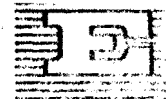


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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

SUMMARY RECORD OF THE SEVENTY-FIRST MEETING

Held at Headquarters, New York,
on Friday, 5 October 1951, at 10.30 a.m.

CONTENTS:

Information received from Governments under resolution 303 F (XI) of the Economic and Social Council (E/CN.4/Sub.2/122 and Add. 1 to Add. 33, E/CN.4/Sub.2/132).

Prevention of discrimination:

- (a) Prevention of discrimination and denial of fundamental freedoms in respect of political groups (E/CN.4/Sub.2/129)
- (b) Statement on racial problems prepared by UNESCO (E/CN.4/Sub.2/121, E/CN.4/Sub.2/121/Add.1).

<u>Chairman:</u>	Mr. MASANI	(India)
<u>Rapporteur:</u>	Mr. MENESES-PALLARES	(Ecuador)
<u>Members:</u>	Mr. BORATYNSKI*	(Poland)
	Mr. CHANG	(China)
	Mr. DANIELS	(United States of America)
	Mr. EKSTRAND	(Sweden)
	Miss MONROE	(United Kingdom of Great Britain and Northern Ireland)
	Mr. NISOT	(Belgium)
	Mr. ROY	(Haiti)

*Alternate

Members: (continued)

Mr. SHAFAGH	(Iran)
Mr. SPANIEN	(France)
Mr. ZONOV*	(Union of Soviet Socialist Republics)

*Alternate

Representative of a specialized agency:

Mr. METRAUX	United Nations Educational, Scientific and Cultural Organization (UNESCO)
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Representatives of non-governmental organizations:

Category A:

Miss KAHN	World Federation of Trade Unions (WFTU)
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Category B:

Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. BEER	International League for the Rights of Mankind
Mr. JACOBY	World Jewish Congress
Mr. RONALDS	World Union for Progressive Judaism

Secretariat:

Mr. SCHWELB	Representative of the Secretary General
Mr. LAWSON	Secretary of the Sub-Commission

INFORMATION RECEIVED FROM GOVERNMENTS UNDER RESOLUTION 303 F (XI) OF THE ECONOMIC AND SOCIAL COUNCIL (E/CN.4/Sub.2/122 and Add.1 to Add.33, E/CN.4/Sub.2/132)

The CHAIRMAN invited the members of the Sub-Commission to state their views on the information received and the conclusions they had reached.

Miss MONROE (United Kingdom) felt that the Secretariat had made admirable analyses of the information at its disposal. The Governments which had not yet replied to the Secretary-General's note should be requested to do so.

/Mr. ZONOV

Mr. ZONOV (Union of Soviet Socialist Republics) drew the Sub-Commission's attention to the fact that the information received on the prevention of discrimination and protection of minorities was not always in accordance with the actual situation. Some countries gave an incomplete picture of conditions in their territory; others spoke only of the metropolitan territory and said nothing about their overseas possessions; still others merely listed the existing laws without saying whether and how they were applied.

emphasized that, in spite of the official statements of the capitalist States regarding equality, in spite of Articles 1 and 55 of the Charter millions of workers in those States were the victims of racial, religious and linguistic discrimination. In order to get an idea of the size of the problem it was only necessary to think of the position of African and Asian populations in territories under French and United Kingdom administration. And it was a basic problem, before which the Sub-Commission could not remain silent or express vague wishes: it was its duty to show that it was aware of certain obvious facts and to condemn them openly.

He wished to dwell on a few of those facts, which were public knowledge. In the United States, some thirty states had provisions which legalized discrimination against Negroes. Hostility towards that minority sometimes found an outlet in lynchings, several of which were reported every year in the United States' own press, while the courts closed their eyes to them. Some of the victims were former veterans who had fought against fascism and its policy of discrimination. There was also discrimination with regard to wages, which were lower in the case of Negro and foreign labour, representing an advantage for the employers concerned. In the same states, schools, universities, hospitals, churches and other public institutions were not equally open to whites and Negroes. In New York itself, headquarters of the United Nations, instances of a segregation policy were to be found. There was also the case of Indians consigned to reservations under economic conditions which had aroused the American press itself.

