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Twentieth Session

SUMMARY RECORD OF THE EIGHT HUNDRED AND NINTH MEETING

Held at Headquarters, New York,
on Friday, 13 March 1964, at 11 a.m.

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Draft international convention on the elimination of all forms of racial discrimination (A/5035, 5603; E/CN.4/865, 873; E/CN.4/L.679, L.693/Add.1; E/CN.4/Sub.2/234 and Add.1-4) (continued)

PRESENT:

<u>Chairman:</u>	Mr. PONCE y CARBO	(Ecuador)
<u>Rapporteur:</u>	Mr. IGNACIO-PINTO	Dahomey
<u>Members:</u>	Mr. ERMACORA	Austria
	Miss AITKEN	Canada
	Miss KRACHT	Chile
	Mr. VOLIO	Costa Rica
	Mr. GRAULUND HANSEN	Denmark
	Mr. BENITES	Ecuador
	Mr. ALVAREZ VIDAURRE)	El Salvador
	Mr. VEGA-GOMEZ)	
	Mr. BOUQUIN	France
	Mr. S.K. SINGH	India
	Mr. SPERDUTI	Italy
	Miss TABBARA	Lebanon
	Mr. WILSON)	Liberia
	Mr. DOE)	
	Mr. BEAUFORT	Netherlands
	Mr. QUIAMBAO	Philippines
	Mr. RESICH	Poland
	Mr. PANCARCI	Turkey
	Mr. NEBRAILO	Ukrainian Soviet Socialist Republic
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Sir Samuel HOARE	United Kingdom of Great Britain and Northern Ireland
	Mrs. TREE)	United States of America
	Mr. BILDER)	
<u>Also present:</u>	Mrs. TILLET	Commission on the Status of Women
<u>Observers from Member States:</u>		
	Mr. BARROMI	Israel
	Mrs. WILLIAMS	Jamaica

PRESENT (continued):

Representatives of specialized agencies:

Mr. FAFMAN-FARMAIAN	International Labour Organisation
Mr. BEHRSTOCK	United Nations Educational, Scientific and Cultural Organization
<u>Secretariat:</u> Mr. HUMPHREY	Director, Division of Human Rights
Mr. LANLAU	Secretary of the Commission

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (A/5035, 5603; E/CN.4/865, 873; E/CN.4/L.679, L.693/Add.1; E/CN.4/Sub.2/234 and Add.1-4) (continued)

Article VIII (continued)

Mr. BOUQUIN (France) said that he had voted against deletion of the article because in the absence of the interpretation which it furnished, the reference to "national origin" in article I was ambiguous and the meaning of the convention was distorted. He could have supported the deletion of article VIII only if that reference had been eliminated. As matters now stood, States parties to the convention were being asked not to make any distinction between nationals and non-nationals, particularly in respect of political rights; they could hardly be expected to agree to such a provision.

Mr. SPERDUTI (Italy) stated that he too had been unable to vote for the deletion of the article for those reasons.

Mr. MOROZOV (Union of Soviet Socialist Republics) explained that he had voted to delete the article because it was sufficiently clear from the context of article I that the reference to national origin, which was a key element of the definition of racial discrimination, bore no relation to questions of citizenship. Consequently, there was no justification for deleting it from the definition and reversing the Commission's previous decision. Moreover, there was time, before the draft convention was considered by the General Assembly, for the Secretariat to resolve the difficulties encountered by certain delegations in accepting the words used in the English and French texts. Finally, it might even be advisable to insert a foot-note to article I, paragraph 1, explaining that "national origin" did not mean citizenship.

Sir Samuel HOARE (United Kingdom) said that he had abstained in the vote on the deletion of article VIII as on all proposals relating to that article. The difficulty which confronted his delegation arose from the retention of the phrase "national origin" in article I. Under United Kingdom law, nationality and citizenship were the same. The suggested foot-note would not remove that difficulty. Although the phrase had been used in the Universal Declaration of Human Rights, there had never been an authoritative interpretation of its scope and meaning; national origin had merely been cited as one of the grounds on which

(Sir Samuel Hoare, United Kingdom)

discrimination was condemned. It could not be equated with nationality because in that event, States would be prohibited from distinguishing between nationals and non-nationals in the matter of political rights. If it meant the country of origin of nationals further ambiguities arose which would make it impossible for some States to undertake the obligations inherent in the convention.

