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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

Ninth Session

SUMMARY RECORD OF THE TWO HUNDRED AND THIRTEENTH MEETING

Held at Headquarters, New York,
on Monday, 4 March 1957, at 10.50 a.m.

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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, E/CN.4/Sub.2/L.106/Rev.2,
E/CN.4/Sub.2/L.116) (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)

Also present: Miss MAÑAS 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>	Miss KAHN	World Federation of Trade Unions
	Mrs. ROGGER	World Veterans Federation

Category B and Register:

Mr. MICHELI	Commission of the Churches on International Affairs
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mrs. EVANS	International Federation of University Women
Miss SMITH) Mrs. HIRSCHMAN) Mrs. BYER)	International Federation of Women Lawyers
Mr. PENCE	World Alliance of Young Men's Christian Associations

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PRESENT: (continued)

Representatives of non-governmental organizations: (continued)

Category B and Register: (continued)

Mrs. ANDERSON World Alliance of Young Women's Christian
Associations

Mr. JACOBY World Jewish Congress

Mrs. POLSTEIN World Union for Progressive Judaism

Secretariat: 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.2/182 and Corr.1, E/CN.4/Sub.2/L.103, E/CN.4/Sub.2/L.106/Rev.2, E/CN.4/Sub.2/L.116 (continued))

The CHAIRMAN invited comments on the revised draft resolutions A, B and C (E/CN.4/Sub.2/L.106/Rev.2).

Mr. SANTA CRUZ said that resolutions A, B and C were linked together by a common preamble, with the consequence that they appeared to be three parts of a single resolution.

Mr. HISCOCKS recalled that it had been expressly decided that resolution B would be a separate text.

Mr. FOMIN suggested that to obviate the difficulty, the preamble should form part of draft resolution A. Draft resolutions B and C would then each commence with the words "The Sub-Commission on prevention of discrimination and protection of minorities" followed by a comma.

Mr. Fomin's suggestion was agreed to.

Resolution A (E/CN.4/Sub.2/L.106/Rev.2) as a whole, as amended, was adopted unanimously.

Mr. HALPERN, explaining his vote, said his position regarding the last two paragraphs of resolution A remained unchanged. He had not abstained but had voted for the resolution as a whole because it contained an expression of appreciation of the Special Rapporteur's work.

Mr. HISCOCKS said he would vote against draft resolution B for four reasons. Firstly, it overlapped to some extent with resolutions A and C. Secondly, paragraph (a) contained what he considered an improper request to address to the parent body; it requested the Commission on Human Rights to bear in mind certain information available to it. Thirdly, the draft raised the subject of a special convention relating to discrimination in education, and he was opposed at that stage of the development of the United Nations, to any such ad hoc convention; the question of discrimination in education would be covered by the

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draft covenant on economic, social and cultural rights. Lastly, in requesting the Commission to study the desirability of an international instrument to be prepared by the Economic and Social Council, the Sub-Commission raised the question of a special convention without deciding it. It would be evading its responsibilities as an expert body and, in fact, would be suggesting that the Commission should also evade its responsibilities by referring the matter to UNESCO.

Mr. KETRZYNSKI said, in reply to Mr. HISCOCKS, that the text did not refer to an international convention but to "an appropriate international instrument or instruments", an expression which could mean either a convention or a recommendation.

Mr. SANTA CRUZ said that the phrase "bearing in mind the information available ...", had been introduced in order to explain why the Sub-Commission was not taking a decision and was requesting the Commission on Human Rights to do so: the Sub-Commission did not have the necessary information at its disposal, whereas the Commission did.

Mr. FOMIN said he had accepted the text of draft resolution B as a compromise solution. For his part, he regretted that a more definite decision had not been taken. He would vote in favour of resolution B on the understanding that it did not in any way weaken the statement in the last paragraph of resolution A that the Sub-Commission believed in the need for an international instrument.

Mr. HISCOCKS said that his objection was not to a convention as such, but to any international instrument which might duplicate the future covenant on social, economic and cultural rights.

With regard to Mr. Santa Cruz' explanation, he said it was unlikely that the Commission on Human Rights had any more information before it than the Sub-Commission. The factor unknown to both bodies was the future action of the Third Committee of the General Assembly regarding the draft covenants.

Resolution B was adopted by 9 votes to 1, with 1 abstention.

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Mr. HALPERN, explaining his vote, said he had abstained in view of Mr. Ketrzynski's interpretation that the term "international instrument" covered both conventions and recommendations; he would have voted against a proposal for drafting a convention. He had not voted in favour of resolution B because it was premature at that stage to ask the Commission on Human Rights to concern itself with any international instrument relating to the elimination of discrimination in education. It was necessary to see first how the system proposed in resolution C would work out.

Mr. SANTA CRUZ said he would have to vote against draft resolution C as a whole and asked that his reasons should be indicated in the Sub-Commission's report.

