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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Ninth Session

SUMMARY RECORD OF THE HUNDRED AND NINETY-NINTH MEETING

Held at Headquarters, New York,  
on Tuesday, 19 February 1957, at 3.15 p.m.

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PRESENT:

<u>Chairman:</u>	Mr. AWAD	(Egypt)
<u>Rapporteur:</u>	Mr. INGLES	(Philippines)
<u>Members:</u>	Mr. AMMOUN	(Lebanon)
	Mr. CHATENET	(France)
	Mr. FOMIN	(Union of Soviet Socialist Republics)
	Mr. HALPERN	(United States of America)
	Mr. HISCOCKS	(United Kingdom of Great Britain and Northern Ireland)
	Mr. KETRZYNSKI	(Poland)
	Mr. ROY	(Haiti)
	Mr. SAARIO	(Finland)
	Mr. SANTA CRUZ	(Chile)

Also present: Miss MANAS Commission on the Status of Women

Representatives of specialized agencies:

Mr. SNYDER	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
	Mrs. ROGGER	World Veterans' Federation

Category B and Register:

Mr. LEWIN	Agudas Israel World Organization
Mr. MICHELI )	Commission of the Churches on International Affairs
Mr. NOLDE )	
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. JOFTES	Co-ordinating Board of Jewish Organizations
Mr. GAGNON	International Catholic Child Bureau
Mrs. HIRSCHMAN )	International Federation of Women Lawyers
Mrs. BYER )	
Miss GYARMATI	International Union of Socialist Youth

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PRESENT: (continued)

Representatives of non-governmental organizations: (continued)

Category B and Register:

Miss ROBB	Liaison Committee of Women's International Organizations
Mr. KIRCHNER	Pax Romana
Mr. FENCE	World Alliance of Young Men's Christian Associations
Mr. PERLZWEIG	World Assembly of Youth
Mr. JACOBY	World Jewish Congress
Mrs. ANDERSON	World Young Women's Christian Association
<u>Secretariat:</u>	
Mr. HUMPHREY	Director, Division of Human Rights
Mr. LAWSON	Secretary of the Sub-Commission

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STUDY OF DISCRIMINATION IN EDUCATION (E/CN.4/Sub.2/181 and Corr.1, E/CN.4/Sub.2/184  
E/CN.4/Sub.2/L.103) (continued)

The CHAIRMAN said that in the view of the committee appointed to advise on a plan of work the general debate on the Special Rapporteur's report (E/CN.4/Sub.2/181 and Corr.1) should be completed by the afternoon meeting on Thursday, 21 February 1957. He thought that only part III, containing the Special Rapporteur's proposals, should be discussed at length. He suggested that after the general debate parts I, II and III should be dealt with successively.

The suggestion was agreed to.

Mr. HALPERN said he would make only a few remarks in the general debate. So far as procedure was concerned, he thought there was a misunderstanding concerning the documents to be submitted to the Commission on Human Rights. He agreed with Mr. Hiscocks that the Special Rapporteur's report and the summary records of the Sub-Commission's debates at the eighth and ninth sessions should not all be referred to the Commission in full. It would be preferable to append to the report a single brief document, which the Secretariat might prepare, reflecting the comments of members. The document would not attempt to offer interpretations but would simply summarize the contents of the records, which were themselves summaries, subject to correction by the members of the Sub-Commission. The comments of the members of the Sub-Commission could bring up-to-date any statements of fact contained in the study. One Government had submitted a supplementary statement, although there was no provision in the resolution under which the study was conducted for the volunteering of additional reports by Governments after the initial report had been sent to the Special Rapporteur pursuant to his request.

He said that the non-governmental organizations had not taken sufficient advantage of the opportunity which the study had offered them of furthering the fight against discrimination. They had failed to supply factual material which might have helped the Special Rapporteur to improve the de facto nature of his study considerably through the use of data from non-governmental sources. The Special Rapporteur himself could have drawn more heavily than he had done on the works of recognized scholars and scientists, a source specifically mentioned in the resolution of the Commission on Human Rights. Whereas those works should have been

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(Mr. Halpern)

among the principal sources of the report, Mr. Ammoun had unduly limited the range of his documentation. In the case of future studies, it was to be hoped that Special Rapporteurs would rely more extensively on information supplied by non-governmental organizations and on serious published writings.

