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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Sixteenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND TWENTY-SEVENTH MEETING

Held at Headquarters, New York,
on Tuesday, 28 January 1964, at 2.50 p.m.

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PRESENT:

Chairman:	Mr. SANTA CRUZ	(Chile)
Rapporteur:	Mr. CAPOTORTI	(Italy)
Members:	Mr. ABRAM	(United States of America)
	Mr. AWAD	(United Arab Republic)
	Mr. BOUQUIN	(France)
	Mr. CALVOCORESSI	(United Kingdom of Great Britain and Northern Ireland)
	Mr. CUEVAS CANCINO	(Mexico)
	Mr. INGLES	(Philippines)
	Mr. IVANOV	(Union of Soviet Socialist Republics)
	Mr. KRISHNASWAMI	(India)
	Mr. MATSCH	(Austria)
	Mr. MUDAWI	(Sudan)
	Mr. SAARIO	(Finland)
	Mr. SOLTYSIAK	(Poland)
Also present:	Mrs. LEFAUCHEUX	Commission on the Status of Women
Observers from Member States:		
	Miss KRACHT	Chile
	Mr. SAJJAD	India
	Mr. ROSENNE	Israel
	Mr. SCHAAPVELD	Netherlands
	Mr. QUIAMBAO	Philippines
	Mrs. NASON	United States of America
Representatives of specialized agencies:		
	Mr. FARMAN-FARMAIAN	International Labour Organisation
	Miss BARRETT	United Nations Educational, Scientific and Cultural Organization
Secretariat:	Mr. HUMPHREY	Director, Division of Human Rights
	Mr. LAWSON	Secretary of the Sub-Commission

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DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (E/CN.4/Sub.2/234; E/CN.4/Sub.2/L.309, L.314, L.320, L.322, L.325, L.329, L.333, L.337, L.340-L.344, L.347-L.349) (continued)

Article VIII (E/CN.4/Sub.2/L.340, E/CN.4/Sub.2/L.341, E/CN.4/Sub.2/L.347-L.349) (continued)

Mr. CUEVAS CANCINO, introducing his draft for article VIII (E/CN.4/Sub.2/L.347), said that his text was an attempt to deal with the two problems raised in the lengthy discussion of article VIII at the 425th meeting. The first sentence made it clear that the draft convention did not place limitations on the treatment of aliens. The expression "social status" had been inserted to cover the denial to aliens of rights other than political rights.

In the second sentence, he had attempted to draw the fine distinction between the grant of rights to individuals from the denial of political rights to racial, ethnic and national groups as such. An example of that distinction was the Edict of Nantes, which had granted religious rights to a religious minority in France but at the same time had sought to keep that minority from disturbing the national unity of the State. In making that distinction, he had drawn upon paragraph 6 of the Declaration on the granting of independence to colonial countries and peoples, which stated that the Declaration did not justify any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country.

Mr. MUDAWI, introducing Mr. Krishnaswami's and his draft for article VIII (E/CN.4/Sub.2/L.348), said that the object of their text was to remove the difficulty arising from the use of the terms "nationality" and "national origin" in article I, as adopted (E/CN.4/Sub.2/L.322). The term "nationality", as used in the draft convention, referred to membership in a group within a nation. Because, however, in public international law that term referred to the relationship between a citizen and his country, the provisions of the draft convention might be interpreted as implying that nationals and non-nationals must be put on the same footing. The text he co-sponsored would prevent any such misinterpretation.

Mr. KRISHNASWAMI added that the first part of that text was intended to stress that the draft convention did not affect the distinction between nationals and non-nationals, which was well established in public international law. The second part met Mr. Calvocoressi's and Mr. Capotorti's point that the draft convention should not make it compulsory for States to grant special rights to groups because of race, colour or ethnic origin. The Sub-Commission did not want the draft convention to be used as a lever to promote autonomy of such groups. The final clause of the draft met Mr. Ivanov's point that the established rights of such groups to autonomy should not be affected.