He opposed draft resolution C because it laid down the alleged right of separate groups to maintain schools using their own language. That alleged right was affirmed as an elaboration of the Universal Declaration of Human Rights. In fact, when that Declaration had been discussed, a proposal along those lines had been rejected. Subsequent attempts to include a reference to that alleged right in the draft covenant on economic, social and cultural rights had also been rejected. That attitude had been adopted both by the Commission on Human Rights and by the General Assembly in deference to the strong opposition of the twenty Latin American countries.

It was inadmissible that draft resolution C should purport to lay down such an alleged right or principle. Any such provision would suggest that the Latin American countries, by ignoring that alleged right in certain instances in order to safeguard their very existence as sovereign nations, had committed acts of discrimination. In fact, those countries were exemplary in frowning on all forms of discrimination. In Chile, for example, a person could not, in law or in fact, be deprived of any right or be restricted in the exercise of a right, by reason of colour, religious convictions or racial origin. Chile had, from the beginning of its existence as an independent nation, been a haven of refuge not only for exiles from dictatorship in other American countries, but also for Germans fleeing from the repression of the Liberal

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(Mr. Santa Cruz)

movements of the nineteenth century, for Jews persecuted by Hitler, for Spanish Republicans, and more recently for the Hungarian victims of a repression which had caused so much concern to world opinion. All those exiles had found freedom, absolute equality and opportunities of improvement for themselves and their children; the only thing that had been required of them was that they should be loyal to the host State and not betray it by undermining its sovereignty.

Possibly, the principle had been introduced to take into account problems besetting certain countries which were completely different from those affecting the Latin American States. But the reference in general terms to the alleged right of distinct groups to maintain separate schools would meet with the justified opposition of twenty Member States of the United Nations, which it offended by wrongly suggesting that they were guilty of acts of discrimination contrary to the Declaration of Human Rights.

Mr. HISCOCKS suggested that the Sub-Commission should reconsider its action on the principle to which Mr. Santa Cruz objected. Owing to the pressure of work, the Sub-Commission had considered the text in question, which had not been proposed by the Special Rapporteur, rather hastily, and he believed that it had made a serious mistake. Reconsideration of the text might enable Mr. Santa Cruz to support the fundamental principles and consequently the draft resolution in which they were embodied.

The CHAIRMAN stated that he for his part would welcome reconsideration, because the Sub-Commission had actually adopted a proviso which might have given Mr. Santa Cruz satisfaction and then, owing to a technicality of the voting procedure, had rejected that text as part of a longer passage which had failed to command the necessary majority.

Mr. FOMIN remarked that the provisions embodying the principle were drafted in very general terms. The proposed addition had not been studied sufficiently and needed careful consideration, as its drafting could not be regarded as satisfactory. He strongly opposed reconsideration.

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Mr. CHATENET said that he had voted for the principle and was still in favour of it, but would welcome any redrafting which, without altering the concept involved, would give satisfaction to Mr. Santa Cruz and enable him to vote for resolution C.

Mr. ROY said that he shared Mr. Santa Cruz' objections. However, for reasons given on an earlier occasion, he was opposed to any reconsideration of texts already adopted by the Sub-Commission.

Mr. HALPERN proposed that the entire proviso which had been dropped from the principle objected to by Mr. Santa Cruz should be reconsidered. He had favoured the retention of the proviso and he had voted for the proposal after the proviso had been defeated by a close vote with Mr. Santa Cruz voting against it, only because he had expected that the proviso would be reintroduced by superior organs.

The proposal for reconsideration was adopted by 4 votes to 2, with 4 abstentions.

Mr. FOMIN inquired whether the proviso would be considered as applying to the text of the principle as adopted by the Sub-Commission under number (6B) (E/CN.4/Sub.2/L.116, page 6) or the Style Committee's text (*ibid.*, page 7) in which he felt a change of substance had been introduced by the insertion of the word "possibly".

The CHAIRMAN stated that the Sub-Commission would be working on the original draft, as it had not yet dealt with the Style Committee's report.

He called for a vote on the following text, to be added at the end of paragraph (9) (E/CN.4/Sub.2/L.116, page 6) as adopted by the Sub-Commission: "provided, however, that this right shall not be exercised in a manner which interferes with the development of understanding of the culture and language of the general community and participation in its activities, or undermines the national sovereignty of the State."

That text was adopted by 6 votes to none, with 4 abstentions.

Mr. HALPERN expressed satisfaction that a text of which he was the original mover now met his requirements, and regret that Mr. Santa Cruz had not seen his way of accepting it.

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The CHAIRMAN recalled that the Sub-Commission had not yet voted on operative paragraph 1 of draft resolution C. He therefore put the paragraph to the vote.

Operative paragraph 1 of draft resolution C (E/CN.4/Sub.2/L.106/Rev.2) was adopted by 10 votes to none, with 1 abstention.

Mr. AMMOUN introduced the Style Committee's report on fundamental principles (E/CN.4/Sub.2/L.116). In reply to Mr. Fomin's query concerning the word "possibly" he explained that the addition of the word was purely a drafting change; the Committee's intention had been to indicate that the only case in which a group's language could be the language of instruction was that in which the group used a language different from that of the majority; a linguistic group would obviously do so, but a religious group would not, and the principle applied to both.

