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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

Ninth Session

SUMMARY RECORD OF THE TWO HUNDRED AND TENTH MEETING

Held at Headquarters, New York,
on Thursday, 28 February 1957, at 3.10 p.m.

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E/CN.4/Sub.2/184; E/CN.4/Sub.2/L.103, L.105, L.106/Rev.1, L.108,
L.109, L.114) (continued)

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)

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>	Miss KAHN	World Federation of Trade Unions
	Mr. BAPRAIT-BROWN	World Federation of United Nations Associations
	Mr. THORMANN	International Federation of Christian Trade Unions

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PRESENT (continued):

Representatives of non-governmental organizations (continued):

Category B and Register:

Mrs. GIRCUX	Catholic International Union for Social Service
Mr. MCSCOWITZ	Consultative Council of Jewish Organizations
Mr. MANUILA	International Association of Penal Law
Mr. LONGARZO	International Conference of Catholic Charities
Mrs. CARTON	International Council of Women
Miss SMITH	International Federation of Women Lawyers
Mrs. ROITBURD	International League for the Rights of Man
Miss ROBB	Liaison Committee of Women's International Organizations
Mr. PENCE	World Alliance of Young Men's Christian Associations
Mr. JACOBY) Mr. PERLZWEIG)	World Jewish Congress

Secretariat:

Mr. HUMPHREY	Director, Division of Human Rights
Mr. LAWSON	Secretary of the Sub-Commission

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, L.105, L.106/Rev.1, L.108, L.109, L.114)
(continued)

Mr. HALPERN, referring to his proposed amendments (E/CN.4/Sub.2/L.108) to the revised joint draft resolution (E/CN.4/Sub.2/L.106/Rev.1), said he attached particular importance to the new paragraph proposed by him concerning the quota system in educational institutions. All his life he had opposed such a quota system, and he gathered from an oral statement of Mr. Ammoun that the latter also opposed it. The object of the amendment was simply to give formal expression to a recognized principle.

Mr. HISCOCKS observed that the question was a very difficult one and could be argued both ways. It had come up, for example, in Hungary after the First World War, when the quota system had been applied to Jewish students for the purpose, as then alleged, of enabling the less advanced elements of the population to improve their educational status.

Mr. AMMCUN stated that he was opposed, on principle, to any system of quotas. Nevertheless, there had been cases where preferential treatment had been given to certain backward groups, such as, for example, the caste known as the "untouchables" in India, for the purpose of enabling them to "catch up" with the educationally more advanced elements of the population. Special allowance should be made for such cases.

Mr. KETRZYNSKI said that he agreed with Mr. Halpern so far as substance was concerned, but was also prepared to admit, with Mr. Ammoun, that there was sometimes a need for exceptions to the rule.

Mr. HALPERN agreed with the previous speakers that in some cases special provision might have to be made for the protection of certain elements of the population. For the purpose of covering such situations he proposed the insertion of the phrase "the purpose of discriminating against" immediately after the word "institutions" in his amendment, so that the proposal would read: "There shall be no system of quotas in educational institutions, for the purpose of

(Mr. Halpern)

discriminating against the members of any group, whether upon the basis of the ratio of the group to the general population or upon any other basis".

He explained that the amendment would give the principle the necessary flexibility; a reservation of places for under-privileged persons could not be said to have been made for the purpose of discriminating against any group and therefore would not be condemned by the principle as amended. He expressed amazement at Mr. Hiscocks' defence of the numerus clausus as applied in Hungary and he disagreed strongly with the suggestion that that practice was justified.

Mr. Halpern's amendment (E/CN.4/Sub.2/L.108), as further amended orally, proposing a new paragraph 6 (4 A) to be added to the revised joint draft resolution (E/CN.4/Sub.2/L.106/Rev.1) was not adopted, 3 votes being cast in favour and 3 against, with 5 abstentions.

At the request of Mr. INGLES, a separate vote was taken on the words "or anti-religious" in paragraph 6 (5) of the revised joint draft resolution (E/CN.4/Sub.2/L.106/Rev.1).

The words "or anti-religious" were adopted by 10 votes to 1.

Paragraph 6 (5) of document E/CN.4/Sub.2/L.106/Rev.1 was adopted by 10 votes to none, with 1 abstention.