Mr. IVANOV said that, of the three new drafts of article VIII (E/CN.4/Sub.2/L.347, E/CN.4/Sub.2/L.348, E/CN.4/Sub.2/L.349), he preferred the Chairman's suggestion (E/CN.4/Sub.2/L.349), because it indicated clearly that the draft convention did not deal with the recognition or denial of political rights to non-nationals or to groups, those matters being entirely within the competence of the States concerned. For that very reason, article VIII might well be omitted; but if the Sub-Commission wished to include such a provision, it should adopt the Chairman's suggestion as the clearest text.

Mr. CALVOCORESSI thought that the Sub-Commission should be able to reach agreement on the basis of any of the three texts. The term "destroy" in the final clause of Mr. Cuevas Cancino's draft (E/CN.4/Sub.2/L.347) seemed rather strong. In Mr. Krishnaswami's and Mr. Mudawi's draft (E/CN.4/Sub.2/L.348), he would replace the words "impose a duty to grant" by the broader expression "affect the question of granting". However, he agreed with Mr. Ivanov that the Chairman's suggestion (E/CN.4/Sub.2/L.349) was the best.

Mr. MATSCH would prefer not to include a restrictive clause such as article VIII, because it might be interpreted as limiting the scope of the draft convention. Of the three new drafts before the Sub-Commission, he preferred Mr. Cuevas Cancino's (E/CN.4/Sub.2/L.347). The draft submitted by Mr. Krishnaswami and Mr. Mudawi (E/CN.4/Sub.2/L.348) might also be acceptable; but the Chairman's

(Mr. Matsch)

suggestion (E/CN.4/Sub.2/L.349), which referred to both the recognition and the denial of political rights, seemed to him wholly pointless.

The CHAIRMAN replied that his suggestion made it clear that the draft convention did not change the status quo ante with respect to the political rights of non-nationals or groups. By using the expression "groups of persons of a common ... national origin" rather than the expression "national group", he had avoided the problem of definition that the latter expression raised.

Mr. SAARIO, noting that the three drafts were similar in substance, expressed his preference for the Chairman's suggestion (E/CN.4/Sub.2/L.349) as the clearest and most concise. He did not think it sufficient, however, to refer only to political rights, since social and cultural rights granted to nationals might be denied to aliens. Moreover, it was legally inaccurate to refer to "political rights" as being recognized or denied to groups, since the political rights defined in article 21 of the Universal Declaration of Human Rights applied only to individuals. To meet those two objections, he would prefer to have the words "political rights or obligations to non-nationals nor to" in the Chairman's suggestion (E/CN.4/Sub.2/L.349) replaced by the words "a specific political or social status to aliens on their territory, nor recognizing or denying special status to".

Mr. ABRAM also preferred the Chairman's suggestion (E/CN.4/Sub.2/L.349) as the shortest and most neutral. That text best served the purpose of article VIII, namely, to prevent anything from being read into the term "nationality" in article I which that term was not intended to mean.

Mr. CAPOTORTI said that the text of article VIII must make it clear that the draft convention did not go beyond the aim set by the General Assembly of eliminating racial discrimination against individuals. He entirely supported Mr. Saario's view that the subjects of the draft convention were individuals, and not groups as such. The Chairman's suggestion (E/CN.4/Sub.2/L.349) came closest to that idea. He thought Mr. Saario's suggestions were sound, but could accept the text in its present form. The final clause of Mr. Cuevas Cancino's draft

(Mr. Capotorti)

(E/CN.4/Sub.2/L.347) implied that the draft convention might be interpreted as granting political rights to racial, ethnic or national groups, so long as the grant did not destroy the national unity and territorial integrity of a State Party. He suggested that the final clause should read: "having regard to the requirements of the national unity and the territorial integrity of a State Party". He supported Mr. Calvocoressi's proposal to change the wording of the draft submitted by Mr. Krishnaswami and Mr. Mudawi (E/CN.4/Sub.2/L.348).

Mr. BOUQUIN remarked that, while he had no objection to any of the three drafts, he too preferred the Chairman's suggestion (E/CN.4/Sub.2/L.349).