Miss TABBARA (Lebanon) remarked that she had voted for the deletion of article VIII because the article might have cast some doubt on the scope of the convention. The convention should apply to nationals, non-nationals, and all ethnic groups, but it should not bind States parties to afford the same political rights to non-nationals as they normally granted to nationals. Indeed, the inclusion of the words "national origin" in article I might be ambiguous: if they meant "ethnic origin", they were superfluous; if they meant "citizenship", they were irrelevant. It would be noted that while the words "national origin" appeared in the preamble of the Declaration on the Elimination of all Forms of Racial Discrimination, they did not reappear anywhere in the body of the Declaration. Without article VIII to state the exception relating to the exercise of political rights by non-nationals, it was illogical to retain "national origin" in article I. She reserved her delegation's right to reopen the question in the General Assembly.

Mr. ERMACORA (Austria) recalled that he had proposed the deletion of article VIII. However, he fully understood the difficulties encountered by the French delegation. At the very least, a foot-note should be appended to article I in order to resolve those difficulties, or an interpretative paragraph should be included in the Commission's report. For its part, his delegation would also have no objection to reconsidering the question of retaining "national origin" in article I.

Mr. MOROZOV (Union of Soviet Socialist Republics) was categorically opposed to the suggestion that the Commission should reopen debate on any article of the convention which it had already adopted. On the pretext that the meaning of the words "national origin" was not absolutely clear, an attempt was being made to nullify one of the key elements of the convention.

Mr. S.K. SINGH (India) said that he appreciated the French delegation's difficulties and was in sympathy with the explanation given by the Lebanese representative. Clearly, the deletion of article VIII had created a substantive,

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problem with legal implications for some countries and that problem was not to be taken lightly. On the other hand, the seriousness of the Commission's approach to its work would be laid open to question if it should, at the concluding stage of its session, decide to reverse itself with respect to the content of article I. He protested vigorously against the move to reopen debate on the article, particularly since the text adopted by the Commission had still to be examined by the Third Committee, and was not the definitive text of the convention. Surely there were other ways to solve the difficulty: thus, the Commission might specifically request the Rapporteur to include a full statement of the views expressed by the various delegations with respect to the problem.

Mr. BOUQUIN (France) pointed out that by transmitting the draft convention to the Third Committee in its present state, the Commission would prove beyond a doubt that it did not approach its work seriously, for it would be approving a text which no reasonable State could ratify. Indeed, his delegation had voted in favour of article I as a whole, including the ambiguous reference to national origin, because it had confidently expected the Commission to retain the Sub-Commission's text of article VIII. Without that text to qualify the reference in article I, the draft convention was no longer acceptable.

In the circumstances, he formally moved that the Commission should reconsider the desirability of retaining the word "national" in article I (E/CN.4/L.693/Add.1) in the light of the deletion of article VIII.

Mr. QUIAMBAO (Philippines) moved the closure of the debate on the French proposal, and requested that it should be put to the vote forthwith.

Mr. MOROZOV (Union of Soviet Socialist Republics) objected on the ground that a motion for closure was contrary to the rules of procedure. The French proposal to eliminate a word from an article already adopted by the Commission would open the way for a reconsideration of other articles. It should be enough to add a foot-note to article I, paragraph 1, explaining that the word "national" in the English and French texts meant "belonging to a certain national group but not to citizenship".

The Philippine motion for closure of the debate was adopted by 9 votes to 5, with 6 abstentions.

Mr. ERMACORA (Austria) explained that he had voted against the motion because the USSR proposal to add a foot-note had not been discussed.

Mr. S.K. SINGH (India) said that he had voted against the motion because it denied delegations an opportunity to seek alternative methods to the one suggested by the French representative.

