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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Eighth Session

SUMMARY RECORD OF THE HUNDRED AND SEVENTY-SIXTH MEETING

Held at Headquarters, New York,
on Thursday, 5 January 1956, at 3.15 p.m.

CONTENTS

Study of discrimination in education: draft report drawn up by the
Special Rapporteur (E/CN.4/Sub.2/L.92 and Add.1-27) (continued)

PRESENT:

<u>Chairman:</u>	Mr. SORENSEN	(Denmark)
<u>Rapporteur:</u>	Mr. INGLES	(Philippines)
<u>Members:</u>	Mr. AMMOUN	(Lebanon)
	Mr. AWAD	(Egypt)
	Mr. CHATENET	(France)
	Mr. CZARKOWSKI	(Poland)
	Mr. FOMIN	(Union of Soviet Socialist Republics)
	Mr. HALPERN	(United States of America)
	Mr. HISCOCKS	(United Kingdom of Great Britain and Northern Ireland)
	Mr. KRISHNASWAMI	(India)
	Mr. ROY	(Haiti)
	Mr. SANTA CRUZ	(Chile)
<u>Also present:</u>	Miss BERNARDINO	Commission on the Status of Women
<u>Representatives of specialized agencies:</u>		
	Mr. SEIERSEN	International Labour Organisation
	Mr. MAHEU	United Nations Educational, Scientific and Cultural Organization
<u>Representatives of non-governmental organizations:</u>		
<u>Category A:</u>	Miss SENDER	International Confederation of Free Trade Unions
	Mr. THORMANN	International Federation of Christian Trade Unions
	Miss KAHN	World Federation of Trade Unions
	Mr. BROWN	World Federation of United Nations Associations
	Mr. ARNEMAN	World Veterans Federation

PRESENT (continued):

Representatives of non-governmental organizations (continued):

Category B and Register:

Mr. LEWIN	Agudas Israel World Organization
Mrs. GIROUX	Catholic International Union for Social Service
Mr. MICHELI	Commission of the Churches on International Affairs
Mr. MOSKOWITZ) Mr. BLOOMGARDEN) Mr. LISKOFISKY)	Consultative Council of Jewish Organizations
Miss JONES	Friends World Committee for Consultation
Mr. MANUILA	International Association of Penal Law
Miss ROBB	International Federation of University Women
Mr. BEER	International League for the Rights of Man
Mrs. KRIJNEN	International Movement for Fraternal Union among Races and Peoples
Mr. SIENIEWICZ	<u>Nouvelles Equipes Internationales</u>
Mrs. WALSER	Women's International League for Peace and Freedom
Mr. PENCE	World Alliance of Young Men's Christian Associations
Mr. JACOBY	World Jewish Congress
Miss SCHAEFER	World Union of Catholic Women's Organizations
Mr. PERLZWEIG	World Youth Congress
<u>Secretariat:</u> Mr. SCHWELB	Deputy Director, Division of Human Rights
Mr. LAWSON	Secretary of the Sub-Commission

STUDY OF DISCRIMINATION IN EDUCATION: DRAFT REPORT DRAWN UP BY THE SPECIAL
RAPPORTEUR (E/CN.4, Sub.2/L.92 and Add.1-27) (continued)

Mr. HALPERN joined in the tribute paid to Mr. Ammoun; his draft report, which showed how competent he was in research and drafting, deserved the serious attention of the Sub-Commission. In accordance with the directives given it by the Commission on Human Rights, the Sub-Commission was engaged in the preparation of an extremely important series of pilot studies; it was indebted to Mr. Ammoun for having made a most useful contribution to that task.

He could not, however, endorse the whole report. There were passages that might be misleading. He would therefore take the liberty of criticizing some aspects of the report in a friendly and constructive spirit; his criticism would be directed to the emphasis placed on certain facts and the context in which certain problems should be placed.

The Special Rapporteur himself acknowledged that his draft was incomplete since there was still no data for two-thirds of the countries of the world and there were marked differences in the material collected on the other countries. Some Governments were quite open about it, gave all the information they possessed, allowed non-governmental organizations to express themselves freely and even drew attention to the shortcomings in their own countries. Other Governments followed a contrary policy. A false impression might be given by merely reproducing a given country's legislation without making it clear that the de facto situation was not the same as the de jure situation.

Non-governmental organizations should play a much more active part and be considered as one of the main sources of material. He had noted that some representatives of non-governmental organizations had much too narrow an idea of the part they were called upon to play; they felt that their organizations should supply materials only on countries where they had affiliated organizations. But the Sub-Commission was anxious to make full use of the knowledge and experience of non-governmental organizations throughout the world, but it relied upon them to check the accuracy of the material collected so that material which was mere propaganda would be excluded. The non-governmental organizations should transmit whatever material they wished to the Sub-Commission before the drafting of the final report.