Mr. INGLES said that, since article VIII was intended to be simply an interpretative article, members should bear in mind the provisions which it would interpret, namely, article II, paragraph 2, and article V, paragraph (c). The problem concerning the political rights of non-nationals would not have arisen if the Sub-Commission had not deleted the phrase "granted to any person in his own country" from article V, paragraph (c). All three drafts dealt satisfactorily with that problem. However, the Chairman's suggestion (E/CN.4/Sub.2/L.349) went beyond the required interpretation of article V, paragraph (c), by referring not only to political rights but also to political obligations; in his view, the words "or obligations" should be deleted. The expression "social status" suggested by Mr. Cuevas Cancino and by Mr. Saario could not be considered an explanation of article V, paragraph (c), but he would not object to the insertion of the words "or other" after the word "political" in the Chairman's text (E/CN.4/Sub.2/L.349).

The second parts of the three drafts were intended to exclude the possibility that article II, paragraph 2, might be interpreted as granting political rights to racial, ethnic or national groups. He agreed with Mr. Capotorti's criticism of the final clause of Mr. Cuevas Cancino's text (E/CN.4/Sub.2/L.347). The second part of the draft submitted by Mr. Krishnaswami and Mr. Mudawi (E/CN.4/Sub.2/L.348) did not seem to meet the problem of article II, paragraph 2. The purpose of the special measures authorized by that paragraph was to assist the individuals belonging to under-developed groups in securing the full enjoyment of human rights and fundamental freedoms; there was nothing in that paragraph to indicate that

special measures could be taken because of the race, colour or ethnic origin of the groups concerned, or that such measures might or might not consist of special political rights. He thought that the second part of the Chairman's draft (E/CN.4/Sub.2/L.349) was as far as the Sub-Commission could go if it wished to prepare an interpretative, rather than a substantive, provision.

The CHAIRMAN agreed to the insertion of the words "or other" after the word "political" in his text. He explained that he had inserted the reference to obligations because he had noted, in his study of discrimination in the matter of political rights, that in certain States the right to have one's name inscribed on an electoral roll entailed the obligation to vote. He agreed, however, to delete the reference.

Mr. CUEVAS CANCINO and Mr. MUDAWI, speaking also on behalf of Mr. Krishnaswami, withdrew their drafts in favour of the Chairman's suggested text.

Mr. MATSCH requested that the two parts of that text should be put to the vote separately.

The first part of the Chairman's suggestion for article VIII (E/CN.4/Sub.2/L.349), including the word "non-nationals", was adopted unanimously.

The second part of the Chairman's suggestion for article VIII was adopted by 11 votes to 2, with 1 abstention.

The Chairman's suggestion for article VIII (E/CN.4/Sub.2/L.349) as a whole, with the amendments accepted by the sponsor, was adopted by 11 votes to none, with 3 abstentions.

Article X (E/CN.4/Sub.2/L.325)

The CHAIRMAN asked the members of the Sub-Commission to authorize him to request the Secretary-General, taking into consideration the final clauses of Conventions previously adopted by the United Nations and the specialized agencies, to submit to the Commission on Human Rights a series of alternative texts of final clauses of the draft convention on racial discrimination, including those proposed by members.

It was so decided.

Mr. MUDAWI observed that although the articles already adopted suggested legislative measures for the eradication of racial discrimination, it was nowhere laid down that that aspect of life should be embodied not only in the ordinary law of countries but in their Constitutions or fundamental laws. In order to fill that gap, he felt that the convention should include an article making it obligatory for all countries in appropriate circumstances to embody in their Constitutions or fundamental laws a general provision prohibiting all forms of racial discrimination. He had included the words "as far as appropriate" because in some countries, such as the United Kingdom, which had no written Constitution, the inclusion in the ordinary laws of the principles adopted by the Sub-Commission would meet the case.

Mr. SAARIO agreed with the idea in substance but considered that it was out of place in the present article and that it should have been taken into consideration in dealing with article II.