Mr. HALPERN, speaking in support of his proposed amendment to paragraph 6 (6) (E/CN.4/Sub.2/L.108) ventured to disagree with the Chairman, who had expressed the opinion that the amendment involved primarily a question of phraseology and that the final drafting of the passage should be left to the style committee. Actually, the amendment was related to a question of substance, for its scope extended to "all persons", not merely to children.

With respect to the amendment proposed by Mr. Ketrzynski (E/CN.4/Sub.2/L.109), he observed that it appeared to limit the choice of parents to official schools, operated by the State.

Mr. SAARIO, though not opposed to the substance of Mr. Halpern's amendment, thought it went beyond the Sub-Commission's terms of reference, for it was not concerned with discrimination in education stricto sensu; perhaps its proper context was the draft international covenant on economic, social and cultural rights. He preferred the text of the revised joint draft.

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Mr. SANTA CRUZ agreed with Mr. Halpern that the latter's amendment dealt with a question of substance; it was, in effect, an elaboration of article 26 of the Universal Declaration of Human Rights. However, he thought that the amendment went too far and that the Sub-Commission should retain the text of paragraph 6 (6) of the revised joint draft.

Mr. KETRZYNSKI said, with respect to Mr. Halpern's amendment, at that juncture the Sub-Commission was not concerned with the right to establish private schools. Private schools might have their own individual educational policy; the recommendations to be adopted by the Sub-Commission should, however, relate primarily to schools operated by the public authorities.

Mr. FCMIN said Mr. Halpern's amendment appeared to proclaim the right to establish private schools and to that extent was concerned with a question quite distinct from that of discrimination in education. There were private schools in many countries, including the USSR, where certain music academies and other special schools were not operated by the State. On the other hand, there was a strong movement in many countries in favour of State-operated schools, and away from private schools, in the field of general education, for State schools could provide the best education. The choice was not so simple as Mr. Halpern suggested and did not fall within the competence of the Sub-Commission. Accordingly, he could not support the latter's amendment.

He supported Mr. Ketrzynski's amendment (E/CN.4/Sub.2/L.109) which removed the reference to "schools other than those established by the public authorities".

Mr. AMMOUN said that according to Mr. Ketrzynski's amendment the choice to be made by parents among various types of school was to be governed strictly by the curriculum. The object of paragraph 6 (6) of the revised joint draft, however, was to offer parents a much wider choice where private schools existed.

He mentioned the case of his own country, Lebanon, which could not afford to maintain a State university, but which had the advantage of being host to a French university, which had been started as a Jesuit mission, and to an American university, which had been founded as a Protestant institution.

Mr. INGLES said that Mr. Halpern's amendment seemed to deny to the State the right to exercise a monopoly in education. By contrast, the purpose of Mr. Ketrzynski's amendment was apparently to lay down in paragraph 6 (6) a principle conforming more closely with the idea of State monopoly in education.

For his part, he preferred to either of those amendments the language of paragraph 6 (6) of the revised joint draft resolution.

Mr. MAHEU (United Nations Educational, Scientific and Cultural Organization) said that paragraph 6 (6) of document E/CN.4/Sub.2/L.106/Rev.1 could be taken to imply that all private schools were religious schools. In order to avoid giving that impression, the words "in particular" might be inserted immediately before the words "to ensure the religious education".

Mr. Halpern's amendment raised the question of the freedom to teach and to open and maintain schools, a question quite distinct from that with which paragraph 6 (6) of the revised joint draft was concerned.

Mr. KETRZYNSKI recalled that the text of paragraph 6 (6) of the revised joint draft was based on the language of article 14, paragraph 3, of the draft covenant on economic, social and cultural rights, an article which had not yet been discussed by the General Assembly. If paragraph 6 (6) were adopted as drafted and later the Assembly were to amend the text of article 14 of the covenant, an awkward situation would arise.

In a text which was concerned with discrimination in education it was not necessary - as Mr. Halpern thought it was - to refer to the right to establish private schools. Lest there should be any misunderstanding of his (the speaker's) views, he added that he was a member of an association which had recently established a private school at Warsaw.

Mr. ROY said that Mr. Halpern's text could not be discussed as an amendment and should be voted on as a separate proposal. It dealt with a completely different question from that involved in paragraph 6 (6) of the revised joint draft resolution.

The CHAIRMAN, speaking in his personal capacity, said that the right of private individuals to establish schools was of value not only for the sake of minority rights, but also as a safeguard against the deterioration of the schools maintained by the public authorities.