(Mr. Halpern)

There had been a similar misconception with regard to the scholars and scientists whose work should also be considered a basic course of material in accordance with the principle adopted by the Sub-Commission two years earlier. It appeared from the report that the writings of scholars and scientists cited in the report were for the most part limited to works published in the country to which they were related but there was no justification for such a limitation. Useful and valuable information could be found in books published in other countries.

At the previous meeting, Mr. Fomin had quoted out of context paragraph 94 of the report which stated that discrimination in education was found in the Union of South Africa, in certain Trust or Non-Self-Governing Territories and to some extent in the United States and Mr. Fomin had made this the basis for an attack upon the United States. Mr. Halpern had not intended to discuss the situation in any particular country in the general debate, reserving that for a later time, but Mr. Fomin's remarks had made a reply necessary. Mr. Halpern did not object to the reference to his country in the report as he regarded it as a function of the report to discuss countries by name, but he considered it ludicrous to place the United States and the Non-Self-Governing Territories, for example, on the same footing. The situation was in no way comparable.

The ratio of students receiving higher education to the population was higher among the Negroes in the United States than in any other country of the world, except the Soviet Union. Out of a Negro population of 15 millions, there were 90,000 Negro students in the United States, or 6,000 for every million inhabitants. For every million inhabitants, the corresponding figures were 6,970 in the Soviet Union, 4,927 in Canada, 4,639 in Japan, and 4,501 in Argentina, the last three countries named coming immediately after the United States (17,500 students in all for every million inhabitants for the population as a whole) and the Soviet Union. Thus, while it was lower than the general average in the United States, the proportion of Negro pupils in that country was exceptionally high on a world scale.

He desired to place the problem of racial discrimination in the United States in proper perspective. First, the struggle against discrimination had been

(Mr. Halpern)

aimed at assuring equal educational facilities for white and coloured students. That aim had been substantially accomplished. The United States was now engaged in dealing with a more subtle problem of discrimination, that growing out of segregation in separate schools which might give rise to a psychological feeling of inferiority. In May 1954, the Supreme Court had held that the maintenance of separate public schools was a violation of equal protection guaranteed by the United States Constitution. The implementation of that decision required great social adjustments which were now in progress but, as the Department of Justice had recently stated, the United States Government would see to it that the Supreme Court's ruling was observed.

The United States was thus engaged in removing the last remnant of discrimination in education. It had successfully passed the stage of assuring facilities that were materially equal. For example, salaries of teachers in schools for Negro children, which had once been lower than those for teachers in white schools, had risen considerably and in some States were now even higher than white teachers' salaries. In many countries of the world, the attainment of equality in physical facilities and tangible factors for all segments of the population would be a substantial improvement, even though the schools were separate. The United States had passed that stage.

That did not mean that the United States Government was denying the continued existence of a problem; on the contrary, it was well aware of the problem and was doing its utmost to resolve it. It would seem, however, that a country like the United States, where there was complete freedom of opinion and expression, was less in need of the Sub-Commission's study than other countries. The study would be especially useful for countries which were unaware of their shortcomings and discriminatory practices.

He associated himself in the remarks made by Mr. Hiscocks at the previous meeting on discrimination based on political belief.

With regard to discrimination based on religion, the draft report contained some very good material, but it might amplify it. Attention should be drawn to active discrimination practised against those holding religious beliefs. In order to put an end to such discrimination, some countries would have to reframe their basic ideologies and become truly democratic.

(Mr. Halpern)

Some countries suffered from discrimination based on social origin: workers' children enjoyed privileges not given to children whose parents belonged to other social classes. Those facts had already been brought to the Sub-Commission's attention and the reply given seemed encouraging: those countries were in a period of transition. He felt that the reply was not a justification, but rather an explanation of the situation, and, in reality, a moral commitment to the effect that in the countries of Eastern Europe, the children would not be made responsible for the errors allegedly committed by their parents.

