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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Eighth Session

SUMMARY RECORD OF THE HUNDRED AND EIGHTY-SEVENTH MEETING

Held at Headquarters, New York,
on Friday, 13 January 1956, at 10.50 a.m.

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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)

Representatives of specialized agencies:

Mr. SEIERSEN	International Labour Organisation
Mr. MAHEU	United Nations Educational, Scientific and Cultural Organization

Representatives of non-governmental organizations:

<u>Category A:</u>	Mr. THORMANN	International Federation of Christian Trade Unions
	Miss KAHN	World Federation of Trade Unions
	Mr. BARRET BROWN	World Federation of United Nations Associations

PRESENT: (continued)

Representatives of non-governmental organizations: (continued)

Category B and Register:

Mr. LISKOFKY)	Consultative Council of
Mr. MOSKOWITZ)	Jewish Organizations
Mr. JOFTES	Co-ordinating Board of
	Jewish Organizations
Mrs. ROITBURD)	International League for
Mrs. POTTER)	the Rights of Man
Mr. PERLZWEIG	World Assembly of Youth
Mr. JACOBY	World Jewish Congress
Miss ZIZZAMIA	World Union of Catholic
	Women's Associations
Mr. PENCE	World's Alliance of Young
	Men's Christian
	Associations

Secretariat:

Mr. HUMPHREY	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.1-28, L.93, L.94, L.95 and Rev.1) (continued)

Paragraphs 454-518 (continued)

The CHAIRMAN invited the Sub-Commission to hold a preliminary exchange of views on the substance of the conclusions, proposals and suggestions set forth in part III of the draft report, and then to consider whether it wished to adopt some of the recommendations proposed by Mr. Ammoun.

Mr. JACOBY (World Jewish Congress) expressed his organization's gratitude to the Sub-Commission and to Mr. Ammoun for their excellent work on discrimination in education. The World Jewish Congress, which had affiliated organizations in over sixty countries, had furnished information to the Special Rapporteur to assist him in his task. The Sub-Commission had studied carefully and impartially problems with which the World Jewish Congress was deeply concerned. Among the draft recommendations, the World Jewish Congress was particularly in favour of fundamental principle E in paragraph 509 and of the idea of a draft convention on the elimination of discrimination in education (paragraph 513). Such a convention would be based on article 26 of the Universal Declaration of Human Rights and on the United Nations Charter; it should also refer to the draft covenant on economic, social and cultural rights. In that connexion, the World Jewish Congress recalled that the attempts made to codify the fundamental rights had not yet succeeded and that the question arose whether the two draft covenants on human rights should not be replaced by draft covenants of more restricted scope, each relating to one right only. Lastly, the convention contemplated in paragraph 513 should contain provisions regarding its implementation, so that the rights it instituted would be respected, and not merely recognized.

Mr. SANTA CRUZ, supported by Mr. FOMIN, considered that the statement in paragraph 455 that "legal discrimination has been virtually eliminated" was much too categorical. The Act of the Union of South Africa of 1947, amended in

(Mr. Santa Cruz)

1955, on the education of the Bantus was based on the discriminatory doctrine of apartheid, which proceeded from the idea that some races were superior to others.

Mr. AMMOUN, Special Rapporteur, was aware of that Act. He had not mentioned it in paragraph 455 because he had wished both to lighten his text and to avoid giving the impression that some States were being accused in the report. However, he was willing to comply with the suggestions made to him.

Mr. SANTA CRUZ said that he was not requesting that the Union of South Africa should be referred to in paragraph 455, but that the statement should be made less categorical.

Mr. KRISHNASWAMI, referring to the international measures proposed by Mr. Ammoun, wondered whether it would really be advisable to prepare a draft convention on the elimination of discrimination in education (paragraph 513).

If too many conventions were concluded, it was to be feared that they would not be taken very seriously by public opinion and would not be implemented by States. If a draft international convention was to be drawn up, it would be better to wait until that draft had been drawn up by the Commission on Human Rights and approved by the Economic and Social Council; the Sub-Commission would then submit its recommendations to those higher bodies.

With regard to the establishment of an international fund (paragraph 516), he felt that the operative part of the draft resolution was vague and ambiguous. As the General Assembly could not establish a tax, it would be better to refer, in the second operative paragraph, to "voluntary contributions of Member States" and to "donations by individuals". The third paragraph should state to whom the funds would be allocated.

Above all, it was not enough to establish an international fund; the operation of the various funds set up by United Nations institutions should also be co-ordinated. It had been decided at the UNESCO General Conference at Montevideo to set up a general fund against discrimination. That being so, UNESCO would have to be consulted on how to co-ordinate the two funds' activities.