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Mr. Halpern's amendment to paragraph 6 (6) (E/CN.4/Sub.2/L.108) was rejected by 8 votes to 2, with 1 abstention.

Mr. Ketrzynski's amendment to paragraph 6 (6) (E/CN.4/Sub.2/L.109) was rejected by 5 votes to 3, with 3 abstentions.

Paragraph 6 (6) of the document E/CN.4/Sub.2/L.106/Rev.1 was adopted by 9 votes to none, with 2 abstentions.

Mr. ROY, in explanation of his vote, said that he had abstained because Mr. Halpern's text had been put to the vote as an amendment and not as a separate proposal.

Mr. HALPERN, introducing his proposed new paragraph 6 (6A) (E/CN.4/Sub.2/L.108), said that paragraph 6 (6) as just adopted contained a reference to freedom in respect of religious education. That reference, however, was an inadequate expression of the right of all religious groups to give religious instruction either privately or in schools maintained by the group, and he therefore proposed that that right, which was essential to assure religious groups against discrimination, should be proclaimed as a separate principle.

Mr. SAARIO said that he was in agreement with the substance of Mr. Halpern's proposal, but felt that it was not in its place in the Sub-Commission's resolution. Its proper context was the covenant on economic, social and cultural rights.

Mr. SANTA CRUZ said that the proposed new sub-paragraph was not necessary. The concluding phrase of paragraph 6 (6) as just adopted proclaimed in unambiguous terms the right of parents to ensure the religious education of their children in conformity with their own convictions.

Mr. FOMIN agreed with Mr. Santa Cruz and Mr. Saario that the proposed new sub-paragraph would be redundant.

Mr. AMMOUN said he agreed with the substance of Mr. Halpern's proposed text, but felt that it would be more suitably placed in a document dealing with religious discrimination.

Mr. HALPERN said his proposal dealt with freedom of religious instruction for all, whereas the concluding phrase of paragraph 6 (6) spoke only of children.

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(Mr. Halpern)

He recalled that the Sub-Commission had decided that the question of religious instruction should be considered as part of the problem of discrimination in education rather than in connexion with discrimination in the matter of religious rights.

Mr. Halpern's proposal for a new paragraph 6 (6A) (E/CN.4/Sub.2/L.108) was rejected by 3 votes to 1, with 7 abstentions.

Mr. HALFERN, introducing his proposal for a new paragraph 6 (6B) (E/CN.4/Sub.2/L.108), said it carried out a valuable suggestion by the Chairman at one of the early meetings of the session (E/CN.4/Sub.2/SR.200, page 8). UNESCO had also indicated (E/CN.4/Sub.2/L.103, paragraph 22) that the fundamental principles might proclaim the right of every individual to adhere to a minority and to send his children to schools operated by that minority.

He had submitted a similar provision dealing with group rights at the time the Sub-Commission was considering the subject of the protection of minorities but he had not pressed for its adoption at that time, because the view had been expressed by several members that the group right proclaimed in the proposal was already covered by implication in the provisions of the Universal Declaration of Human Rights. Since the Sub-Commission was now engaged in elaborating the provisions of the Declaration as applied to the problem of discrimination in education, he felt that it was appropriate to state the cultural and educational rights of minority groups in the proposed statement of fundamental rights. He called attention to the fact that a similar provision was contained in article 25 of the draft covenant on civil and political rights.

He recalled that when the Sub-Commission had rejected a proposal for eliminating chapter VIII from the report on discrimination in education (E/CN.4/Sub.2/181), it had been agreed that any attempt to prevent a separate group from using its own language in its cultural activities constituted discrimination.

Education, in the broader sense, covered not only schools but all cultural activities; hence the comprehensive language of his proposal.

Mr. FOMIN said he wholeheartedly supported the principle enunciated in Mr. Halpern's proposal, which should certainly be included in the document

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(Mr. Fomin)

under consideration. However, the qualifying clause at the end of the text was so broad as virtually to nullify the beginning. Moreover, he pointed out that the proposed text referred only to education, for if that were not so, it would have been necessary to include it in the right to use a minority language in State institutions, in court and in certain other situations.

Mr. SANTA CRUZ stated that he was unable to support Mr. Halpern's proposal, first, because it dealt with cultural activities which lay outside the scope of the Sub-Commission's discussion, and secondly, because it formulated a principle concerned with the rights of minorities, a subject which the Sub-Commission had discussed exhaustively on an earlier occasion without being able to come to any decision. Higher United Nations organs had been unable to do any better, and Latin American countries had made serious reservations on the subject of minority rights. Small countries which encouraged immigration and which accorded the right of asylum on a generous scale had to make sure that their magnanimity did not result in undermining their national unity and sovereignty.

