, although important, seemed to him a secondary

(Mr. Krishnaswami)

factor in the case under consideration: it permitted only of long-term action, whereas the present situation called for the taking of immediate steps, not only on the intellectual but also on the emotional plane. Nor, in his view, was it for the members of the Sub-Commission to collect information; such information, so assembled, would in any case be inadequate since it would bear only on the countries from which the experts came. The function of the Sub-Commission's members should be to examine the information transmitted by non-governmental organizations and by the public authorities. Several Governments, including that of the Federal Republic of Germany, had in fact offered to co-operate along those lines, and he hoped that their example would be followed.

In conclusion, he stressed that the recent events constituted a test for the international community as a whole. He hoped that the United Nations would take the opportunity thus provided to devise a system which would enable it to avert future dangers.

The meeting rose at 1 p.m.