NITED NATIONS
CONOMIC
ND
OCIAL COUNCIL

Distr.
GENERAL

E/CN.4/SR.457
21 April 1954
ENGLISH
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

Tenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND FIFTY-SEVENTH MEETING

Held at Headquarters, New York,
on Thursday, 1 April 1954, at 11 a.m.

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(12 p.)
54-09879

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Chairman:	Mr. AZMI	(Egypt)
Rapporteur:	Mr. INGLES	Philippines
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	Mr. NISOT	Belgium
	Mr. ORTEGA	Chile
	Mr. CHENG PAONAN	China
	Mr. GHORBAL	Egypt
	Mr. JUVIGNY	France
	Mr. ROUSSOS	Greece
	Mr. RAJAN	India
	Mr. TYABJI	Pakistan
	Mr. BIRECKI	Poland
	Mr. ASIROGLU	Turkey
	Mr. SAPOZHNIKOV	Ukrainian Soviet Socialist Republic
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
	Mrs. LORD	United States of America
	Mr. MONTERO DUSTAMANTE	Uruguay

Representatives of specialized agencies:

Mr. MANNING	International Labour Organisation
Mr. ARNALDO	United Nations Educational, Scientific and Cultural Organization

Representatives of non-governmental organizations:

Category B:	Mr. MOSKOWITZ) Mr. WEILL)	Consultative Council of Jewish Organizations
	Mr. PENCE	World's Alliance of Young Men's Christian Associations
Secretariat:	Mr. HUMPHREY	Director of the Division of Human Rights
	Mr. SCHWELB	Deputy Director of the Division of Human Rights
	Mrs. BRUCE) Mr. DAS)	Secretaries of the Commission

REPORT OF THE SIXTH SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES (E/CN.4/703; E/CN.4/L.359/Rev.1, 360 to 365) (continued)

The CHAIRMAN asked the Commission to consider draft resolution A in Annex I of the report of the Sub-Commission and the amendments submitted to it by Lebanon (E/CN.4/L.360), the United States (E/CN.4/L.361) and the United Kingdom (E/CN.4/L.365).

Mrs. LORD (United States of America), submitting her amendment, pointed out that resolution B adopted by the Sub-Commission enumerated the sources of material for the study on discrimination in education but omitted to mention the works of recognized experts, which had in the past proved extremely useful to the rapporteurs, special advisers or specialized agencies entrusted with studies. Paragraph 1 of the United States amendment was designed to supply that deficiency.

In addition, the United States delegation considered that the Rapporteur should confine himself to a general study of discrimination in education and should not take up the problem of minorities, which was of a different nature. In order to avoid confusing the Rapporteur it would therefore be preferable not to ask him to give special attention to the problem of minorities. Paragraph 2 of the United States amendment had been drafted to meet that point.

Mr. HOARE (United Kingdom) wished to explain the reasons that had promoted his delegation to submit an amendment to draft resolution A submitted by the Sub-Commission. During the general debate it had been generally recognized that the study of discrimination in education, the Sub-Commission had approached its work from a technical angle and it had perhaps even been accused of having been overzealous. However that might be, the Sub-Commission was obviously eager that the proposed study should be as thorough as possible; that was a laudable aim to which, of course, the British delegation had no objection. It should not be forgotten, however, that the Sub-Commission was a body of experts acting in an individual capacity; that being so, it was perhaps understandable that in drawing up the plan for the study its members had allowed themselves to be guided by their own considerations as experts and had not taken sufficient account of

certain important questions which were the concern of, and must be considered by, the members of the Commission on Human Rights as the representatives of governments. It was the Commission's duty to give the necessary directives to the Sub-Commission, which was responsible to it, the more so since, in so far as the study might constitute a pilot project, it was essential that the plan should be carefully and precisely formulated. Without wishing to question the impartiality and competence of Mr. Ammoun, who was undoubtedly fully qualified to carry out the proposed study successfully, he thought that the limits of the task allotted to him, and, consequently, the limits of similar studies which might be undertaken in the future should be clearly defined.

It was for those reasons that the United Kingdom delegation, which, he would point out, had already endorsed the idea of a study as a result of which the Sub-Commission would formulate practical recommendations for equally practical measures in that field, thought it would be well to modify certain passages in resolution B which seemed to represent a purely expert approach and not to take sufficient account of the questions which the Commission on Human Rights had to consider.