Mr. KETRZYNSKI felt that Mr. Halpern's proposal raised a very important problem, but that it went beyond the bounds of discrimination in education and even of education. If Mr. Halpern would redraft his text to make it bear directly on the subject under discussion he would be happy to support it.

Mr. CHATENET agreed that much of the proposal was not directly concerned with discrimination in education; he suggested that the text might be improved if the words "the publishing of books, newspapers and magazines and expression through the theatre and the arts" were deleted.

Mr. HALPERN agreed to Mr. Chatenet's suggestion.

Mr. SANTA CRUZ strongly opposed the words "including the maintenance of schools". During the Second World War, Chile and many other countries had found it inadvisable to permit certain minorities to maintain their own schools. There was a vital difference between minorities which had inhabited a given territory for centuries, and immigrants who were generally admitted to a country on the assumption that they would accept its ways and culture. If the words he

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(Mr. Santa Cruz)

had mentioned were adopted, he would have to abstain on the whole draft resolution (E/CN.4/Sub.2/L.106/Rev.1). The view he had expressed was also that of twenty Latin American countries, which would be unable to support the principles evolved by the Sub-Commission.

Mr. ROY concurred. He would be able to vote only for the first part of Mr. Halpern's text, ending with the words "using their own language"; he therefore asked for separate votes on the passage preceding "language" and on the words "including the maintenance of schools".

Mr. HISCOCKS had no objection to the principle expressed in Mr. Halpern's text but did not think it was either relevant or essential in the context under discussion. Furthermore, he lived in a country in which the cultural rights of minorities were often exercised in a manner which interfered with participation in the activities of the general community, and he did not think that should be condemned. Lastly, he had been impressed by Mr. Santa Cruz' argument. He would therefore vote against the proposal.

Mr. FCMIN said that the Sub-Commission was discussing general principles, which were not intended to be implemented by all countries at once. While he sympathized with the difficulties of the Latin American countries, he felt the Sub-Commission should adopt the broad principle that minorities should be permitted to use their own language in schools, since that was the best way of ensuring that they were not discriminated against in matters of education. He asked for a separate vote on the passage beginning with the words "provided, however", on which he would abstain.

Mr. AMMOUN proposed that the word "cultural" before the word "activities" in Mr. Halpern's text should be replaced by "educational", a change which would bring the text more into line with the subject under discussion.

Mr. HALPERN accepted the amendment.

Mr. AMMOUN proposed further that the words "ethnic, linguistic or religious" should be replaced by "separate", as he had spoken of "separate groups" throughout his report.

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The CHAIRMAN stated that such minor drafting changes would be dealt with by the style committee.

Mr. SANTA CRUZ proposed the addition at the end of Mr. Halpern's text of the words "or undermines the national sovereignty of a State".

Mr. HALPERN agreed with the proposed addition; he recognized the importance of a strongly worded proviso which would make it clear that the group right could not be exercised in a manner which might impair national unity or security.

Mr. Santa Cruz' amendment was adopted by 5 votes to none, with 6 abstentions.

The words "including the maintenance of schools" were adopted by 7 votes to 4.

The first part of Mr. Halpern's proposal for the addition of a new paragraph 6 (6B) (E/CN.4/Sub.2/L.108), up to and including the words "maintenance of schools", with Mr. Ammoun's amendment, was adopted by 8 votes to 1, with 2 abstentions.

The second part of Mr. Halpern's proposal, beginning with the words "provided, however", as amended, was rejected by 4 votes to 3, with 4 abstentions.

Mr. Halpern's proposal as a whole, as amended, was adopted by 6 votes to 3, with 2 abstentions.

Mr. SANTA CRUZ stated that he had voted against the proposal as a whole in the conviction that it was contrary to the interests of many countries. Since the proposal had been adopted, he would have to abstain on the whole draft resolution (E/CN.4/L.106/Rev.1) and would take no further part in its discussion. He also withdrew his name as co-sponsor both of the draft resolution and of the amendment to it contained in document E/CN.4/Sub.2/L.114.

The CHAIRMAN expressed deep regret at Mr. Santa Cruz' action.

The meeting rose at 5.30 p.m.