He pointed out that in most Constitutions there was a provision to the effect that all were equal before the law. Article II of the convention provided for specific measures to be adopted by States to guarantee such equality.

Mr. CAPOTORTI said that, while understanding Mr. Mudawi's purpose in proposing his draft of article X, he had certain doubts on the subject. He wondered whether it was permissible in a general treaty to insist that States should take certain action with regard to their Constitutions. In a number of countries, including Italy, a much larger majority in the legislative body was required to amend the Constitution than to ratify a treaty. Difficulties in that connexion might hinder States from adopting the convention, or at least article X. Experience had shown that the inclusion of phrases such as "as far as appropriate" merely weakened a text, since in practice they left it to the States Parties to decide whether or not the proposed action was appropriate. Perhaps when adopting the convention the Sub-Commission might recommend that States should include such a provision in their Constitutions. Constitutional legislation was a delicate matter and directives on the subject from international organizations touched on a sensitive nerve.

Mr. CUEVAS CANCINO associated himself with the remarks made by the previous speakers. Where Mexico at least was concerned, the proposed article X was superfluous. When a convention or treaty had been ratified by the executive branch of the Mexican Government it became part of the law of the country and all the courts were obliged to comply with its provisions. Moreover, article X repeated provisions that had already been adopted and would weaken rather than strengthen the convention.

Mr. INGLES recalled that the Sub-Commission had already discussed the insertion in the articles it had adopted of a provision that certain rights should be enshrined in the constitutional law of the States Parties. If the Contracting States undertook the obligation set forth in article X it might be suggested that they should incorporate in their Constitutions or fundamental laws prohibitions not only of racial discrimination but of discrimination on all the grounds covered in article 2 of the Universal Declaration of Human Rights.

From a practical point of view, inasmuch as the States Parties, by signing and ratifying the convention, would have already undertaken to prohibit racial discrimination by legislation, it would not matter whether that prohibition was embodied in an ordinary law or in a provision of the Constitution. The obligation of the Contracting States remained and they would be violating the provisions of the convention if they failed to prohibit racial discrimination.

For those reasons he did not think it advisable to insist that the prohibition of racial discrimination should be embodied in the Constitution or fundamental law of the Contracting Parties. If, however, it was desired to incorporate the idea in the convention, it could take the form of an alternative rather than a mandatory provision. He thought that perhaps in article II, paragraph 1(c) it might be possible to insert after the word "legislation" the words "or amendment of its Constitution or fundamental law".

Mr. IVANOV supported Mr. Mudawi's proposed text. The inclusion in Constitutions or fundamental laws of a prohibition of all forms of racial discrimination would be of great significance.

Mr. CALVOCORESSI pointed out that it would be incumbent on any State Party to bring its national law into conformity with the convention. In that

(Mr. Calvocoressi)

way the permanent entrenchment of the provisions of the convention in the general law was secured without the need for specific provisions in the Constitutions, or fundamental laws of the States concerned. Strictly speaking, therefore, there was no need for the proposed article X, although it could serve a purpose as a sort of demonstration.

There was a second point which should be taken into consideration. It might be argued that compliance with a specific provision such as that proposed by Mr. Mudawi, and the introduction of a general and therefore not easily enforceable provision in the fundamental law, was sufficient and that there was no need to revise the whole body of national legislation. He himself would feel able to argue against such an argument, but it could be advanced, and for that reason the proposed article X could weaken the convention.

Mr. MUDAWI maintained that the point was important and that the convention would be incomplete if his proposed article X were not included. Ordinary laws were for ordinary matters; fundamental matters were dealt with in Constitutions or fundamental laws. The Sub-Commission would not be doing justice to the principles it had adopted if it kept silent with regard to their implementation and leave them to be dealt with by ordinary laws. He understood the practical difficulties which might be encountered in various countries; that was why he had included the phrase "as far as appropriate". The importance the Sub-Commission attached to the elimination of racial discrimination would be emphasized by a request that the principles approved by the Sub-Commission should be embodied in the Constitutions or fundamental laws of the States Parties.

