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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Sixteenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND THIRTEENTH MEETING

Held at Headquarters, New York,
on Friday, 17 January 1964, at 11.20 a.m.

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Draft international convention on the elimination of all forms of racial discrimination (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.308 and Add.1/Rev.1 and Add.1/Rev.1/Corr.1, L.309, L.310, L.311, L.314, L.317, L.318) (continued)

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PRESENT:

<u>Chairman:</u>	Mr. SANTA CRUZ	(Chile)
<u>Rapporteur:</u>	Mr. CAPOTORTI	(Italy)
<u>Members:</u>	Mr. ABRAM	(United States of America)
	Mr. AWAD	(United Arab Republic)
	Mr. BOUQUIN	(France)
	Mr. CALVOCORESSI	(United Kingdom of Great Britain and Northern Ireland)
	Mr. CUEVAS CANCINO	(Mexico)
	Mr. INGLES	(Philippines)
	Mr. IVANOV	(Union of Soviet Socialist Republics)
	Mr. KETRZYNSKI	(Poland)
	Mr. KRISHNASWAMI	(India)
	Mr. MATSCH	(Austria)
	Mr. MUDAWI	(Sudan)
	Mr. SAARIO	(Finland)

Also present: Mrs. LEFAUCHEUX Commission on the Status of Women

Observers from Member States:

Mr. ROBICHAUD	Canada
Mr. LEMA	Congo (Leopoldville)
Mr. S.K. SINGH	India
Mr. BARROMI	Israel
Mr. SCHAAPVELD	Netherlands
Mr. QUIAMBAC	Philippines
Mrs. NASON	United States of America
Mr. MELOVSKI	Yugoslavia

Representatives of specialized agencies:

Mr. FARMAN-FARMAIAN	International Labour Organisation
Miss BARRETT Mr. SALSAMENDI	} United Nations Educational, Scientific and Cultural Organization
Mrs. MEAGHER	World Health Organization

PRESENT (continued):Representative of a non-governmental organization:

<u>Category A:</u>	Mr. CONNELLY	World Federation of Trade Unions
<u>Secretariat:</u>	Mr. HUMPHREY	Director, Division of Human Rights
	Mr. LAWSON	Secretary of the Sub-Commission

DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.308 and Add.1/Rev.1 and Add.1/Rev.1/Corr.1, L.309, L.310, L.311, L.314, L.317, L.318) (continued)

Mr. CONNELLY (World Federation of Trade Unions), speaking at the invitation of the Chairman, said that the Sub-Commission's resolute and vigorous approach to the drafting of an international convention on the elimination of all forms of racial discrimination reassured the international trade union movement that the United Nations was irrevocably committed to the total elimination of racism and its root causes. The WFTU favoured a convention with strong and unambiguous provisions clearly delineating the matters in which States should afford protection against racist practices, prohibiting such practices by private as well as government employees, groups or organizations and providing effective means of implementation. Since the Declaration adopted by the General Assembly represented the bare minimum as regards international action which could be taken against racial discrimination, it was the duty of the Sub-Commission, in the draft convention, to improve on the Declaration, in particular, by indicating explicitly which discriminatory acts and practices should be prohibited and how they should be penalized. The draft convention should also provide sanctions to be taken against incitement to racial hatred and violence by groups dedicated to the teaching and advocacy of racial superiority. Such sanctions could be established without infringing the fundamental rights of free speech, press and assembly.

The WFTU had been gratified by the Sub-Commission's decision to include in the preamble a specific reference to the close relationship between colonialism and racial discrimination and segregation, and he hoped that it would also decide to establish the link between fascism and various forms of racism, such as apartheid. The WFTU had been particularly pleased to find in the text submitted by Mr. Ivanov and Mr. Ketrzynski (E/CN.4/Sub.2/L.314) provisions calling for measures to admit no racial discrimination in the granting and enjoyment of the right to form and join trade unions and the right to employment and equal pay.

The CHAIRMAN invited discussion of the draft preamble agreed upon by the Working Group (E/CN.4/Sub.2/L.317), pointing out that the text should be corrected by deletion of the second of the two paragraphs beginning "Convinced" and of the clause: "...as it was in the past by the evil racial doctrines and practices of national socialism..." in the paragraph beginning "Concerned".

Mr. KRISHNASWAMI proposed that the text should be further amended by deleting the paragraph beginning "Desiring", by combining paragraph 4 with the paragraph beginning "Convinced", by reversing the order of paragraphs 3 and the expanded paragraph 4 and by replacing the words "Taking into account" in the penultimate paragraph by the words "Bearing in mind". He further proposed the addition of the words "in the areas to which it is applicable" at the end of paragraph 3.

Mr. MATSCH suggested the insertion of the years of adoption of the Declarations referred to in paragraphs 3 and 4 - 1960 and 1963 respectively. The effect would be to lay stress on those Declarations as milestones in the United Nations struggle to eliminate discrimination.