In view of that situation, he was not surprised that the United States should not have given a full and direct answer to the United Nations request for information.

/In Non-Self-Governing

In Non-Self-Governing and Trust Territories, towards which the United Nations had serious responsibilities, the situation was no better. Thus, in United Kingdom territories, racial discrimination was the rule in political and social institutions and circles. In spite of minor changes, such as those in Uganda and Tanganyika, the populations were still without electoral rights. In the Gold Coast, the United Kingdom administration intended to give the right of vote to two and a half million indigenous inhabitants, provided that they paid an annual tax of four shillings, which represented a considerable sum in relation to wages in that region. A similar situation prevailed in French colonies in Africa. In his opinion, those facts were manifest proof that the information submitted by some States did not reflect the real situation.

He wished to add a few words on the situation in his own country. The position of minorities in Czarist Russia was common knowledge. Yet in the space of thirty years, racial prejudice had disappeared. The Soviet régime had translated the principle of equality into practice, and the right of all minorities to develop freely was guaranteed by law. It was often said that centuries would be needed to eliminate discrimination; the example of the USSR proved that less than thirty years would suffice.

He referred to article 123 of the USSR Constitution, which proclaimed the equality of all Soviet citizens; article 57 of the Federal Code and the corresponding articles of the constitutions of various republics made incitement to racial hatred punishable in all its forms. Before the revolution, three of the Soviet Socialist Republics, Azerbaijan, Kirghizstan and Kazakhstan, had been mere appendages of European Russia. In 1917, 98 per cent of their population had been illiterate; by 1946, illiteracy had disappeared. Kirghizstan and Kazakhstan had had no alphabet and consequently no written language. Today they had their own literature and instruction was given in their own tongues. Kazakhstan alone had over 9,000 schools, including 26 technical schools, attended by 1,500,000 students. Those examples proved that when a State was really willing to give equal rights to the entire population and to make those rights effective by applying the relevant legal provisions, the task was not insuperable.

/Mr. DANIELS

Mr. DANIELS (United States of America) regretted that Mr. Zonov should find it necessary to repeat the same criticism and the same comments all over again. It was understood that members of the Sub-Commission met as experts, aware of the existence of problems both at home and abroad. Mr. Daniels was satisfied with the fact that from the free press of the United States everyone could learn what happened in that country and what problems arose. To his regret however, he was not able to consult a free USSR press, which would undoubtedly have much to say on forced labour camps. Whatever problems might exist in the Soviet State, however, he would not expatiate on them.

With regard to the Negro problem mentioned by Mr. Zonov he recalled that a well-known Negro journalist had written recently that the Negroes were proud of their progress, which was certainly greater than that of any other population group and that they were tired of being used as a symbol by Communists and of providing an argument for them.

Miss MONROE (United Kingdom) was convinced that the USSR and the other countries pursued the same ends; but they did not use the same methods. It might be true that some countries obtained fine results in the space of thirty years; unfortunately, it was impossible to go and see how they went about it.

She was sorry that Mr. Zonov had not included political opinion in his list of forms of discrimination. She wondered whether that meant that he approved of discrimination on the ground of political opinion.

Mr. SPANIEN (France) associated himself with the remarks of Mr. Daniels and Miss Monroe. He too believed that there was inadequate information on the methods used in certain countries; interesting conclusions could, however, be drawn from statistical data, as -- for example -- the relation of a country's total population to that of its penitentiaries.

He did not deny that great progress had been achieved in the USSR. He was convinced that the Soviet régime opposed discrimination, but he was also convinced that different methods were used in the USSR and in other countries which allowed free expression of political opinion and did not regard it as grounds for filling their prisons and forced labour camps.

/Mr. EKSTRAND

Mr. EKSTRAND (Sweden) wished to clarify a point raised by Mr. Zonov: the United States Government had replied to the Secretary-General's note, and the information submitted by it was to be found in document E/CN.4/Sub.2/122/Add.9, dated 16 January 1951.