Mr. FOMIN felt that the recommendations proposed by the Special Rapporteur were, in general, acceptable.

The preparation of a draft convention on the elimination of discrimination in education was a recommendation that seemed particularly timely. United Nations recommendations had moral force, but they were not mandatory. A convention, on the other hand, would bind the signatory States to implement the measures contemplated by it. While there might be some doubt as to the value of a convention applicable only to education, as Mr. Krishnaswami had pointed out, the Commission on Human Rights itself could consider broadening the convention's scope. It should be recalled that it took at least two to three years to work out an international convention. If the Sub-Commission postponed the submission of that recommendation it would delay the convention's preparation by a further year.

With regard to national measures, the Special Rapporteur had not stressed sufficiently the need to combat propaganda in favour of discrimination. The need for such action was all the greater because education was particularly susceptible to propaganda.

With regard to the establishment of an international fund (paragraph 516), he agreed with Mr. Krishnaswami, and would even go further. To be sure, the Special Rapporteur was to be thanked for having formulated the idea of international assistance in the fight against discrimination. That idea was a perfectly sound one, but it had two aspects. In principle, it was perfectly acceptable, but how it was to be put into practice was not very clear, as the distribution of functions was not well defined. On the one hand, the United Nations had an Expanded Programme of Technical Assistance; that Programme could, to a certain extent, be extended to education. On the other hand, in a recent resolution the General Assembly had provided for the establishment of a programme of advisory services in the field of human rights (A/RES/361). He had heard it said in the General Assembly and in the Economic and Social Council, that, so far, only a very small number of requests had been addressed to those advisory services; the Secretariat had confirmed that fact. There was also the programme of UNESCO, which took a special interest in education; other specialized

agencies, such as the ILO, might also concern themselves with the question. Thus there existed on the matter a range of technical assistance programmes some of which had a very heavy task while others were not fully utilized. The Special Rapporteur's draft resolution (paragraph 516) was correct in principle, but it ought to take into account the existing situation in the field of technical assistance. The Sub-Commission could not request the establishment of a fund unless it was first convinced that the resources at present available were inadequate. It would therefore be advisable to ask for the opinions of competent United Nations bodies on that point.

Subject to those comments, he wished to repeat that, in his opinion, the Sub-Commission should submit recommendations to the Commission on Human Rights from the present session.

Mr. SANTA CRUZ asked the Sub-Commission not to minimize the obstacles which any international action for the complete elimination of discrimination would encounter. The Governments affected by such action, whether taken in the form of recommendations or in any other form, would naturally tend to invoke Article 2, paragraph 7, of the Charter, a restrictive interpretation of which permitted them to qualify as intervention in matters essentially within their domestic jurisdiction any measures recommended from abroad, which were likely to cause them embarrassment. Another obstacle to international action was the fact that international organizations had no funds at their disposal to carry out a large-scale campaign against discrimination or for the protection of human rights. International action was also impeded by the lack of any firm resolve on the part of the countries and Governments which had the most to do in that field, to undertake an active campaign to protect human rights. He and the other members of the United Nations Commission on the racial situation in the Union of South Africa well knew the difficulty of inducing the countries which stood most in need of such action to consent to effective measures for combating discrimination or protecting human rights. However, such obstacles were not insurmountable and their existence should, on the contrary, stimulate the Sub-Commission's efforts to devise means of rendering the very interesting suggestions made by Mr. Ammoun in his report more fruitful.

(Mr. Santa Cruz)

He did not think that the time had come to recommend to the Commission on Human Rights the preparation of a convention of the type which the Special Rapporteur had in mind in his report. On that point he (Mr. Santa Cruz) shared the views of those who thought that the proliferation of Covenants on Human Rights would have the effect of weakening international action to protect human rights. He was a confirmed supporter of comprehensive covenants and feared that Governments and public opinion would tend to regard the rights mentioned in the Universal Declaration which were covered by separate covenants as being of secondary importance. The proliferation of covenants would have the indirect effect of detracting not only from the moral value but also from the legal scope of the Universal Declaration of Human Rights. It would be particularly unfortunate to recommend the adoption of a new covenant in view of the fact that neither the Commission on Human Rights nor the General Assembly had given up hope of the adoption of covenants covering all the rights it was desired to protect. He thought that the Sub-Commission did not possess all the information it needed to take a decision and should confine itself to recommending the Commission on Human Rights to include a provision specifically concerned with discrimination in education in the draft covenant at present being studied.