In one instance (paragraph 314) Mr. Ammoun had quoted from a book without commenting on it, and as a result had conveyed an unfortunate impression which should be dispelled. In particular, he (Mr. Halpern) was thinking of the passages which, by implication, approved the numerus clausus and those which suggested that no discrimination existed so long as the percentage of the school population accounted for by a particular group corresponded to the percentage of the total population accounted for by that group. In an extract from a United Nations Educational, Scientific and Cultural Organization (UNESCO) publication quoted in the report it was even expressly stated that the numerus clausus was not unjust; it was regrettable that Mr. Ammoun had not dissociated himself from that point of view. The fact that the ratio of the number of students of a particular group in educational institutions corresponded to or exceeded the ratio of that group to the general population did not necessarily demonstrate the absence of discrimination. Discrimination was absent only if every applicant was treated in accordance with his individual merits. Any other view would lead to acceptance of a quota system. Conversely, one should not jump to the conclusion that discrimination existed ex hypothesi in every case in which the percentage of the school population accounted for by a particular group was lower than that accounted for by the same group in the population as a whole; thinking on those lines might well lead to discrimination of another kind - discrimination against merit. Possibly the situation might be purely temporary and would subsequently correct itself; so long as there was equality of treatment there was no discrimination. An applicant belonging to a particular group might properly be rejected because of his lack of ability or qualifications or the members of a particular group might be reluctant to apply because of lack of qualifications. This condition might itself be due to historical factors of a social and economic character which should be corrected, but no discrimination in education is involved so long as there is equality of treatment of all applicants regardless of the factors which may have given rise to their lack of ability or qualifications. Although

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(Mr. Halpern)

the Special Rapporteur had eliminated some parts of his prior discussion on the inequality in one country as opposed to another in regard to education, he still retained part of this material in paragraphs 60 and 61; the idea was an interesting one and might well be made the subject of an article by the Rapporteur in a learned journal, but it was outside the scope of the Sub-Commission's terms of reference; the study of the prevention of discrimination within each country was in itself a sufficient undertaking. He reserved the right to comment later on part I of the Special Rapporteur's report.

Mr. SAARIO congratulated the Special Rapporteur on his valuable and extensive study. It was to be hoped that the report would be widely circulated, for one of the best methods of combating discrimination was to draw attention to it. He agreed with the UNESCO representative that even the definition of the term "discrimination" demanded great caution. One example of exaggeration in that respect appeared in paragraph 470 of the report, in connexion with education in Finland. As for the State University of Helsinki, it was impossible for a small country like Finland to provide instruction both in Finnish and Swedish in every single subject. The students, however, were entitled to pass their examinations in their own language. Since they usually knew both Finnish and Swedish, which were the official languages of Finland, quite well, the fact that lectures in some subjects were delivered only in one of those languages did not prevent anyone from pursuing his studies. Therefore, in fact, there was no discrimination at the University of Helsinki. He agreed with Mr. Halpern that discrimination on the international level fell outside the Sub-Commission's competence.

Mr. KETRZYNSKI said it was a privilege for him to participate, for the first time, in the Sub-Commission's work. The Special Rapporteur had produced an impressive report. The fundamental principle should be to ensure justice in education. Hence, the sole object of the report should be to consider whether discrimination existed or not. Deliberate inequality imposed by political or social agencies was rare; it was principally the inequalities inherited from the past which presented the greatest difficulties. He was glad to note that the report took a similar view and he thought that the Sub-Commission's debate should relate primarily to the proposals for remedying the inequalities to which he had referred.

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(Mr. Ketrzynski)

The subject of discrimination in education had never before been studied on such a broad scale, and consequently the Sub-Commission had had to rely entirely on the skill of the Special Rapporteur; the latter was to be congratulated on the prudence with which he had avoided any excessive use of subjective sources. In particular, information from non-governmental organizations concerning the opinions of third persons was not always trustworthy. It would be equally dangerous to place too much faith in the works of scholars and scientists, and Special Rapporteurs should be especially cautious in consulting such works. In a study of the kind under discussion it was not the facts that were essential; it was enough that the facts should be acceptable as examples. The important point was to analyse phenomena and to draw conclusions therefrom. He did not think that the Sub-Commission could take responsibility for all the facts cited in the report. Time had passed and facts might have changed; in the case of Poland, for example, some of the particulars given in the report were certainly no longer true. Nor was it the function of the Sub-Commission to revise all those facts; its function was rather to consider the proposals and solutions outlined in the report. Any mistakes relating to questions of fact should preferably be corrected by the Governments themselves.