Mr. Halpern noted that there were certain countries in the world in which private schools were not allowed. This prohibition he regarded as a violation of democratic principles; Parents who desired to have their children receive a particular religious, cultural, linguistic or artistic educational background should be free to send them to private schools, of course at their own expense. He cited the Supreme Court's decision in Pierce v. Society of Sisters, handed down in 1925, stating that any State regulation compelling children to attend public schools and thus prohibiting private schools, was a violation of the Fourteenth Amendment. The Universal Declaration of Human Rights, in its article 26, devoted a special paragraph to the statement of that right. The paragraph implied that education in private schools was legitimate provided, of course, that those schools applied certain minimum standards. With that qualification, which had been endorsed by the Supreme Court in the aforementioned ruling, education should be directed towards the full development of the human personality and the State had no right to impose a system of education of its choice upon parents. The child was not the creature of the State and education should not be aimed at producing a standard type arbitrarily decreed by the State.

He reserved the right to make further comments and to revert to those he had made when the report was examined in more detail.

Mr. KRISHNASWAMI associated himself with the tributes paid to the Special Rapporteur, who he hoped would regard his comments less as a criticism than as a modest contribution to the study of a delicate question. The Special Rapporteur had followed the Sub-Commission's instructions by endeavouring to

(Mr. Krishnaswami)

"point out the discriminatory practices... which are economic, social, political or historic in character and those resulting from a policy evidently intended to originate, maintain or aggravate such practices".

He had never supported the distinction between what it had been agreed to call active and static discrimination. The Special Rapporteur himself appeared also to have entertained some doubts as to the real scope of that distinction, since he admitted that it was difficult to draw a dividing line between the two categories. In reality, discrimination had always resulted from factors of an economic, social and political character, or from historical circumstances. It was thus always static, in the sense attributed to the term by the Special Rapporteur, but it could also be active when it resulted more directly from the deliberate wishes of the authorities. As the Special Rapporteur admitted, it was rare for Governments to practise a deliberate policy of discrimination. The Special Rapporteur had therefore found it necessary to widen the field of active discrimination by including negligence or delay in taking positive steps to combat existing discrimination. In other words, a passive attitude could be classed as a form of activity. The distinction might be of some practical use when it came to formulating recommendations, but even if such a pragmatic viewpoint were adopted, its value was still open to question.

The recommendations in the report devoted considerable space to measures of an educational nature. He considered, however, that too much faith should not be placed in the effectiveness of such measures. In that connexion he quoted a passage from a booklet "The Ecumenical Movement and the Racial Problem", by Pastor W.A. Visser't Hooft, where it was stated that while knowledge and reason "can render great help by exposing the rationalizations of prejudices, and supply much-needed ammunition in the battle for racial understanding, ...they cannot supply the dynamism required to replace prejudice by a positive attitude towards those of a different race". He (Mr. Krishnaswami) also considered that, just as it was not enough to expose wounds in order to heal them, so also it was not enough to arouse public opinion in order to cause all trace of discrimination to disappear.

(Mr. Krishnaswami)

The campaign against ignorance was a long-term task and its success would depend not only on the efforts of the various States but also on progress already achieved. In that respect the situation was not the same everywhere. A country such as India, for example, could not multiply the number of its schools overnight. Time was a factor which must be recognized and if recommendations were addressed to States, allowance must be made for any reservations which they might feel called upon to make. Article 46 of the Constitution of India, as amended on 1 October 1954, proclaimed that the State must promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, the scheduled castes and scheduled tribes, and must protect them from social injustice and all forms of exploitation. India was tackling that task with energy and, if it were to claim the right to make reservations for a transitional period, it would do so only because it was aware of the magnitude of the work to be accomplished.

Turning to that part of the report dealing with the language question, he stressed the need of avoiding extremes and of adopting a rational attitude, whereas linguistic discrimination, particularly in certain European countries, had often been linked with social discrimination, elsewhere the problem had two very different aspects: in some cases it was regrettable that children were forced to receive instruction in a language which was not their own, thereby losing contact with the culture of their family background; but, equally, emphasis on this might enable a population speaking a relatively less-known tongue to gain access to one of the great cultures of the world. It was in that light that the language problem, which had quite recently been the subject of a full-scale debate in the Indian Parliament, was viewed in India, where importance was attached to the teaching of English. The Prime Minister of India had suggested that English should be included in the schedule of national languages. This would have psychologically speaking, the effect of transforming his countrymen's approach to world languages.

He was not in favour of the Sub-Commission presenting the report to the Human Rights Commission. The Sub-Commission should profit by the presence of the UNESCO representative to throw light on certain problems which could not be treated superficially, but it was impossible to exhaust the discussion during the present session and since the Sub-Commission's term of office would expire

(Mr. Krishnaswami)

at the end of the year, he hoped that the efforts of its members at the next session would prove more effective and would serve to dispel hatred and encourage mutual understanding throughout the world.