As far as section I, entitled "Collection, Analysis and Verification of Material", was concerned, he did not think it wise to say that the collection of material should not be limited to the sources mentioned, since the Sub-Commission had itself endeavoured to draw up as full a list as possible. The effect of the phrase was to put a specific requirement on the Rapporteur to consider other material and thus to widen excessively the scope of the investigation the Rapporteur was to undertake. Furthermore, the Sub-Commission had actually given a complete list of the sources of material and there was therefore no reason why those sources should be called the "main" sources. He therefore proposed the deletion of that word, as also of the phrase "though the collection of material should not be limited to these sources". That change would not of course prevent the Commission from adopting the United States suggestion, if it so wished, and adding a sub-paragraph (e) entitled "writings of recognized experts". The idea of forwarding summaries of material dealing with each country to the governments concerned for comment and supplementary data was good and he had no objection to raise on that score.

Turning to section II, entitled "Production of a report", he pointed out that, generally speaking, the Sub-Commission had not sufficiently borne in mind the fact that, in the last analysis, the study should serve for the formulation, not of recommendations relating to a particular State and the particular conditions which might exist in that State, but of general recommendations calculated to improve the whole situation with regard to discrimination in education. A study which was conducted under the auspices of the United Nations and which should therefore be impartial could not draw attention to the situation in a particular country, but must merely indicate the main trends, so as to give an accurate idea of the situation and to provide a basis for the preparation of recommendations.

Sub-paragraph (a) (i) deviated from that concept and the sentence "but special attention should be given to instances of discrimination that are typical of general tendencies and instances where discrimination has been successfully overcome" distorted the meaning of the first part of the sub-paragraph. If special attention were given to particular cases of discrimination, the scope of the proposed report would be exceeded, and what was more, the question would arise whether a study of that kind was compatible with the provisions of Article 2, paragraph 7, of the Charter. Furthermore, a report drawn up in that detailed manner was likely to be very bulky and probably useless, as well. The sentence in question should therefore be deleted.

The same considerations applied to sub-paragraph (a) iv). It would be a pity to assume at the outset that some States deliberately practised discrimination, and, even if the assumption were justified, it would be inadvisable, for various reasons and particularly in view of the terms of Article 2, paragraph 7, of the Charter, to ask the rapporteur to black-list those States. The United Kingdom delegation therefore proposed the deletion of sub-paragraph (a) iv).

With regard to sub-paragraph (a) (v), he pointed out that the purpose of the report was to serve as a basis for the Sub-Commission's recommendations; if it had the added effect of educating world opinion, that would be a matter for gratification, but it was impossible to say that it should be drawn up "with a view to educating world opinion". That would be going beyond the limits of the Sub-Commission's competence and beyond the limits of any authorization which the

Commission on Human Rights could give. It was inadvisable, therefore, to advance a consideration which might cause the rapporteur to deviate in his work. If, however, the end of sub-paragraph (a) (v) were deleted, the beginning would be unnecessary, for it was obvious that the report would serve as a basis for recommendations. That being so, sub-paragraph (a) (v) could be deleted in its entirety. For the reasons he had given when speaking of his conception of the report, he would like the word "general" to be inserted between the words "such" and "conclusions" in sub-paragraph (b) (ii). Incidentally, he would point out that that idea was in complete accord with what the Commission had decided when part V of the draft covenant on civil and political rights had been studied as regards the nature of the recommendations to be made by the Commission in respect of the reports submitted to it by States. Furthermore, the words "to the Commission on Human Rights" should be added at the end of the sub-paragraph; some passages in the report seemed to indicate that the Sub-Commission would like to be able to approach the specialized agencies direct and it was perhaps not superfluous to make it clear that the Sub-Commission's recommendations must be submitted to the Commission on Human Rights. If the specialized agencies were concerned the Commission would transmit appropriate requests to the Economic and Social Council, which in turn, after studying them, would forward them to the specialized agencies.

Lastly, with regard to section III, he pointed out that though the report would doubtless be excellent, it seemed unwise to give the impression that it would be adopted automatically. In that connexion, he recalled the misgivings he had expressed during the general discussion, when he asked whether systematic resort to the services of special rapporteurs and experts might not result in the Sub-Commission's surrendering part of its own responsibilities. He did not suggest that the Sub-Commission had had that idea in mind when it had used the word "adoption" in section III of the resolution, and its use of the word was probably purely accidental; but the word "adoption" should nevertheless, for the reasons he had given, be replaced by the word "consideration".

In reply to a question by Mr. MOROZOV (Union of Soviet Socialist Republics), Mrs. LORD (United States of America) thanked the USSR representative for pointing out that the words "writings of recognized experts" in the first United States amendment (E/CN.4/L.361) might lead to confusion. By those words, the United States delegation had meant the works of recognized authorities and not the conclusions to be submitted to the Sub-Commission by experts assigned to a particular task, should the use of special rapporteurs become a general practice. The United States delegation would therefore change the wording of its amendment on that point.