Mr. ZONOV (Union of Soviet Socialist Republics) had a few additional comments. Some members had misunderstood the object of his speech. In his opinion, members of the Sub-Commission should not merely make general statements on discrimination, but should deal with established facts; that was the purpose for which the Sub-Commission had been set up. The reason he had not mentioned all forms of discrimination, in particular discrimination on grounds of political opinion, was that important United Nations organs were dealing with that question. He recalled that, when he had spoken with regard to the agenda, he had pointed out that the United Nations attached particular importance to that question, inasmuch as it had devoted to it the first eighteen articles of the draft covenant on human rights. He therefore felt that the Sub-Commission should turn its attention to other forms of discrimination.

In reply to Mr. Daniels, who had taxed him with always repeating the same criticism and the same comments, he remarked that Mr. Daniels did the same with regard to forced labour. He emphasized, however, that he had based his statements on facts to be found in the press, while Mr. Daniels had relied on sources of information which could not be described as trustworthy. As other USSR representatives had done before him, Mr. Zonov wished to state that that information was entirely false. The question of forced labour had already been considered by the Economic and Social Council; if, however, the Sub-Commission wished to re-open it, he was ready to discuss it.

With regard to freedom of the press, he said that if any discriminatory measures were adopted in, say, the Kazakhstan Republic, the press would certainly make the matter public and the guilty would be punished.

Turning to what a State's attitude should be towards that question, he stressed that governments must ensure to minorities the enjoyment of their rights in all fields.

The CHAIRMAN asked members to submit a concrete proposal.

Mr. NISOT (Belgium) proposed that the Sub-Commission should state that it took note of the information received from governments under resolution 303 (XI) of the Economic and Social Council.

Mr. ROY (Haiti) thought that the words "takes note" were a little too curt as the United Nations had formally requested the governments to send in the information. He thought it would be better to try to find some different wording.

Mr. NISOT (Belgium) did not think that the existing wording could possibly offend any government.

Mr. SPANIEN (France) recalled that it was essential to consider all questions from the point of view of the future work of the United Nations and the recommendations the Sub-Commission would make to the organ which was appointed to carry on its work. He thought, therefore, that the final text should contain a slightly longer and more detailed paragraph in which the Sub-Commission would not simply "take note" of the information received but would emphasize the most useful points emerging from that information and the conclusions which could be drawn from them.

Mr. MENESES-PALLARES (Ecuador) agreed with Mr. Spanien but proposed that the paragraph should express the Sub-Commission's hope that governments would in future send information regularly to the Secretariat on any new developments in that field.

49

Mr. SPANIEN (France) said that Mr. Meneses-Pallares had introduced a new and very interesting idea. The proposal now was not simply to introduce more detail into the paragraph but also to ask for regular information.

The CHAIRMAN asked the Rapporteur to prepare a paragraph along those lines for inclusion in the Sub-Commission's report.

PREVENTION OF DISCRIMINATION

(a) Prevention of discrimination and denial of fundamental freedoms in respect of political groups (E/CN.4/Sub.2/129)

Mr. DANIELS (United States of America) asked what was meant by paragraph 16 on page 3 of the document.

The CHAIRMAN explained that that part of the document dealt with genocide and there was no provision in the Convention on Genocide stating that political groups would be protected against discrimination.

Mr. SPANIEN (France) said that the question of political discrimination came within the Sub-Commission's terms of reference. That concept did not appear in the Charter but it was contained in Article 2 of the Declaration of Human Rights. He wished from the outset to dismiss two questions which looked like problems but were really quite simple. The first was the question of the validity of the principle that there should be no discrimination on political grounds. Just because thus far political discrimination was only mentioned in a declaration (which had no binding force) that was no reason to ignore it, as Mr. Zonov had appeared to argue at previous meetings. In actual fact, upon its inclusion in the Universal Declaration of Human Rights, that principle had become a part of customary international law upon which the Sub-Commission should base its conclusions on world events. It would also be difficult to contend that society had not found it necessary to take the principle into account in the past, because it had not been included in any international instrument, for that would be to question the validity of the judgements of the Nuremberg and Tokyo Tribunals.

The second point which only looked like a problem but was not really one was that the inclusion of the principle in the Declaration did not necessarily mean that persons were free to hold any opinion they liked and that the rebirth of Fascism and Nazism, both of which were prohibited by the Declaration and the Charter, could be allowed. In that connexion he mentioned the part of document E/CN.4/Sub.2/131 which dealt with derogations from rights in times of emergency.