While he realized that the specialized agencies and the United Nations lacked adequate funds for the protection of human rights, he did not believe that the establishment of a special fund such as that envisaged by the Special Rapporteur would be an effective means of combating discrimination in education. Mr. Ammoun, who had himself emphasized the close connexion between economic and social conditions and discriminatory practices in education, would certainly agree that any action taken to improve economic and social conditions would indirectly result in lessening the inequalities, discriminatory or otherwise, noted in the dissemination of education. That was precisely the reason for the proposed establishment of a special United Nations fund for economic development (SUNFED). In that field, also, the dispersal of resources and efforts might be harmful to the interests to be protected, which would be better served if resources were concentrated in a single fund with large sums at its disposal. If, however the establishment of a special fund had to be envisaged, that was a task which would

(Mr. Santa Cruz)

come more properly within the province of UNESCO than of the United Nations. If it was to be effective, the campaign against discrimination in education should form part of a campaign for a general improvement in educational standards, and UNESCO was better fitted than any other organization to make the most effective use of any funds entrusted to it for the purpose of combating de facto or de jure situations of a discriminatory nature in the field of education. He was in agreement with the ideas which had inspired the Special Rapporteur's suggestions regarding international measures, but thought that it would be better for the Sub-Commission to leave such ideas to mature and to confine itself for the time being to the steps advocated by Mr. Fomin, such as the programme of advisory services in the field of human rights and other methods of technical assistance at present available effectively to combat the discriminatory practices impeding the wider dissemination of education.

Mr. MAHEU (United Nations Educational, Scientific and Cultural Organization) said that the resolution the Sub-Commission had adopted at the preceding meeting (E/CN.4/Sub.2/L.95/Rev.1) would give UNESCO an opportunity to submit comments which were the result of careful study and had been endorsed by the authoritative bodies of that agency. In reply to Mr. Krishnaswami's invitation, he said he believed he could state the initial reactions of the Secretariat of the organization to the Special Rapporteur's suggestions.

Even if legislation sanctioned and perpetuated discrimination, it was very rarely the source of discrimination which must be sought in the customs of a country. It was in the latter that discrimination took root and was nourished and not discrimination alone, but also legislation of a discriminatory nature which would not exist in the absence of such support and nourishment. As the evil did not essentially have its source in legislation, legislative measures could only represent a partial remedy. In order to abolish discrimination, wide but necessarily slow action should therefore first be taken with regard to a country's customs. It must therefore be anticipated that the action in the form of education or of psychological campaigns designed to influence public opinion, rightly recommended by the Rapporteur, would have more effect than national or international legislative measures.

(Mr. Maheu, UNESCO)

Although no one should have any excessive illusions with regard to the efficacy of legislative action, an international instrument laying down standards invested with all the authority of the body which established them and providing a basic text which Governments might invoke without loss of prestige, would unquestionably be of value.

In considering the form of that international legal instrument and the lines on which it should be prepared, the respective advantages and disadvantages of a convention and of recommended rules must be weighed. A convention was binding only on those States which had consented to sign it. In the present state of world affairs, however, it might be asked how many States would be ready to ratify a convention of the type envisaged by the Special Rapporteur and, without carrying realism to the point of cynicism, whether the States which signed the convention would not principally be those which could not be reproached with discrimination and which, by ratifying the convention, in fact assumed no other obligation than that of maintaining an already satisfactory status quo.

The recommended rules had the advantage, as compared with a convention, of applying to all Member States of the organization, which undertook to submit them to their constitutional authorities, and to report periodically to the General Conference of the organization on the action taken to give effect to them. A recommendation was a means of regulation which applied to all Member States, and it imposed obligations on those States which, though less strict than those assumed by the signatories to a convention, were nevertheless not negligible. Moreover, a recommendation was more flexible than a convention and could cover a wide variety of different situations. Should the Sub-Commission endorse the Special Rapporteur's proposal to prepare an international legal instrument, UNESCO would, for the reasons stated, prefer a recommendation to a convention.

He then proceeded to define the role which UNESCO might have to play should the international legal instrument to combat discrimination in education be prepared. He recalled that at its sixth session UNESCO's General Conference had adopted resolution 9.12 defining the respective roles to be played by the United Nations and by UNESCO in the preparation of the covenants on economic, social and cultural rights - which would remain the province of the United Nations

and in their implementation, which was a matter for UNESCO. Under that resolution, the General Conference declared itself "prepared to assume, as regards the implementation of the right to education and the right to culture, the responsibilities which would devolve upon the specialized agencies under chapter V of the Draft Covenant adopted by the Commission on Human Rights". In those circumstances, UNESCO would feel it its duty to take part in drawing up the international legal instrument which might be contemplated by the United Nations on the recommendation of the Sub-Commission, and even to assume responsibility for its preparation. Moreover, he pointed out that UNESCO's Executive Board was considering the establishment of an appeals body to deal with violations of human rights coming within the sphere of competence of the Organization.