Mr. JUVIGNY (France) endorsed the idea in paragraph 2 of the United States amendment (E/CN.4/L.361) but thought the terms used in the French translation of the first paragraph rather unfortunate. Since the point was to stress that the Sub-Commission seemed to have confused the question of discrimination with the problem of minorities, it would be better not to mention the special rapportteur and to say merely: "Considers that no confusion should be created between the purpose of this study and that of the study dealing with minorities".

Mr. ORTEGA (Chile) said that though he thought the idea behind paragraph 1 of the United States amendment was wise, he feared that as it stood the wording was ambiguous. In proposing the deletion of the word "main" in section I of the Sub-Commission's resolution B, the United Kingdom delegation had defeated its own purpose of clarifying the meaning of section I and facilitating the work of the special rapporteur by offering him a wider field of investigation. Since, however, the effect of the amendment was to restrict the sources to which the special rapporteur could refer, Mr. Ortega would prefer the word "main" to be retained. He approved, however, of the deletion of the phrase "though the collection of material should not be limited to these sources", which the retention of the word "main" would render unnecessary.

The CHAIRMAN asked the members of the Commission if they wished to fix a time-limit for the submission of amendments to the draft resolutions in annex I to the Sub-Commission's report.

Mr. HOARE (United Kingdom) said it would be premature to set too near a date. He thought it would be better to wait until the end of the discussion on draft resolution A.

Mr. JUVIGNY (France) shared that view and asked that in any case the time-limit to be established should not apply to amendments sumitted to amendments.

The CHAIRMAN endorsed the United Kingdom and French representative's remarks.

Mr. ORTEGA (Chile), referring to paragraph 2 of the United States amendment, thought that it would be well to ensure that the rapporteur's work was not unduly prolonged, and, consequently, to specify that questions relating to minorities were not within the scope of his investigations. That point was connected with the idea put forward by the Chilean delegation during the general debate, of the possibility of making the Sub-Commission's sessions longer. He pointed out that the prestige of the United Nations would be seriously affected if the time factor were given precedence over the quality of the work. If, however, the Commission viewed any prolongation of the Sub-Commission's sessions with disfavour, his delegation would support paragraph 2 of the United States amendment.

The CHAIRMAN recalled that the Commission had discussed the length of the Sub-Commission's sessions at its ninth session and had submitted a draft resolution on the subject to the Economic and Social Council, which had decided, in resolution 502 A (XVI), that the Sub-Commission should meet at least once a year and that each session should last three weeks. In 1954, the Sub-Commission's session had lasted four weeks.

Mr. ORTEGA (Chile) pointed out that the Sub-Commission had not yet been able to avail itself of the possibility of holding longer sessions and that, if that de facto situation was not to be changed, paragraph 2 of the United States amendment seemed to his delegation to be well advised.

The CHAIRMAN stated that the Commission could submit a draft resolution to the Economic and Social Council, requesting it to increase the length, or even the number, of the Sub-Commission's sessions.

Mrs. LORD (United States of America) said that the Lebanese amendment (E/CN.4/L.360) distinctly improved draft resolution A.

Mr. INGLES (Philippines) pointed out to the French representative that the Sub-Commission had not in any way confused the problem of discrimination and that of minorities, but had simply noted that the two problems had many points in common. In the field of discrimination the Sub-Commission was called upon to recommend measures to prevent discrimination not only against individuals but also against minority groups. In the field of minorities protection might take the form either of the application of the principle of non-discrimination where a minority merely desired equality of treatment with the rest of the population, or of the application of special measures where the minority desired the preservation of its distinctive cultural, religious or linguistic characteristics. The League of Nations had not dealt with those two problems in different ways. He pointed out that the study of discrimination in education could not fail to lead to the examination of questions which were also connected with the minorities problem.

His delegation would be unable to support paragraph 2 of the United States amendment to draft resolution A, since the special rapporteur for the study of discrimination in education was not asked by resolution G of the Sub-Commission to give special attention to the minority problems as the United States proposal suggested, but was only asked to report on such aspects of minority problems as he might come across in his study of discrimination. He drew attention to paragraph 1 of the Sub-Commission's resolution G and pointed out that the facts on which the special rapporteur was asked to report were relevant to the main question he was to study.

Mr. GHORBAL (Egypt) pointed out that the Sub-Commission's resolution B and paragraph 1 of the United States amendment to draft resolution A would enlarge the scope of the special study, both in theory and in practice, but that the United Kingdom amendment, by limiting the sources of material to those stated in

resolution B, section I, would make the study purely theoretical. He pointed out, however, that the sources used by the non-governmental organizations and the specialized agencies could not be limited.