The meeting was suspended at 12.15 p.m. and was resumed at 12.25 p.m.

Mr. HISCOCKS criticized the omission of the word "irrevocably" in paragraph 1 (b) (E/CN.4/Sub.2/L.116, page 3), which amounted to a change of substance.

He also objected to the omission of the very important word "deliberately" in part II (3) (ibid., page 5). It was conceivable that educational facilities might be maintained at a lower level in some establishments than in others without any discriminatory intent; such inequalities often depended on the age of buildings and financial conditions. In postwar Germany, for example, it had been found necessary on occasion to conduct classes in cellars.

Mr. CHATENET agreed to the addition of the word "deliberately" in the English text of part II (3), but pointed out that it was unnecessary in the French text, which was quite clear.

Mr. HISCOCKS criticized the final phrase "having the same educational needs" in paragraph 1 (c) (ibid., page 3), since it might be taken to imply that different groups required different schools, an interpretation capable of serving as a pretext for discrimination.

Mr. MAHEU considered Mr. Hiscocks' criticism very pertinent; the Style Committee had not had any original text on which to base that paragraph and it had presented considerable difficulties. He suggested that the phrase be amended to read "having the same educational rights and needs". Girls and boys, for example, had the same educational rights, but their educational needs might vary.

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Mr. HALPERN, supported by Mr. AMMOUN and Mr. ROY, proposed that the words "having the same educational needs" be omitted altogether from paragraph 1 (c).

The proposal was agreed to.

Mr. HALPERN proposed the following amendments to the Style Committee's draft:

In paragraph I (E/CN.4/Sub.2/L.116, page 3), a comma should be placed after the last word, "which", and the words "for the purpose of discriminating against any group" added. It was understood that the clause would then qualify and limit all the succeeding principles listed in part II.

In part II (3) (ibid., page 5), the words "or in separate establishments" should be deleted.

In part II (9) (ibid., page 7), the words "should be authorized" should be replaced by the words "should not be denied the right".

In the same paragraph, the words "specific group" should be replaced by the words "distinct group".

The amendments proposed by Mr. Halpern were agreed to.

Draft resolution C as a whole, as amended, was adopted by 10 votes to 1.

Mr. FOMIN, explaining his vote, said that he had voted for draft resolution C as a whole, although he was not entirely in agreement with it. He regretted that the Sub-Commission had not given the Economic and Social Council a more definite indication of the desirability of an international instrument embodying the fundamental principles. Nor could he agree with the wording that had been adopted for the general principle in resolution C. He regretted that the Sub-Commission had exceeded its powers by adopting the principle in that form. He had already commented on the other principles.

Mr. SANTA CRUZ, explaining his vote, thanked the members of the Sub-Commission for their evident attempt to meet his fundamental objections to the principle embodied in part II (9) of the Style Committee's draft; nevertheless, he had been unable to vote for a resolution containing the paragraph in question, even in its revised form.

Mr. ROY sympathized with Mr. Santa Cruz's objection to the principle the latter had referred to; nevertheless, he had found it impossible not to vote for the resolution as a whole, which he regarded as the Sub-Commission's most significant achievement in the past ten years.

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Mr. HISCOCKS said that he agreed with most of resolution C, but was not entirely satisfied with the expression "distinct groups" in part II (9) and the consequent lack of clarity.

Mr. HALPERN stated that he agreed with the general principles of the resolution, but regretted that two of his proposed amendments had been rejected by tie votes, with several members of the Sub-Commission abstaining. That seemed to imply that the Commission on Human Rights would not have the benefit of the views of a majority of the Sub-Commission. He hoped that the Commission and the Council would themselves undertake a revision of the statement of fundamental principles on discrimination in education; it was his understanding that UNESCO's comments on the Sub-Commission's work would be transmitted to the Commission.

Mr. INGLES said that he had voted for the resolution despite his objections to certain parts of it. As the Special Rapporteur had stated in his report (E/CN.4/Sub.2/181, paragraph 730), the fundamental principles had been stated in absolute terms, without regard to possible limitations or exceptions. He was confident that when the time came for incorporating those principles in an international instrument, they would be drafted in precise legal terms and due allowance would be made for specific limitations or exceptional circumstances.

Mr. KETRZYNSKI observed that the Sub-Commission had managed to reach agreement in principle despite fairly important reservations on the part of each of its members. He was convinced that the Commission on Human Rights would also consider the possibility of an international convention to provide safeguards against discrimination in education.

The CHAIRMAN expressed his particular satisfaction with the adoption of the proviso to the principle laid down in part II (9) of the Style Committee's draft, since he had consistently opposed the artificial encouragement of minority languages, especially those not reduced to written form.

Mr. CHATENET, supported by Mr. HISCOCKS, proposed that the Sub-Commission should ask the Secretariat to take the necessary administrative and financial steps to enable Mr. Ammoun to attend the thirteenth session of the Commission on Human Rights, which would meet at Geneva in April, 1957.

The proposal was agreed to.

The meeting rose at 1.15 p.m.