The CHAIRMAN, speaking in his individual capacity, said that while he recognized the cogency of the argument that a provision such as that in article X might be unnecessary in view of the terms of article II, he felt that Mr. Mudawi's arguments carried much weight. In particular it should be borne in mind that a number of new countries were emerging which were working out their fundamental laws and that in those countries the problem of racial discrimination was of immense importance and required the enactment of strong and precise legislation. After listening to the debate he had come to the conclusion that article X should be adopted.

He invited the Sub-Commission to vote on that article.

Article X (E/CN.4/Sub.2/L.325) was adopted by 10 votes to none, with 1 abstention.

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Article XI (E/CN.4/Sub.2/L.325)

Mr. IVANOV said that he was not in favour of the inclusion of article XI. Such questions had been discussed in a number of United Nations bodies and representatives of some of the African countries had opposed similar texts on the grounds that colonialism must be brought to an early end and that articles of that kind might merely prolong its existence. He hoped that that fact would be taken into account when the Secretary-General was drafting the document for the Commission on Human Rights.

The CHAIRMAN stated that the proposed text of article XI would be included among the alternative proposals to be sent to the Commission on Human Rights.

Article XII (E/CN.4/Sub.2/L.325)

Mr. MUDAWI said that he had felt that some provision was needed for implementation and execution at the international or regional level. The regional organizations were of great assistance in promoting the principles laid down by the United Nations and the specialized agencies. Something of the nature of a court would have been desirable, but in the circumstances of the world today it was difficult to persuade States to submit to the rulings of a court. He had therefore decided to propose some form of supervisory organization which would be voluntarily accepted by the States concerned. An article such as he had proposed would establish machinery to promote the purposes and principles of the convention.

Mr. SAARIO expressed the view that the article dealt with implementation, and could be combined with the measures proposed by Mr. Ingles.

It was so decided.

Measures of implementation (E/CN.4/Sub.2/L.321)

Mr. INGLES, presenting his proposed text for measures of implementation, said that he had prepared them in response to the concern expressed by members of the Sub-Commission lest the absence of such measures should render the convention ineffective. He had based his text on the draft International Covenants on Human Rights prepared by the Commission of Human Rights at its tenth session (E/2573), with modifications inspired by the Protocol to the UNESCO Convention against Discrimination in Education (E/CN.4/Sub.2/234, annex III). The election of the

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members of the Fact-Finding and Conciliation Committee was patterned after the UNESCO Protocol which provided for such a body to be elected by the General Conference of UNESCO. The Covenants on Human Rights provided for their election by the International Court of Justice but that required prior consent by Court. As was appropriate in an instrument produced under the auspices of the General Assembly, the Committee mentioned in his draft would be elected by the Assembly from among candidates nominated by States Parties to the Convention.

Under the proposed procedure, States Parties to the convention should first refer complaints of failure to comply with that instrument to the State Party concerned; it is only when they are not satisfied with the explanation of the State Party concerned that they may refer their complaint to the Committee. Direct appeal to the International Court of Justice, provided for in both the Covenants on Human Rights and the UNESCO Protocol, was also envisaged in his draft. But he had proposed the establishment of a Conciliation Committee because the settlement of disputes involving human rights did not always lend themselves to strictly judicial procedure. The Committee, as its name implied, would ascertain the facts before attempting an amicable solution to the dispute. Application could be made by the Committee, through the Economic and Social Council, for an advisory opinion from the Court on legal issues. If the Committee failed to effect conciliation within the time allotted, either of the parties may take the dispute to the International Court.

Another aspect of his proposal was the reporting procedure outlined in article 1. Under resolution 1905 (XVIII) the General Assembly had invited the Governments of Member States, the specialized agencies and the non-governmental organizations concerned to inform the Secretary-General of action taken by them in compliance with the Declaration on the Elimination of All Forms of Racial Discrimination and he felt that such a procedure would be even more appropriate in the case of the convention. In addition, the reporting procedure in a convention should enable the General Assembly, the Economic and Social Council, the Commission on Human Rights and the specialized agencies concerned to make general recommendations to State Parties to ensure the fulfilment of the Convention.