Mr. ABRAM proposed a transposition of the words in the paragraph beginning "Convinced" so that the text would read: "Convinced that any doctrine of superiority based on racial differentiation is scientifically false...". In his view, the doctrine of racial superiority was the root cause of discrimination.

Mr. MUDAWI, drawing attention to the reference to national socialism in the paragraph beginning "Reaffirming", suggested that the text should specify that the term applied to the theory and practice of national socialism in Germany and Italy before and during the Second World War. As they stood, the words might be confused with the national socialism currently being advocated by certain political parties in Africa, a very different thing from nazism.

Mr. IVANOV suggested that the words "national socialism" should be replaced by "nazism". He objected to the addition of the words "in the areas to which it is applicable" at the end of paragraph 3 because they were superfluous, could be construed as restrictive and weakened the text.

Mr. KETRZYNSKI supported that objection. He also took exception to Mr. Abram's transposition of words in the paragraph beginning "Convinced". Racism was not based merely on the doctrine of superiority; it frequently found its justification precisely in the differences between individuals or groups. Mr. Abram's amendment would tend to support the argument that there was no discrimination so long as all racial groups enjoyed "separate, but equal" treatment.

The CHAIRMAN, speaking in his personal capacity, also objected to Mr. Abram's formulation. He recalled that it was at his suggestion that the Sub-Commission had included the wording in question in its original draft of the Declaration on the Elimination of All Forms of Racial Discrimination. That wording had been deleted by the Commission on Human Rights, but subsequently restored by the Third Committee. He had taken the wording from the declaration issued by a group of specialists in various branches of the social sciences convened by UNESCO first in 1949 and again in 1951 to study the question of race. The specialists had concluded that the concept of race commonly held was scientifically false and that there were no basic differences in capacity, aptitude or ability between racial or ethnic groups. Consequently, racial superiority was not an arguable proposition, and the text in the draft preamble agreed upon by the Working Group should stand.

Mr. KRISHNASWAMI suggested the addition of the word "anywhere" at the very end of the paragraph in question.

Mr. CAPOTORTI said he was prepared to accept most of Mr. Krishnaswami's amendments. However, he agreed with Mr. Ivanov that the addition to paragraph 3 was superfluous and he saw no justification for reversing the order of paragraphs 3 and 4. He further agreed with Mr. Ivanov that "national socialism" in the paragraph beginning "Reaffirming" should be replaced by "nazism". Like the Chairman and Mr. Ketrzynski, he would retain the wording of the paragraph beginning "Convinced" without change, first because it reproduced the wording in the Declaration and secondly, because there were doctrines used to justify discrimination which did not assert superiority of one race over another, but still insisted on separation of the races.

Mr. BOUQUIN welcomed the Working Group's decision to devote separate paragraphs to the Charter and the Universal Declaration of Human Rights, as he had proposed.

While a different drafting of Mr. Krishnaswami's amendment to paragraph 3 might be preferable, he would support the majority position on that amendment.

(Mr. Bouquin)

Although he had no objection to the substance of the paragraph beginning "Convinced", he had some reservations about its form, and felt that Mr. Abram's amendment substantially improved the text. The Sub-Commission should stress the falsity and repugnance of ideas of racial superiority, since it was difficult to deny the existence of racial differentiation. According to the UNESCO publication The Race Concept, a group of physical anthropologists and geneticists, meeting at Paris in June 1951, had concluded, not that there were no differences between races, but that "genetic differences are of little significance in determining the social and cultural differences between different groups of men". In document E/CN.4/853 UNESCO had noted that the declaration adopted by the group had stressed the purely physical nature of differences between races and had added that racial differences implied neither superiority nor inferiority. Just as in the case of discrimination based on sex, the real point was, not that differences existed, but that absolute equality should be ensured.

Since "nazism" was an abbreviation for national socialism, either term could be employed. Nevertheless, he had reservations with regard to the wisdom of including so specific a reference. The draft convention would be an international instrument, not a manifesto, and as such should be formulated in general terms. It was worth noting that, despite the circumstances in which they had been written, neither the United Nations Charter, the Universal Declaration of Human Rights, nor the UNESCO Constitution contained any reference to national socialism. Moreover, the Third Committee had considered and rejected proposals for the inclusion of wording to that effect.

Mr. KRISHNASWAMI felt that the order of ideas in the Working Group's draft was not a chronological succession but rather a progression from the general to the particular. He was surprised that a controversy had arisen over his amendment to paragraph 3, since there had been general agreement in the debate that only vestiges of colonialism remained. Moreover, it was only logical that paragraph 4 should precede paragraph 3 since it embodied the general principle of which colonialism was only one specific, though very important, aspect. He therefore maintained his proposals.