He then dealt with the relative value of various factors of non-discrimination.

There was certainly some difference between political opinions and certain other factors of discrimination, such as race or colour: man could choose his political opinions and his religious beliefs, but he could not change his race or his colour. It should be emphasized, however, that racial persecution as practised in the modern world was, in fact, directed against political opinions: for instance, the Hitlerite régime had persecuted the Jews because they represented a philosophy of life which was inconsistent with the theories of Nietzsche, the ideological foundation of the Nazi doctrine. The real aim of the Nazis in fighting the Jewish race had been to strike at the Judaic-Christian conception of the world.

Political discrimination could not, therefore, be disregarded and it was essential, on the contrary, to make sure that the prohibition of that particularly dangerous form of racial discrimination was not overlooked. The Sub-Commission should lay particular emphasis on that question in its future recommendations to the bodies which would take its place.

The Sub-Commission should also clearly state whether, in its opinion, the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly at its third session, truly safeguarded the right to life for minorities -- an essential right which governed the enjoyment of all other rights. Since the Convention, signed by 31 States, was now in force, all Governments, civil servants or individuals guilty of killing, causing serious bodily or mental harm to human beings or of any other similar crimes committed with intent to destroy, in whole or in part, national, ethnical, racial or religious group, were liable to punishment under the terms of the Convention.

/It should

It should be noted first of all that political groups were not among the categories protected by the Convention. In the very interesting document he had prepared on the question (E/CN/4/Sub.2/129), the Secretary-General explained the circumstances which had lead the Sixth Committee of the General Assembly to exclude those groups, although they had been included in the initial draft prepared by the Ad Hoc Committee of the Economic and Social Council. It might be advisable to recall that the aim of the Sixth Committee's decision not to include political groups had been to satisfy certain States so that they should, in exchange, accept the principle of appeal to an international jurisdiction. That principle had in fact been laid down in the Convention.

There were also several other gaps in the Convention on Genocide. For instance, it did not clearly define genocide as a murder committed with the active or passive participation of the authorities and consequently it did not lay down the principle of governmental responsibility with sufficient clarity.

Furthermore, the Convention left the punishment of genocide to national tribunals; that was somewhat paradoxical since the crime could only be committed with the connivance of States. It was true that the Convention recognized appeals to an international penal tribunal, but it also provided that the tribunal would be competent only in the case of contracting parties which had accepted its jurisdiction. Consequently, a government guilty of genocide, which did not accept the jurisdiction of the international penal tribunal, would not have to answer before that tribunal. In those circumstances, it could not be said that the Convention provided for the truly effective punishment of the crime of genocide. Furthermore, such an international penal tribunal did not exist as yet. At its third session, the General Assembly had asked the International Law Commission to study the desirability and possibility of establishing an international judicial organ for the trial of persons charged with genocide. The Commission had only examined the question from a very general point of view. At its fifth session, the General Assembly had asked a committee of seventeen members to draft concrete proposals for the establishment of an international penal tribunal. In its final report, the committee, which had recently met in Geneva, had recommended the establishment of an international tribunal with jurisdiction over matters relating to genocide. Thus, almost

three years after the adoption of the Convention on Genocide, there was as yet no international penal tribunal competent in the matter; it could well be asked therefore, whether the decision not to extend the Convention to political groups only to secure the inclusion of the principle of appeal to an international jurisdiction in the Convention had really been a wise one. It was the duty of the Sub-Commission to point out that the absence of a competent international jurisdiction made it impossible for the Convention to provide for the effective punishment of the crime of genocide.

Lastly, it was disquieting to note that only 31 States had thus far signed the Convention on Genocide, although it had been adopted by the General Assembly without any opposition. That might lead to a division of the world into two groups of States, only one of which would consider itself bound by the provisions of the Convention on Genocide. Such a situation would greatly prejudice the campaign against discrimination. As a corollary to its study of document E/CN.4/Sub.2/129, the Sub-Commission should decide in principle to insert in its final report a paragraph drawing the attention of the Commission on Human Rights, the Economic and Social Council, the General Assembly and of world public opinion to the fact that such a division of the world could not be tolerated. It should urge the competent authorities to provide for the punishment of the crime of genocide by means of simple, clear and effective provisions.