Mr. FOMIN said that the Sub-Commission's records should be transmitted to the Commission on Human Rights together with the Special Rapporteur's study, and should not be replaced by the special document proposed by Mr. Halpern. As that document could only be prepared if each member of the Sub-Commission had the possibility of stating his views on the opinion of the other members, the result would be something even more detailed than the summary records and could only complicate the Commission's work. It should also be borne in mind that, apart from the records, the Commission would also receive the Sub-Commission's report, in which the points of view of members of the Sub-Commission would be reflected in detail.

In reply to Mr. Halpern he said that the USSR had been fully within its rights in transmitting the additional information contained in document E/CN.4/Sub.2/L.92/Add.84; the resolution of the Commission on Human Rights expressly mentioned Governments among the main sources of material for the study. The additional information merely drew attention to new developments in the field of education in the USSR and had been submitted in accordance with

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the resolution of the previous session of the Sub-Commission, which provided that the Rapporteur should be supplied with additional information from specific sources.

He agreed with Mr. Ketrzynski that the information provided by non-governmental organizations, or at least by some of them, should have been disregarded.

He questioned Mr. Halpern's view that statistics should be discounted. In any event, that view should not be accepted as a general principle. In many cases, statistical data drew attention to discriminatory measures which might otherwise have been overlooked. He agreed, however, that statistics should be handled with care, as Mr. Ammoun had successfully done. The Sub-Commission should concentrate principally on the Special Rapporteur's recommendations, and it was surprising that some representatives proposed to comment on part I of the report.

The CHAIRMAN said that the Sub-Commission could and indeed should, consider part I of the study during that meeting, in the course of the general debate.

Mr. HISCOCKS agreed with the Chairman's observation but hoped that consideration of part I would not be omitted altogether.

Mr. AMMOUN thanked Mr. Hiscocks for his words of praise concerning the report. He would endeavour to correct the errors of fact which had been pointed out. Without being an expert on discrimination, he had tried to discharge conscientiously the task entrusted to him.

Mr. Santa Cruz had stated that the report laid insufficient stress on discrimination on political grounds and that that form of discrimination should have been dealt with in a special chapter. Several members of the Sub-Commission seemed to share that view. The report did, in fact, contain much information on political discrimination, especially in paragraphs 331 to 345, which described conditions in Bulgaria, Hungary, Poland, Romania and Czechoslovakia. He (Mr. Ammoun) had refrained from dwelling on the political aspects of discrimination because he felt that a rapporteur should maintain a moderate and objective attitude. He should neither condemn nor eulogize. Discriminatory measures of a social nature

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and those of a political character had been considered in one and the same chapter because the two were so closely interdependent as to be virtually inseparable. All the documents transmitted by non-governmental organizations had been duly utilized in the preparation of the report. Those organizations could perhaps have lent more active support, but he could not be blamed for their failure to do so.

He was surprised that Mr. Halpern should have said that the Special Rapporteur, in failing to denounce the ideas contained in certain extracts quoted in the report, seemed to have implied approval of the numerus clausus. Even the actual extracts which Mr. Halpern had criticized did not carry any such implication. The second extract quoted in paragraph 314, relating to the numerus clausus, stated: "In practice, it (the numerus clausus) is in itself a form of racial discrimination; it grows, by a series of imperceptible but logical accretions, into the persecutions condemned by every man worthy of the name ... . It must be extirpated wholly." The numerus clausus could hardly be denounced more emphatically.

He agreed with Mr. Halpern that statistics did not always reflect the true situation. Nevertheless, if they showed, for example, that in a given country the number of persons receiving higher education was less than ten out of every 100,000 inhabitants, certain conclusions could safely be drawn.

Mr. INGLES paid a tribute to the high quality of the report. The Special Rapporteur had wisely decided to revise the earlier draft, in deference to the opinion of the majority. At the proper time, he (Mr. Ingles) would comment on the conclusions and proposals contained in the report.

With reference to part I of the report, he said that paragraph 525 erroneously mentioned twenty-four local dialects spoken in the Philippines; the correct figure was eighty. Commenting on paragraph 535, which also dealt with the Philippines, he said that although the teaching of the national language had encountered some opposition, there had been no real hostility. The national language of the Philippines had not been imposed by a dominant group. It was a minority language chosen as directed by the Constitution, which reflected the free will of the people.