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Mr. INGLES was doubtful about the wisdom of deleting the paragraph beginning "Desiring", as Mr. Krishnaswami had proposed, since that might cause the Sub-Commission's intentions to be misinterpreted. It might be preferable to substitute that paragraph for the paragraph beginning "Having resolved", which was weak and unclear.

Although Mr. Krishnaswami's addition to paragraph 3 had considerable merit, it introduced a new element which might give rise to controversy. He therefore favoured leaving the text as it stood.

To clarify the meaning of the words "national socialism", the paragraph beginning "Reaffirming" should include a mention of the country where that doctrine had been practised. Moreover, the replacement of the words "national socialism" by "nazism" would make the paragraph more precise; the word "nazism" could be found in innumerable United Nations documents.

Mr. ABRAM suggested that the paragraph beginning "Reaffirming" should be replaced by the text of the ninth preambular paragraph of the Declaration on the Elimination of All Forms of Racial Discrimination, which was a more accurate statement.

The CHAIRMAN said that the Working Group had discussed that suggestion extensively before deciding to submit its text.

Mr. KETRZYNSKI, supported by Mr. IVANOV, remarked that there was general agreement in the Sub-Commission that a reference to nazism should be included, and he regretted that Mr. Bouquin had reopened the discussion on that point. It was true that nazism was not mentioned in the United Nations Charter or in the Universal Declaration of Human Rights, but neither were racism and colonialism. Nazism was still a living issue, and it must be mentioned in the draft preamble.

Mr. BOUQUIN recalled that he had agreed with the Working Group on the substance of the paragraph beginning "Reaffirming" and had merely expressed some reservations about the form. He continued to entertain doubts as to the wisdom of including the word "nazism" in the text of the Convention.

Mr. KETRZYNSKI suggested, as an alternative to Mr. Krishnaswami's amendment to paragraph 3, that the words "wherever it exists" should be inserted between the words "forms" and "to" in that paragraph.

Mr. IVANOV felt that Mr. Krishnaswami's amendment to paragraph 3 might provide a loophole for the apologists of colonialism, who would contend that the Declaration on the granting of independence to colonial countries and peoples did not apply to the areas in which they were interested. There was no need to clarify the text of paragraph 3, but if nevertheless the Sub-Commission wished to do so, it should adopt the wording suggested by Mr. Ketrzynski.

Mr. KRISHNASWAMI withdrew his amendment to paragraph 3 in favour of Mr. Ketrzynski's suggestion.

Mr. KETRZYNSKI agreed with Mr. Ingles that the Sub-Commission should retain the paragraph beginning "Desiring", so as not to create misconceptions about its intentions.

Mr. IVANOV believed the General Assembly would find it difficult to understand why such a provision - which certainly reflected the Sub-Commission's wishes - had been discarded.

Regarding Mr. Abram's proposal to transpose some of the wording of the paragraph beginning "Convinced", he recalled that the Third Committee of the General Assembly by an overwhelming majority had decided to keep the word "differentiation" in the fifth preambular paragraph of the Declaration on the Elimination of All Forms of Racial Discrimination (A/C.3/SR.1222) on which the text in question was patterned.

The CHAIRMAN, interpreting the consensus of opinion, noted that it had been agreed to insert the year of adoption of the Declarations referred to in paragraphs 3 and 4; to insert the words "wherever it exists" between the words "forms" and "to" in paragraph 3; to place the paragraph beginning "Desiring" at the end of the draft preamble as a substitute for the paragraph beginning "Having resolved"; to add the word "anywhere" at the end of the paragraph beginning "Convinced"; to substitute the word "nazism" for the expression "national socialism" in the paragraph beginning "Reaffirming"; and to substitute the expression "Bearing in mind" for the words "Taking into account" in the penultimate paragraph.

Mr. CAPOTORTI opposed Mr. Krishnaswami's amendment to combine paragraph 4 and the paragraph beginning "Convinced", since paragraph 4, like the preceding paragraphs, referred to the basic documents, while the paragraph beginning "Convinced" stated a fundamental conviction held by the drafters.

The CHAIRMAN put Mr. Krishnaswami's amendment to combine paragraph 4 and the paragraph beginning "Convinced" to the vote.

Mr. Krishnaswami's amendment was adopted by 9 votes to 2.

Mr. IVANOV urged Mr. Krishnaswami not to press his proposal for the reversal of the order of paragraph 3 and the new combined paragraph. The basic documents should be listed in chronological order.

Mr. KRISHNASWAMI withdrew the proposal.

The CHAIRMAN put to the vote Mr. Abram's amendment to insert the words "of superiority" following the word "doctrine" and to delete the words "or superiority" following the word "differentiation" in the paragraph beginning "Convinced".

Mr. Abram's amendment was adopted by 5 votes to 3, with 4 abstentions.

Mr. IVANOV protested that the amendment had been put to the vote too quickly and that members had not been aware of what they were voting on.

The CHAIRMAN said that the Sub-Commission could reopen the matter later, if it wished.

The meeting rose at 1.10 p.m.