In reply to a question by Mr. CHANG (China), Mr. SCHWELB (Secretariat) said that the Ad Hoc Committee of the Economic and Social Council and the Sixth Committee itself had, during their first meetings, expressed themselves in favour of including political groups among the categories to be protected by the Convention on Genocide. It was only at its 128th meeting or, in other words shortly before the completion of its work, that the Sixth Committee had changed its mind and that it had decided to exclude political groups. The General Assembly had confirmed that decision, but in doing so had expressed no opinion on whether it would be possible to provide measures for the protection of political groups.

Mr. SHAFAGH (Iran) thought that Mr. Spanien should submit his proposal in the form of a draft resolution which the Sub-Commission might then examine at one of its following meetings.

/In reply

In reply to a remark by Mr. DANIELS (United States of America), Mr. ROY (Haiti) observed that the Sub-Commission was competent to make concrete suggestions on the lines indicated by Mr. Spanien. The latter had made a very interesting statement on the dangers which would result from a division of the world into two groups of States; another problem to be remembered was that political groups were excluded from the categories protected by the Convention, and proposals should be made on that point.

Mr. SPANIEN (France) was prepared to submit concrete proposals to the Sub-Commission, stressing certain considerations which were more within the terms of reference of the Commission on Human Rights, and particularly those concerning the problem of cultural genocide.

Mr. ZONOV (Union of Soviet Socialist Republics) said that, as he had expected, the discussion on item 7 (a) had led the Sub-Commission to digress from its main and immediate tasks into a discussion lacking clarity and precision. What was the exact meaning of the words "political groups"? Did such groups include the millions of men and women who were now persecuted in many countries and subjected to repressive measures because they were fighting for peace? If that was the intention of the Sub-Commission, it should be made clear.

If the Sub-Commission really wished to study the question of political discrimination it could not confine itself to making brief recommendations concerning the Convention on Genocide; it would have to study in detail the measures of victimization and persecution taken against those who stood for peace, and give thorough consideration to the problem.

The CHAIRMAN felt that the Sub-Commission should await the concrete proposals to be submitted by Mr. Spanien before continuing the discussion.

/(b) Statement

(b) Statement on racial problems prepared by UNESCO (E/CN.4/Sub.2/121, E/CN.4/Sub.2/121/Add.1)

Mr. METRAUX (United Nations Educational, Scientific and Cultural Organization) wanted to complete the information given in the document submitted by UNESCO (E/CN.4/Sub.2/121/Add.1) by explaining the general considerations underlying part of the activities of UNESCO in the field of prevention of discrimination and protection of minorities.

Those activities were of two kinds. In the first place, UNESCO was carrying out research intended to be of help to Governments in their campaign against discriminatory measures. Wishing to make a truly fresh contribution in that field, UNESCO was trying to concentrate its attention on instances where problems had been satisfactorily settled or were on the point of being so. For instance, in 1951 it had undertaken a study of political, economic and social and other factors which made the racial situation in Brazil compare favourably with that in other countries; similarly its programme of work for 1952 authorized the Director-General to undertake, in co-operation with the Member States concerned, a survey and a study of the efficiency of methods and techniques used to facilitate the social integration of groups which did not play a full part in the life of the national community because of their ethnical or cultural characteristics or because of their recent arrival in the country. Within the framework of that study, UNESCO would not merely examine the relevant legislation, but would also analyse the concrete and positive measures taken in that field, laying particular stress on all instances of success.

Secondly, UNESCO was trying to reach public opinion and to acquaint it with what science considered to be the truth in racial matters, so as to counteract racial prejudices which were still too widespread in the world. To

/that end,

that end, it had published five booklets prepared by eminent scientists and was planning to make still further use of that method which had already yielded excellent results. One of UNESCO's constant aims was to base its campaign against racialism on sound scientific data; for example, it had consulted specialists who had met at the headquarters of the organization and who, had supplied a definition of the somewhat vague notion of race together with a summary of the actual state of scientific knowledge on racial problems.

The meeting rose at 12.55 p.m.

22/10 p.m.