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(Mr. Ingles)

The general comments in paragraphs 527 and 528 on the teaching of the national language to groups whose languages were technically under-developed applied solely to such countries as Australia, New Zealand, Canada, Japan and the countries of South America, where the dialects of the indigenous population were really under-developed. They did not apply either to India, Pakistan or the Philippines, where the minority languages were technically developed in the sense that they had been reduced to writing and had a wide vocabulary.

He hoped that chapter VII, dealing with minority languages, would be separated from the report before it was transmitted to the Commission on Human Rights, as the Special Rapporteur had been asked to collect the information contained therein for another purpose under resolution G adopted by the Sub-Commission at its sixth session. That resolution had clearly stressed "... the desirability of taking advantage of the special studies on the prevention of discrimination... in order to obtain, where appropriate, material, information or suggestions which might assist the Sub-Commission to carry forward its work relating to the protection of minorities." Otherwise, the problem of discrimination might be confused with the problem of protection of minorities.

Mr. HISCOCKS said the Special Rapporteur had discharged his mission in a conscientious and devoted spirit. Nevertheless, the volume of information amassed was so vast that not every particular could have been checked. For example, some of the figures relating to Austria conflicted with the figures provided in the Summary of Information relating to Austria. Furthermore, exaggerated importance had been attached to some information while other facts had been given too summary treatment.

A social revolution had taken place in the United Kingdom during the past generation which was very relevant to Mr. Ammoun's study. This had been dealt with in one brief sentence on page 221 of the Report which pointed out that over 70 per cent of university students in England received some form of assistance. On the other hand the teaching of Gaelic in Scotland, a matter of much less importance, was dealt with at greater length. This lack of balance should be avoided in future. It was most important that subsequent reports should be examined and discussed in their entirety at the Sub-Commission, as Mr. Ammoun's draft report had been last year.

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Mr. HALPERN said he was reassured to hear that Mr. Ammoun disapproved of the numerus clausus. Nevertheless, paragraph 314 of the report in no way reflected the Special Rapporteur's disapproval. Secondly, the quotation from the UNESCO publication contained the regrettable statement that the Jewish minority in Hungary "had a higher proportion of posts than its number warranted". Was it to be inferred that a minority's right to participate in the life of a country should be limited to its ratio to the rest of the population? He had no doubt of Mr. Ammoun's position, but he would like to have him state it expressly in the report and to repudiate the quoted text in paragraph 314 and to state clearly that a quota system of any kind constitutes discrimination.

He was also in agreement with Mr. Ammoun on the use that should be made of statistics. In his preceding speech he had merely wanted to indicate the following: the fact that, in any given country, the percentage of a minority population attending schools corresponded to or failed to correspond to the percentage of the minority in the population as a whole did not prove either the existence or the absence of discriminatory measures.

Insistence upon correspondence to the percentage of the minority group in the population might result in a type of discrimination in reverse, as pointed out by the United States Supreme Court in a decision in 1950. A union of Negro employees had claimed that the personnel of a store should have a proportion of Negroes equal to the proportion of Negroes among its customers. The United States Supreme Court, however, had declared that the hiring of employees on a quota system could not be justified by any principle of law and would amount to a discriminatory practice. The principle that access to education should be open to everyone solely on the basis of merit should therefore be constantly borne in mind.

With reference to paragraph 312, he said that the New York State Law on unfair educational practices had made it possible to obtain very significant results. The head of the department responsible for enforcing that Law had stated that, nine years after its entry into force, there were no longer any cases of discrimination in the higher educational establishments in New York State. Moreover, a representative of the World Jewish Congress had stated that the figures submitted by the department head were correct and had said that the number of Jewish students in universities had increased considerably. That development showed what part the legislator and welfare organizations could

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play in that field. In the circumstances, paragraph 312 was now only of historical interest, and it was clear that the comments of the Co-ordinating Board of Jewish Organizations and the Consultative Council of Jewish Organizations were no longer accurate.