Mr. FOMIN, replying to Mr. Halpern, said that he had certainly not intended to criticize or attack the United States. All that he had done was to mention the existence of discriminatory practices in certain countries, including the United States, which was an incontrovertible fact. The attacks directed by Mr. Halpern against the Soviet Union appeared to be based on a misunderstanding and concerned a field which was in any case outside the Sub-Commission's competence. Although in some cases the members of certain communities had not been able to receive the education they might have desired, the reason lay in purely material difficulties, in particular the destruction wrought by three wars, but no discrimination was involved. He would, however, make the reservation that he had had no opportunity to check the figures cited by Mr. Halpern. If it was desired at all costs to draw a comparison between the general conditions of education in the United States and in the Soviet Union, it might be recalled that recent issues of The New York Times and other American newspapers and journals had contained statements to the effect that education was developing at a slower rate in the United States than in the Soviet Union.

As regards Mr. Halpern's comments on his observations on paragraphs 212 et seq. of the report, Mr. Krishnaswami had already thrown some light on that question. Discrimination, properly so called, must not be confused with certain special measures of a temporary nature dictated by circumstances. In some countries the entire educational system had been in the hands of a governing class. Sometimes only 3 per cent of the population had had access to education. As was stated in the report, enormous progress must have been realized if the proportion was first raised to 97 per cent and then to 100 per cent. In the Union of Soviet Socialist Republics, for example, when the training of teachers had become necessary, access to certain establishments had sometimes been closed to Russians in favour of Uzbeks, since the need for Uzbek teachers was even greater. That was not discrimination, but on the contrary, was designed to accelerate the elimination of the consequences of

discrimination against Uzbeks which had existed under the Tsarist régime. Of course, discriminatory measures as defined by the Sub-Commission were unknown in the Soviet Union.

Mr. CZARKOWSKI stressed the great importance of the problem of discrimination in education from the standpoint of the progress of mankind. Discrimination in that field forbade certain groups from fully benefiting by the heritage of culture and civilization. Both the information and the proposals in Mr. Ammoun's study made it a valuable document.

It comprised interesting data on the way in which Poland had eliminated the discriminatory practices which had prevailed before the war and had prevented the great majority of the population, in particular the children of workers and peasants, from having access to education. It was all the more regrettable that the report had made use of certain documentary sources which were notorious for their hostile attitude to Poland.

In 1938, 48,000 students in Poland had attended higher educational establishments; only 17.2 per cent had belonged to the working and peasant classes. At the present time, although the population had declined by ten millions, the students totalled 145,000 and, during the 1952-1953 scholastic year, 60 per cent of them had belonged to those social groups which were formerly victims of discrimination. Similarly, illiteracy had been almost abolished in Poland, whereas before the Second World War 23.1 per cent of the population had been illiterate. Article 69 of the Polish Constitution explicitly prohibited all measures of discrimination in education.

As the Special Rapporteur had himself observed, it was especially regrettable that the People's Republic of China did not appear in his study. In fact, that State, which had the largest population in the world, had vast achievements to its credit in the campaign against discrimination in education and it was a matter for regret that the legitimate representatives of China had no seat in United Nations organs.

He considered that the Sub-Commission should present Mr. Ammoun's report to the Commission on Human Rights as being his own work and not that of the Sub-Commission itself, but that it should append its own recommendations thereto.

(Mr. Czarkowski)

That would be in accordance with United Nations practice. He emphasized, however, that the conclusions and proposals in the last part of the report were worthy of the Sub-Commission's full attention.

Mr. AMMOUN, Special Rapporteur, replying to Mr. Awad's observations concerning the structure of the report, remarked that he had been given very little latitude either in the presentation as a whole and the division into chapters, sections and paragraphs, or in the actual drafting, since he was obliged to conform to United Nations usage.

In reply to Mr. Hiscocks, he stated that, in regard to sources, he had refrained from using information which Governments were unable to check, in order to avoid disputes. In any event, it had also been very difficult to make use of the writings of scholars and scientists, since the subject was one in which controversial or propaganda works were more numerous than those of an impartial nature. Moreover, Governments had, more often than not, given valuable assistance and had shown a great deal of frankness. He proposed to reply to the other observations in the course of the detailed discussion.

After an exchange of views in which Mr. HISCOCKS, Mr. SANTA CRUZ, Mr. AMMOUN and Mr. FOMIN took part, the CHAIRMAN proposed that a beginning should be made at the next meeting with consideration of the various questions in the order in which they appeared in the report, subject to the adoption of some other method if the proposed procedure proved unsatisfactory.

It was so decided.

The meeting rose at 5.45 p.m.