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COMMISSION ON HUMAN RIGHTS

Twentieth Session

SUMMARY RECORD OF THE SEVEN HUNDRED AND NINETY-SEVENTH MEETING

Held at Headquarters, New York,
on Thursday, 5 March 1964, at 11.20 a.m.

CONTENTS

Draft international convention on the elimination of all forms of racial discrimination (A/5035, 5603; E/CN.4/865, 873; E/CN.4/L.698, L.699, L.701, L.706; E/CN.4/Sub.2/234 and Add.1-4) (continued)

PRESENT:

Chairman:

Rapporteur:

Members:

Mr. PONCE y CARBO	(Ecuador)
Mr. IGNACIO-PINTO	Dahomey
Mr. ERMACORA	Austria
Miss AITKEN	Canada
Mr. BARROS	Chile
Mr. REDONDO	Costa Rica
Mr. GRAULUND HANSEN	Denmark
Mr. BENITES	Ecuador
Mr. VEGA GOMEZ	El Salvador
Mr. BOUQUIN	France
Mr. SAJJAD	India
Mr. SPERDUTI	Italy
Mr. HAKIM	Lebanon
Mr. DOE	Liberia
Mr. BEAUFORT	Netherlands
Mr. QUIAMBAO	Philippines
Mr. RESICH)	Poland
Mr. DABROWA)	
Mr. PANCARCI	Turkey
Mr. NEDBALLO	Ukrainian Soviet Socialist Republic

Mr. MOROZOV)	Union of Soviet Socialist Republics
Mr. OSTROVSKY)	

Sir Samuel HOARE	United Kingdom of Great Britain and Northern Ireland
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Mr. BILDER	United States of America
<u>Also present:</u> Mrs. TILLET	Commission on the Status of Women

Observer from a Member State:

Mr. BARRCMI	Israel
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Representatives of specialized agencies:

Mr. FARMAN-FARMAIAN	International Labour Organisation
Miss BARRETT	United Nations Educational, Scientific and Cultural Organization

Secretariat:

Mr. HUMPHREY	Director, Division of Human Rights
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Mr. LANDAU	Secretary of the Commission
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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.698, L.699, L.701, L.706; E/CN.4/Sub.2/234 and Add.1-4) (continued)

Article V (continued)

Sir Samuel HOARE (United Kingdom) thought it unfortunate that there was so long a catalogue of rights in the Sub-Commission's text of article V. Only ten of the rights proclaimed in the Universal Declaration of Human Rights had been left out. That was certainly not good drafting, particularly as the word "notably" preceding the list implied that there had been a selection of the rights to which special attention should be accorded.

Turning to the Polish amendment to the introductory passage (E/CN.4/L.699), which the Committee appeared to consider a useful basis for its work, he suggested that the intention of that text was probably to refer back to the fundamental obligations to prohibit and to eliminate racial discrimination laid down in article II, rather than to state a new obligation. He introduced a sub-amendment (E/CN.4/L.706) which would achieve that purpose and remedy the drafting defects.

Mr. OSTROVSKY (Union of Soviet Socialist Republics) observed that the catalogue of rights in article V did not purport to be exhaustive. His delegation, however, would not object to the addition of those rights in the Universal Declaration which had been omitted from the list.

As regards the United Kingdom proposal concerning the introductory sentence of article V (E/CN.4/L.706), he recalled that a time-limit for submitting amendments to the Sub-Commission's draft convention had been established in order to expedite the Commission's work, and that it had expired.

Mr. BILDER (United States of America) thought that the United Kingdom representative's suggestion for a rearrangement of the words in the Polish amendment was very sensible. It was not a substantive amendment, but simply a drafting change, which would clarify the relationship between article II and article V.

Sir Samuel HOARE (United Kingdom) explained that he was not suggesting additions to the catalogue of rights, which he considered to be now too long.

His proposal in document E/CN.4/L.706 was less substantive than the two oral suggestions for changes in that text which had been made at the previous meeting.

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Mr. HAKIM (Lebanon) said that the new wording suggested by the United Kingdom purported to summarize all the obligations laid down in article II in the words "to prohibit and to eliminate racial discrimination in all its forms". In article II, however, the States Parties undertook also to condemn racial discrimination, to amend, rescind or nullify any laws and regulations which had the effect of creating or perpetuating racial discrimination, etc. The difference in wording between the obligations laid down in article II and the summary of those obligations in article V might create confusion. In his view, therefore, it would be better to delete the phrase "to prohibit and to eliminate racial discrimination in all its forms" from the text as amended by the United Kingdom proposal and simply to refer to the fundamental obligations laid down in article II.