The proposed international legal instrument, which would complement the Covenants on Human Rights, must necessarily cover a narrow field and he thought that the proposals made by the Special Rapporteur for action on the national level should show what the scope of the instrument was. The greatest service which the Sub-Commission could render a specialized agency like UNESCO would be to define the valid, if not strictly scientific, criteria which would establish that a given situation was discriminatory.

Turning to the question of funds, he confirmed that at its eighth session, held at Montevideo, the General Conference of UNESCO had in its resolution IV.1.7.51, authorized the Director-General "to cause a study to be made, in consultation with the Executive Board, Member States and the United Nations, of the proposal to establish an International Fund for Education, Science and Culture, and to submit a progress report on the matter to the ninth session of the General Conference" to be held at New Delhi. The General Conference had considered that, in order to avoid a dispersion of efforts and resources, it was advisable to hold close consultations with the United Nations which, for its part, contemplated establishing a special fund for economic and social development (SUNFED). He felt sure that should the fund envisaged by the United Nations be established and UNESCO be called upon to take part in its administration, it would not fail to bear in mind the needs of the campaign against discrimination in education, as it would do if it were to set up a special fund for education, science and culture, on which a decision had still to be reached.

(Mr. Maheu, UNESCO)

Turning to other forms of international assistance, such as technical assistance and advisory services in the field of human rights, he pointed out that as an experiment UNESCO had undertaken to offer its advisory services to ensure or develop freedom of information. So far, it had received only a few requests for such services which were besides, directed more towards the development of information media than to the promotion of the right to information itself. That should not however prevent the Sub-Commission from recommending the use of advisory services for the abolition of discrimination or for the protection of human rights, provided that the feelings of States which might have to call upon such services were respected by calling the services by another name and that an appropriate relationship between purely advisory services and financial assistance was established.

Lastly, UNESCO was ready to maintain the closest ties with the Special Rapporteur and to assist him if need be, with its advice in the preparation of recommendations which he might wish to make to the Sub-Commission at its next session and which might be prompted by the comments which had just been made.

Mr. INGLES supported Mr. Ammoun's recommendations in substance. With respect to financing measures to prevent discrimination in education, the Sub-Commission had the choice between the alternatives mentioned in paragraph 508 and could either recommend the establishment of a separate fund or suggest drawing on the special United Nations fund for economic development (SUNFED) once the latter had been set up. But perhaps the Sub-Commission did not have all the necessary information to take a decision. The problem had political and financial aspects which lay outside its terms of reference. The Sub-Commission should therefore merely stress the desirability of making funds available to combat discrimination in education. It might be that the money needed could be secured through the efficient utilization of the funds already established within the United Nations and the specialized agencies, or else through SUNFED. Although SUNFED's primary objective was not to combat discrimination, the improvement of economic conditions at which it aimed would contribute to the elimination of discrimination in many fields, including education. Through consultation with bodies now engaged in providing technical assistance the Sub-Commission could obtain information that would be helpful in determining whether or not a separate fund should be established.

He fully endorsed Mr. Ammoun's proposals with regard to a draft international convention, which he believed to be the most effective means of securing effective international action. The preparation of such a draft was not comparable to the preparation of the draft covenants on human rights. The latter covered all human rights, whereas in the present case the Sub-Commission had to deal with a specific aspect of a single right which should take much less time and encounter less opposition. It might follow the example of the ILO, which was proposing to draft a convention on the elimination of discrimination in employment without waiting for the adoption of the covenants on human rights in view of the fact that a convention of that kind would primarily be based on the Charters of the ILO and the United Nations and the Universal Declaration and not on the covenants.

The national measures proposed by Mr. Ammoun followed a different approach from that of previous resolutions adopted by the General Assembly, which merely recommended the abolition of discriminatory legislation. Mr Ammoun now proposed the passage of legislation prohibiting discrimination, and this was a step forward. The question had been raised whether the education of public opinion should precede national and international legislative measures. It seemed to him that such measures, apart from their deterrent effect, had an educational value in themselves. The adoption of specific legislation and the education of public opinion could proceed simultaneously. Hence, the adoption of legislative measures which the Sub-Commission had found to be urgently needed should not be made contingent upon a favourable climate of world opinion.

With regard to fundamental principle F in paragraph 509, which was concerned with restrictions on travel for study abroad, Mr. Ammoun should include illustrative material in the body of his report to make concrete the problem upon which this principle is based.