With regard to the United Kingdom amendments to section II of resolution B, he did not approve of the amendment to sub-paragraph (a) (i). He asked what danger there could be in the report's citing instances where discrimination had been successfully overcome. He felt, too, that the first part of sub-paragraph (a) (iv) should be retained, although he realized that the rapporteur might have a very thankless task if he had to point out which were the factors resulting "from a policy evidently intended to originate, maintain or aggravate" such discriminatory practices. He did not think that sub-paragraph (a) (v) should be deleted, for one of the purposes of the United Nations' work was to educate world opinion. His delegation would, however, support the United Kingdom amendments to sub-paragraph (b) (ii) and to section III of the Sub-Commission's resolution B.

The Lebanese amendment to draft resolution A might even be adopted without a vote, since no delegation had any observations to make on the drafting change involved.

Mr. HOARE (United Kingdom) considered that policies "evidently intended to originate, maintain or aggravate" discriminatory practices were often based on economic, social or political considerations. Sub-paragraph (iv) thus formed a whole, and the arguments which applied to one part of it applied also to the other parts.

With regard to the objections to the United Kingdom amendments to section I of resolution B, he stressed that the amendments were not intended to set up a kind of censorship of material but to avoid the difficulties of interpretation that the proposal in its present form raised or that would be raised by the text as modified by the United States amendment. As the Egyptian representative had pointed out, there was nothing to prevent non-governmental organizations and specialized agencies from collecting their facts from other sources. His delegation accepted that because those organizations could be expected to act in a responsible manner. But it did not accept that all sources, many of them irresponsible, should be open to the rapporteur.

Mr. NISOT (Belgium) asked the Philippine representative, who had been the Sub-Commission's Rapporteur, whether the Sub-Commission had intended that the special rapporteur should be allowed to take communications from individuals into account.

Mr. INGLES (Philippines) replied that the Sub-Commission had reached no decision on the subject. He had, however, suggested in the Sub-Commission that the special rapporteur might be authorized to have access to communications concerning human rights received by the Secretariat, and one member had pointed out that the Sub-Commission could not make any recommendation to that effect, since it had no access to such communications itself.

Mr. JUVIGNY (France) thought that it would be a mistake to overburden the rapporteur by asking him to give special attention to the positive aspects of the problem of discrimination in education, which was what would happen if the provisions of paragraph 1 of resolution G were retained. Apart from those provisions, there was nothing to prevent the rapporteur's mentioning it in his report if he noted any instances of discrimination against minority groups or became aware of a policy which had discriminatory effects. Those aspects of discrimination were admittedly relevant to the question of minorities but they were distinct from the positive aspect of the question, which was the safeguarding of the rights of minorities.

He agreed with most of the United Kingdom amendments, but shared the Egyptian representative's opinion that there was no reason why the rapporteur should not mention certain instances where discrimination had been successfully overcome, since such examples could provide instruction which might hasten the elimination of discrimination. The Sub-Commission's resolution, however, doubtless laid too much stress on that possibility, which would in any case in no way be excluded by the United Kingdom amendment, which did not provide for the deletion of sub-paragraph (a) (iii) of section II of resolution B.

He pointed out that the Egyptian and United Kingdom representatives agreed about the second part of sub-paragraph (a) (iv), concerning policies "evidently intended to originate, maintain or aggravate" certain discriminatory practices. The first part of the sub-paragraph was worded in such a way as to make the rapporteur's task extremely difficult, since he was asked in each instance to

point out the factors which had led to the discriminatory practices. They might be social, economic or even psychological factors. He therefore proposed a compromise formula, by adding "if possible" before "point out" and deleting the words "in each instance".

Mr. NISOT (Belgium) explained that when he had put his question concerning resolution B, section I, to the Philippine representative, he had been thinking, not of communications filed by the Secretariat, but of private letters which the special rapporteur might receive.

Mr. GHORBAL (Egypt) again emphasized the distinction he made between the first part of sub-paragraph (a) (iv) of the Sub-Commission's resolution B, section II, and the end of that sub-paragraph. The first was a matter of considerations of a general nature, whereas in the second case it was a question of an established policy. It should also be borne in mind that the General Assembly had appointed an ad hoc committee to carry out an inquiry into certain matters such as those referred to in the second part of sub-paragraph (a) (iv).

He felt that the French representative's objections to the first part of sub-paragraph (a) (iv) were not fully justified, but he would not object to the deletion of the words "in each instance", in order to give the instructions in the first part of sub-paragraph (iv) a more general character.

Mr. ROUSSOS (Greece) agreed in general with the substance of paragraph 2 of the United States amendment, but he thought that the United States delegation might with advantage phrase it somewhat differently.

The meeting rose at 1.5 p.m.