He emphasized that under article 18 of his text, States Parties to the convention were entirely free to resort to "other procedures" to settle their

disputes. Those other procedures might well include those established by regional organizations envisaged in Mr. Mudawi's draft article XII (E/CN.4/Sub.2/L.325), for example the Court on Human Rights established by the European Convention.

The convention should not only contain strong substantive provisions - it must enable them to be enforced, and he thought that the machinery he had proposed which was not a new idea would serve that purpose.

Mr. CUEVAS CANCINO noted that the UNESCO General Conference had secured authorization to request advisory opinions from the International Court of Justice, as it might be required to do under article 18 of the Protocol. Article 96 of the Charter provided that the only United Nations organs which could request an advisory opinion were the General Assembly and the Security Council, and he asked if the Economic and Social Council had been authorized to do so as well.

Mr. INGLES thought the Economic and Social Council had already received such authorization when the Commission on Human Rights was drafting the International Covenants on Human Rights.

The CHAIRMAN announced that the Secretariat would submit a paper on that subject next day.

Mr. MATSCH, referring to article 1, paragraph 1 of Mr. Ingles's text (E/CN.4/Sub.2/L.321), suggested that States might be allowed two years to report on the measures they had taken to give effect to the provisions of the convention; one year seemed too short, especially if they were expected to make changes in their Constitutions. With reference to article 16, he would also suggest that, in view of the heavy work load of the Secretariat, reports might be submitted every two years rather than annually.

Mr. BOUQUIN agreed with Mr. Ingles that a convention without measures of implementation would be a dead letter. The measures now proposed were, first the transmission of reports and, secondly, a conciliation committee. The idea of reporting had appeared in the draft Covenants, and was very valuable. It also appeared in Mr. Mudawi's article XII (E/CN.4/Sub.2/L.325). But, in view of the large number of reports already required from the Members of the United Nations, he wondered whether, after the first year, such reports could not be

(Mr. Bouquin)

included in the periodic reports on human rights. Also, the Protocol to the UNESCO Convention against Discrimination in Education (E/CN.4/Sub.2/234, annex III) provided for a Conciliation and Good Offices Commission, whereas Mr. Ingles provided for a fact-finding and conciliation committee. He preferred the approach taken in the Protocol. Examining Mr. Ingles' proposal, he showed that it went beyond the Protocol inasmuch as it borrowed some of its parts from the draft convention, in particular for its article 16.

It was important to take into account the machinery already existing for dealing with cases of discrimination, such as that laid down in the Protocol and in the ILO Convention concerning Discrimination in respect of Employment and Occupation. In particular, the procedure agreed upon by the Economic and Social Council and the ILO concerning infringements of freedom of association provided an interesting precedent. Complaints from Governments or from workers' or employers' organizations against States members of the ILO were automatically transmitted by the Economic and Social Council to the Governing Body of the ILO, which decided whether they should be forwarded to the Fact-Finding and Conciliation Commission. Similar complaints received by the United Nations from States Members of the United Nations but not members of the ILO were transmitted to the Commission through the Governing Body, with the consent of the Economic and Social Council and of the Government concerned. In accordance with a decision of the Governing Body, complaints had formerly been submitted in the first instance to that body, for preliminary examination. It had later decided to set up a special nine-member Committee on Freedom of Association to make a preliminary examination of complaints of infringements of that freedom, before they were transmitted to the Governing Body.