Subject to the various reservations that he (Mr. Ingles) had expressed, he would support Mr. Ammoun's recommendations.

Mr. HISCOCKS was gratified at the course the debate was taking and noted that many speakers had already put forward suggestions he himself had intended to make. The Sub-Commission's recommendations should remain within the framework of organs already in existence and should endeavour not to arouse the opposition of Governments. It was essential to avoid adopting measures that would lead to controversy or would be difficult to apply. The contrast between the Universal Declaration of Human Rights and the draft covenants in that respect was quite significant. Perhaps the Declaration was simply something in the nature of an international creed, but it was a document of great human value that had laid down standards in a delicate field. On the other hand, despite years of effort, the draft covenants were still giving rise to controversy and some States might in the end not feel able to adopt them.

In the English text of sub-paragraph 3 of paragraph 512, the word "raised" appeared to be an error. As regards sub-paragraph 1 of paragraph 510, he expressed the opinion that social habits usually preceded rather than followed legislation. In sub-paragraph 3 of the same paragraph, he could not understand what type of administrative bodies was envisaged, and why those bodies should have the right of holding public and private meetings. Lastly, sub-paragraph 4 of paragraph 512 provided for the establishment of a permanent national body and he wondered whether the Commission would not be inviting criticism in proposing a further expansion of bureaucracy.

He endorsed the comments of Mr. Krishnaswami and Mr. Santa Cruz on the draft international convention and the establishment of an international fund. It was inadvisable to increase the number of international conventions for that would diminish their force. With regard to the fund, money might be made available from SUNFED for the campaign against discrimination in education. The Sub-Commission could study the problem and adopt a resolution to that effect the following year.

Paragraph 511, to which little reference had as yet been made, was extremely important but should give rise to no controversy. The education of public opinion was the Sub-Commission's particular concern and it would be advisable to make the paragraph more detailed. Consideration might be given to preparing a popular version of Mr. Ammoun's report to be published in a large edition.

In that connexion, UNESCO might be the organization best fitted to assist the Sub-Commission in making its findings known to the widest possible public.

To sum up, he thought that the ideas contained in Part III of the report were sound and that the Special Rapporteur had done excellent work; the drafting should, however, be examined more closely, and in particular, the Special Rapporteur could with advantage consult with members of the Secretariat, with UNESCO representatives and with experts and jurists from various countries and take their views into account.

Mr. AMAD said that, although he agreed with previous speakers, he was puzzled by the distinction made between national and international measures. He thought it obvious that recommendations for national measures could become operative only as a result of international agreement. The international aspect must therefore be recognized as the more important. A great many of the national measures would have to be entrusted to international organs, of which the most qualified was, of course, UNESCO. That specialized agency, which had shown some caution in its observations on Mr. Ammoun's report owing to the need to remain on good terms with all States, would nonetheless not hesitate to undertake measures for the elimination of discrimination in education.

With regard to the draft international convention, he wondered whether the Sub-Commission ought to go on to consider a draft convention on discrimination in the sphere of political rights, another on discrimination in the sphere of religious freedom and observances, and still another concerning emigration. The proliferation of conventions was undesirable and it would be preferable to consider an instrument dealing with all forms of discrimination. It might perhaps be possible for the draft convention on human rights to include the decisions taken regarding the elimination of discrimination; if not those decisions could be included as an annex. It would be advisable to consult the Commission on Human Rights for that point.

With regard to Mr. Ammoun's suggestion that a special fund might be established, it would be recalled that, as a result of decisions taken at the

(Mr. Awad)

Montevideo Conference in 1954, UNESCO was examining the possibility of establishing a fund catering mainly for peoples in need of additional educational facilities. UNESCO's work might be regarded as falling into two categories, the first consisting of everything that related to knowledge, the publication of studies, the establishment or sponsorship of scientific associations and the second, of assistance to Member States, whether or not they were under-developed countries. Heretofore, the two categories had been given equal weight at the general conferences, although the second was gaining ground. The United Nations and the Sub-Commission could tip the scales conclusively in favour of expanding programmes of assistance and it could take a similar action in respect of other international organizations providing technical assistance.

In conclusion, he paid a tribute to Mr. Ammoun's work, pointing out, however, that the detailed consideration of the Rapporteur's draft resolutions would take the Sub-Commission longer than the period scheduled for the current session. It would thus be advisable for the members of the Sub-Commission to give further consideration to the various questions that had been raised and to consult other competent authorities so that they would be in a better position to adopt definite recommendations the following year.

The meeting rose at 1 p.m.