The United Kingdom proposal would require a consequential amendment in the second part of the introductory sentence in the Polish amendment, namely, the substitution of the word "and" for the words "notably in", and the addition of the words "in particular" after "rights" at the end of the sentence.

Sir Samuel HOARE (United Kingdom) said that if the Committee favoured the deletion of the words "to prohibit and to eliminate racial discrimination in all its forms", he would have no objection, although he believed that it would be useful to retain them as indicating the principal element of article II and supplying a framework for the provision concerning the right to equality before the law.

Mr. ERMACORA (Austria) agreed that a reference to article II should be retained in the text of article V, but felt that the latter should also be linked to the spirit of article I, as adopted by the Commission (E/CN.4/L.693/Add.1). Since the essential purpose of article V was to guarantee equality before the law in the enjoyment of various rights, it would be better to word the introductory paragraph as follows:

"In compliance with the fundamental obligation laid down in article II, States Parties undertake to guarantee without distinction as to race, colour or ethnic origin the right of everyone to equality before the law in the enjoyment of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

Mr. OSTRÓVSKY (Union of Soviet Socialist Republics) questioned the desirability of including in the text of one article a summary or interpretation of another. Each article of a legal instrument had its own specific sense and import, the interpretation of which should be left to those applying the convention. A comparison of articles II and V, as drafted by the Sub-Commission, made it clear that the latter's intention had been to set out in general terms in article II the obligations assumed by States parties, and then to spell out in more detail in article V certain rights with respect to the enjoyment of which States parties undertook to prohibit and eliminate racial discrimination. The latter phrase represented the essence of the article, to which the Polish amendment (E/CN.4/L.699) simply added the idea of the right to equality before the law, without affecting the substance of the original text. He hoped that the United Kingdom representative would not press his proposal, especially since he appeared to regard it as merely a drafting change.

Mr. DOE (Liberia) said he was glad that the term "each citizen" in the Polish amendment (E/CN.4/L.699) had been changed to "everyone" at the previous meeting. He would have been reluctant to support even the words "every person", because in some States, such as South Africa, and in some colonial territories, some human beings were not legally regarded as persons, in the sense of subjects of the law capable of having rights and duties.

At the preceding meeting, the Italian representative had expressed some doubt concerning the inclusion of a reference to the right to nationality in article V, pointing out that the laws relating to nationality varied from country to country. He would be grateful if the jurists in the Commission could explain whether some States, by ratifying the convention would be obliged to change their legislation in order to conform to one universal concept of nationality.

Mr. NEDBAILO (Ukrainian Soviet Socialist Republic) said that while article V referred specifically to article II, the provisions it contained were different from those of article II, which did not impose upon States the obligation to eliminate racial discrimination in all forms. He did not agree with the Austrian representative that article V sought to guarantee equality of rights before the law. Such equality could be achieved only by prohibiting and eliminating racial

(Mr. Nedbailo, Ukrainian SSR)

discrimination in all its forms. If the Austrian view was accepted, the basic content of article V would disappear. On the other hand, the Polish amendment (E/CN.4/L.699) was intended to strengthen article V. The effect of the alterations proposed by the United Kingdom and Lebanon would be to make substantive and not purely drafting changes in the text. Since the deadline for submitting substantive amendments had already passed, a procedural question arose whether the United Kingdom and Austrian proposals were receivable.

Mr. SPERDUTI (Italy) agreed with the United Kingdom representative that there was no need for a new undertaking to prohibit and eliminate racial discrimination in all its forms in article V because that undertaking was already in article II. While the insertion of the words "and to guarantee the right of everyone to equality before the law", proposed in the Polish amendment, did not in itself present any difficulties, it should be possible with good will to improve on the wording of the introductory paragraph of article V.

Mr. MOROZOV (Union of Soviet Socialist Republics), speaking on a point of order, recalled that the deadline for the submission of substantive amendments had already elapsed. The so-called sub-amendment by the United Kingdom to the Polish amendment was in fact a substantive amendment to the draft prepared by the Sub-Commission. The United Kingdom representative might have erred in good faith, but the question arose whether other members of the Commission would have the same right to submit further amendments; that question would have to be decided by a majority vote.

Sir Samuel HOARE (United Kingdom) replied that in his view any amendment was open to sub-amendments, that his sub-amendment was a simple one, and that he had not transgressed the rules of procedure.

The meeting rose at 1 p.m.