The CHAIRMAN invited the members to vote on the French representative's proposal to reconsider the inclusion of the word "national" in article I as adopted by the Commission (E/CN.4/L.693/Add.1).

At the request of the USSR representative, a vote was taken by roll-call. France, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: France, Italy, Lebanon, Netherlands, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Denmark.

Against: India, Liberia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Chile.

Abstaining: Philippines, Austria, Canada, Costa Rica, Dahomey, Ecuador, El Salvador.

The proposal was adopted by 8 votes to 6, with 7 abstentions.

Mr. BOUQUIN (France) proposed the deletion of the word "national" before "or ethnic origin" in article I, paragraph 1, as adopted by the Commission.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that if the word was deleted in the Russian text it would mean that discrimination was tolerated when the victim belonged to a different national group. The deletion would so weaken article I that it might result in States being relieved of any obligation to implement the article. According to Webster's dictionary, nationality was not the same as citizenship. It seemed to him that what was called a linguistic difficulty was really a pretext to attenuate the obligations to be assumed by the signatory States. To meet the difficulties of the representatives of France and the United Kingdom, he suggested as a sub-amendment to the French proposal that a foot-note should be inserted to article I, as follows: "In this article, in the English and French languages the word 'national' means a person belonging to a

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national group but not to citizenship". He recalled that in the debate on article VIII it had appeared that under French and United Kingdom legislation there were inequalities in citizenship and that new citizens did not enjoy the full rights of other citizens. Such distinctions were a legacy of colonialism. The countries which had formerly been colonies of the Western Powers should be particularly attentive to the danger of deleting the word "national" in article I.

Mr. BOUQUIN (France), in reply to the USSR representative, denied that French naturalization law was a heritage of colonialism. The naturalized persons to whom he had referred were mainly Europeans, and there was no discrimination against them on the grounds of race, religion or political ideology. They included White Russians and Spanish Republicans. The transitory provisions which he had mentioned earlier were not discriminatory measures. The naturalization policy pursued by his country was both liberal and progressive.

With regard to the foot-note proposed by the USSR representative, he recalled that English was the original language of the article in question, and suggested that the difficulty might conceivably be in the Russian translation. The definition of "national" proposed by the USSR representative was not satisfactory, and it still seemed unnecessary to refer to nationality in a convention on the elimination of racial discrimination.

Mr. S.K. SINGH (India) was opposed to the deletion of the word "national", since the Sub-Commission had in mind the plight of persons of Indian and Pakistani origin in the Republic of South Africa. Discrimination based on nationality and discrimination based on race sometimes merged, and that had been taken into account by the Sub-Commission in drafting articles I and VIII. In order that the representatives of France and the USSR might seek to reach agreement on their proposed amendments, he moved suspension of the meeting.

Mr. ECUQUIN (France) said that while he appreciated the argument advanced by the Indian representative, there was no way of knowing whether the Republic of South Africa would consider ratifying the convention.

The meeting was suspended at 12.35 p.m. and resumed at 1.5 p.m.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that, following informal consultations, he would propose the following foot-note to article I, paragraph 1: "In this paragraph the word 'national' in the English and French languages is not used to refer to citizenship of a given State."

Mr. BOUQUIN (France) remarked that the proposed definition was still unsatisfactory. It was not sufficient to say what the word "national" did not mean. It would be better to say what it did mean. Further consultations might prove beneficial.

Mr. GRAUJUND HANSEN (Denmark) proposed that the word "national" should be placed in square brackets when the draft convention was submitted to the Third Committee. In the meantime, delegations should consult with their Governments about deleting or retaining the word.

Sir Samuel HOARE (United Kingdom) supported that suggestion.

Mr. ERMACORA (Austria) also supported it, but proposed in addition that the first part of article VIII up to and including the word "non-nationals" should also be given in square brackets.

Mr. MOROZOV (Union of Soviet Socialist Republics) accepted the Danish proposal, but objected to any doubt being placed on the word in square brackets.

The meeting rose at 1.25 p.m.