Mr. SOLTYSIAK observed that it was a fundamental principle of international law that by ratifying a treaty, convention or agreement States undertook to implement all its provisions and to bring their national laws into conformity with the instrument. It was not the practice to provide for special implementation machinery in every case, since there were already enough suitable organs, both in and outside the United Nations. Furthermore, the provisions of the Charter and other treaties could be invoked in case of any violation. For those reasons the International Law Commission, when debating the draft articles

(Mr. Soltysiak)

of the law of treaties, had not provided for machinery to supervise the implementation of obligations which were binding upon the Contracting States. The procedure proposed by Mr. Ingles might create problems for many Governments, which might feel that the Fact-Finding and Conciliation Committee superseded existing institutions. There were already many means of settling international disputes between States in connexion with the implementation of international conventions or agreements. Some of them were listed in Article 33 of the Charter, and according to Article 34 the Security Council could investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, and had done so in connexion with the policies of apartheid of the Government of South Africa. It was impossible to decide beforehand what would be the most suitable procedure in any dispute that might arise in connexion with the elimination of racial discrimination. In some cases negotiation might be sufficient; in others arbitral or judicial procedure might be necessary; in yet others action by the Security Council might be called for. Moreover, the procedure envisaged by Mr. Ingles would be lengthy and might lead to inaction where action was most needed. He therefore felt strongly that, instead of setting up separate machinery, the maximum use should be made of that which already existed.

He did not intend to imply that none of Mr. Ingles's proposals were of any value. Article 1 contained provisions which would appear to be generally acceptable. The proposed system of reports was particularly useful. It was essential that the reports should not be relegated to the archives, but be carefully studied and acted upon.

Mr. IVANOV observed that, owing to the length of the document under discussion and the delay in providing the Russian text, he had not had an opportunity to examine it thoroughly. He would therefore be in favour of transmitting the text to the Commission on Human Rights without the Sub-Commission's taking a decision on it.

Mr. INGLES said he was quite aware that some Governments would favour the inclusion of strong provisions in the draft convention, as long as it did not contain effective measures of implementation.

(Mr. Ingles)

With regard to Mr. Matsch's comment concerning the time within which Governments would be required to report he could see no reason why they should not be required to report within one year, especially as there was some indication that some Governments might want to bring their national legislation in line with the convention before ratifying it. He did not think, however, that Governments should be required to report annually on the subject and that was why subsequent reports were made discretionary with the Economic and Social Council.

Mr. Bouquin had drawn attention to the difference between the name of the body to be set up under his text and that set up under the UNESCO Protocol. He himself felt that the difference was one of terminology only - conciliation was bound to involve fact-finding, and the main desideratum was that the facts should be ascertained before the Committee could intelligently lend its good offices.

There was, of course, no reason why existing machinery for dealing with cases of racial discrimination should not be used - equally, there was no reason for not setting up more. The fact that the ILO already had such machinery had not been considered sufficient reason why UNESCO should not set up the Commission it had created under the Protocol. It was simply due to the fact that they had different fields of competence. The machinery he proposed would not prevent recourse to any other procedures, including arbitration, which might be considered appropriate; in fact, he had made express provision for such cases. Where the dispute involved racial discrimination in education, the Commission established by the UNESCO could be availed of if the parties concerned were also parties to the UNESCO Protocol. Similarly, if racial discrimination in employment and occupation was in question, parties might prefer the ILO implementation machinery. But there was no reason why the prohibition of racial discrimination in other fields should not be as strictly enforced.

The CHAIRMAN, speaking in his personal capacity, said that in the fifteen years in which he had been concerned with human rights a majority opinion had developed that the matter was properly the subject of international law. Respect for human rights and human dignity had been consecrated by the United Nations Charter. The General Assembly's decision to sponsor a convention

(The Chairman)

on the elimination of racial discrimination had put the full weight of the United Nations behind the struggle to combat that heinous violation of human rights. Racial discrimination was not only morally detestable; it was an obstacle to friendly relations among States. That being so, a strong convention was required, and it would hardly be logical for it not to include some measures of implementation. He did not feel that the implementation of the convention could be left entirely to Governments. He would accordingly be in favour of any serious measures of the kind, even if they went further than the text proposed by Mr. Ingles, which none the less struck him as very judicious and expressing the views of most Members of the United Nations. He would agree to transmitting that text as it stood to the Commission on Human Rights.

The meeting rose at 6.10 p.m.