He pointed out that the figures given in paragraph 130 related to the years 1920 and 1950 and no longer corresponded to the present situation. As Mr. Ammoun had pointed out elsewhere in his report, since the decision taken by the United States Supreme Court on 17 May 1954, Whites had access to schools that had formerly been reserved for Negroes, and vice versa. At the preceding session he had pointed out that, in the United States 600 out of every 100,000 Negroes were enrolled in higher educational establishments. He regretted that Mr. Ammoun had not included these figures in the report since they helped to place the problem of the American Negro in proper perspective. For example, Mr. Ammoun's study showed in paragraph 427 the number per hundred thousand attending institutions of higher education in various countries. It appeared that the proportion of American Negroes attending colleges and universities was higher than the proportion of the general population attending colleges and universities in any country of the world with only two exceptions. These facts should be added to paragraph 130 and in other respects the paragraph should be brought up to date.

Commenting on the last sentence of paragraph 323, he recalled what he had said at the preceding session (E/CN.4/Sub.2/SR.183) about the considerable number of scholarships that were granted today thanks to the funds which many industrial concerns had made available for National Merit Scholarships; the Ford Motor Company was the leader in establishing this fund. It was therefore incorrect to say that in 1957 gifted students were unable to continue their education beyond high school on account of lack of means.

Mr. MAHEU (United Nations Educational, Scientific and Cultural Organization) recalled that Mr. Halpern had expressed regret, with respect to paragraph 314, that the Special Rapporteur had given quotations from a study published by UNESCO without expressing an opinion on them. In paragraph 609 et seq. the Special Rapporteur indicated the purposes of the two collections UNESCO was publishing on the racial question. The booklet containing the quotation which

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Mr. Ammoun had given in paragraph 314 had received the imprimatur of the Catholic authorities. UNESCO felt that it had performed a useful service in allowing a representative of the Catholic Church to make his point of view known. It would be improper for the UNESCO representative to interpret or judge the position taken by the Catholic Church. He wished to point out, however, that the author of the study had clearly taken a stand against the numerus clausus which, he had written, was "in itself a form of racial discrimination and had to be entirely eliminated".

Mr. SANTA CRUZ said that in chapter XI of the report (E/CN.4/Sub.2/181, paragraph 708), the Special Rapporteur had said that as a political principle or dogma, discrimination was no longer defended by anyone. There were cases, however, in which discriminatory practices resulted from deliberate policy. He regretted that the Special Rapporteur had not drawn attention to cases of that kind, as the Sub-Commission had requested him to do in resolution B, which it had adopted at its sixth session (resolution B, second part, II, (a), (iv)).

Mr. Ammoun had practically eliminated from his study the notion of "international" discrimination, which he had defined in paragraphs 39 and 40 of his draft report (E/CN.4/Sub.2/L.92). Yet even if the Sub-Commission decided not to take into account the inequalities existing between various countries, it should recognize that those inequalities tended to encourage discrimination, and that there was need for action against the economic causes of discrimination. The Sub-Commission was not competent to propose the adoption of economic measures, but it should emphasize the international community's responsibilities with respect to the elimination of those economic causes.

The report in its final form should indicate the exact sources of all the quotations therein, so that readers could easily refer to the documents which had been prepared by other United Nations organs.

Mr. FOMIN said that he did not share the optimism of Mr. Ammoun and Mr. Halpern concerning the situation with regard to racial discrimination and disapproved of the use the latter wished to make of statistical data. Recalling Mr. Halpern's statement that in the United States there were 600 students for every 100,000, he said that those figures, if they were correct, seemed to show that there were only a third as many students among the members of the minority as among the rest of the population. A difference of 5 or 6 per cent /...

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could be explained by other causes, but a difference of 300 per cent clearly revealed the existence of discriminatory practices. The fact that the population in other countries to which Mr. Halpern had referred did not have such easy access to higher education might be due to various causes, and related to the question of the organization of education, and not to discrimination. He objected to the use Mr. Halpern wished to make of statistical data and hoped that the Special Rapporteur would not alter the text of his report in the manner Mr. Halpern had suggested.

With reference to paragraph 552, he said that the third sentence of subparagraph (b) should be changed, as it lent itself to misinterpretation. The example set by the USSR showed that the languages of minorities could very well be employed in education at the secondary and higher levels.

Mr. SANTA CRUZ said he understood that the Department of Public Information had decided, for reasons of economy, not to provide press coverage for the Sub-Commission's work. He asked the Secretary-General's representative to inform the Sub-Commission at the next meeting whether or not that was true. To be effective, the Sub-Commission's work needed publicity.

The meeting rose at 5.30 p.m.