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Tenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND SIXTY-FOURTH MEETING

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on Tuesday, 6 April 1954, at 3.5 p.m.

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PRESENT:

<u>Chairman:</u>	Mr. CASSIN	(France)
<u>Rapporteur:</u>	Mr. INGLES	Philippines
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. ORTEGA	Chile
	Mr. CHENG FAONAN	China
	Mr. GHORBAL	Egypt
	Mr. JUVIGNY	France
	Mr. ROUSSOS	Greece
	Mr. RAJAN	India
	Mr. PIRACHA	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) Mr. GREEN)	United States of America
	Mr. RODRIGUEZ FABREGAT	Uruguay

Representatives of specialized agencies:

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

Representatives of non-governmental organizations

<u>Category B:</u>	Mr. LONGARZO	International Conference of Catholic Charities
	Mr. BERNARD	International Commission against Concentration Camp Practices

Category B (continued):

Mr. JACOBY	World Jewish Congress
Mr. PENCE	World's Alliance of Young Men's Christian Associations
Mrs. POLSTEIN)	
Mr. RONALDS)	World Union for Progressive Judaism

Secretariat:

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: DRAFT RESOLUTION C - MEASURES TO EXPEDITE THE WORK OF THE SUB-COMMISSION (E/CN.4/703, ANNEX I) (continued)

The CHAIRMAN called upon the Commission to continue its consideration of draft resolution C. He pointed out that in the French text the words "de par le monde" had been inadvertently omitted after the word "minorités" in the fourth line of paragraph 1.

Mr. NISOT (Belgium) said that his delegation would oppose the suggestion that rapporteurs should be paid, since it ran counter to the terms of the General Assembly resolution on the subject.

Mr. INGLES (Philippines) said that the point at issue was not whether the suggestion that special rapporteurs entrusted with the Sub-Commission's studies should receive a remuneration ran counter to the General Assembly resolution but whether, as the Sub-Commission considered, there were valid reasons for requesting the General Assembly to reconsider that resolution in order to make an exception in favour of special rapporteurs. He felt it necessary to clarify that point in order that the problem could be approached from the proper angle.

Mr. CHENG PAONAN (China) thought that the draft resolution C could not be examined until a thorough study had been made of resolution J adopted by the Sub-Commission.

In paragraph 1 of the latter, the Sub-Commission in effect requested the Commission on Human Rights to give an opinion on the two methods which it suggested to expedite its work: the Commission could set aside adequate time to review the Sub-Commission's work or could authorize the Sub-Commission, in certain cases, to report direct to the Economic and Social Council. With.

regard to the second method, he felt that, in so far as there was still some uncertainty in the minds of delegations regarding the value and aims of the Sub-Commission's work, it would be far better, for the time being and in the interests of the Sub-Commission itself, that the latter should continue to report to the Commission on Human Rights, which, after taking its decision, would transmit the reports to the Council. In support of its suggestion, the Sub-Commission had invoked the precedent established by the Sub-Commission on Freedom of Information and of the Press. As the latter had dealt with one specific subject, it was just conceivable that, by its very nature, it was qualified to report direct to the Council. It was well to consider, however - and to draw the Sub-Commission's attention to that point - whether the very fact that the Sub-Commission on Freedom of Information and of the Press had to submit the results of its work to the Council itself, without going through any other body, had not been responsible for its final dissolution. Without wishing to be bound too rigidly by hierarchical considerations in respect of United Nations organs, the Chinese delegation felt that the Sub-Commission itself would benefit from the maintenance of the present procedure.

According to paragraph 2 of resolution J, the Sub-Commission was planning to undertake in 1955 one of the studies mentioned in its resolution D and would presumably wish to appoint a special rapporteur or an expert to do the preliminary work. It would probably be better and again in the Sub-Commission's own interest if it did not provide forthwith for the appointment of a rapporteur in 1955. If at that time and after having reviewed its programme of work it considered that it needed the services of a special rapporteur or expert, it could submit a recommendation to that effect to the Commission on Human Rights. For the moment, however, the Commission on Human Rights would find it difficult to agree to transmit to the Council a premature suggestion that might perhaps prove unnecessary.

Turning to paragraph 3 of resolution J, he explained that in the General Assembly the Chinese delegation had voted in favour of resolution 677 (VII) and it had no intention of changing its attitude unless it saw valid reasons for doing so. It was for the General Assembly, however, to decide whether it wished

to reconsider its resolution and, as the Sub-Commission attached much importance to the question, the Commission on Human Rights should not refuse to transmit the Sub-Commission's request to the Assembly. In other words, the Chinese delegation saw no objection to the Sub-Commission's request being transmitted to the General Assembly and to that end it agreed that the Commission on Human Rights should transmit it to the Economic and Social Council.

Paragraph 4 was closely linked with paragraph 3 and, in the highly improbable event of the Assembly's reversing its decision, it would obviously be necessary to make the necessary budgetary provisions for the ensuing year for the payment of a rapporteur or expert.

For the reasons that he had given it would be advisable to reword paragraph 1 of draft resolution C, since no organ conscious of its responsibilities would be likely to take a decision in order to meet a "presumable" situation. Subject to that drafting change, the text of the draft resolution was generally satisfactory and he would be able to support it, with the amendments proposed by the Philippine representative.

Mr. JUVIGNY (France) said first and foremost, that his delegation could not accept the suggestion that the Commission should now authorize the Sub-Commission to report direct to the Council in accordance with the precedent established by the Sub-Commission on Freedom of Information and of the Press. During its preceding session the Commission had clearly realized that one of the reasons why the Sub-Commission on Freedom of Information and of the Press had finally been abolished was precisely because the Commission on Human Rights had perhaps failed to fulfil its function of supervisory or "screening" body with respect to that Sub-Commission, as regularly as it should have done. Since the Commission had decided to carry out that function, the Sub-Commission's suggestion that in certain cases it could address itself directly to the Council was, to say the least, premature.

His delegation had already had the opportunity, during the general debate, to consider the problem of rapporteurs and experts. He would not therefore repeat the general considerations involved but would confine himself to the text of draft resolution C. In that draft resolution the Sub-Commission requested the Commission on Human Rights to take steps to implement decisions which were only tentative in character and whose purport was still very vague. Having instructed three of its members to make a preliminary examination of the methods it might adopt in studying three types of discrimination, the Sub-Commission proposed to decide later which of these three types of discrimination would be the subject of a special study, and subsequently to entrust a special rapporteur with the preliminary work on that study. It also felt that, if necessary, the rapporteur should be paid.

On the basis of that hypothesis, which concerned one specific case only, the Sub-Commission requested that the General Assembly should reconsider its decision on the payment of rapporteurs, which applied to each and every rapporteur. It was, of course, always possible to try to have an Assembly decision reconsidered but it was necessary to have some chance of success. In the interests of the Sub-Commission itself, it should be recalled that resolution 677 (VII) had received the unanimous support of the Advisory Committee on Administrative and Budgetary Questions and an overwhelming majority in the Fifth Committee. It was therefore a very firm decision and if any attempt was to be made to induce the Assembly to reverse its position, convincing arguments would have to be put forward. To speak of a study which might possibly be undertaken without affording any clear justification for the suggestion that a rapporteur should be appointed, was in fact to approach the problem in its most unfavourable light and it could reasonably be assumed that, if draft resolution C were submitted to the Assembly, the latter would refuse to entertain it, or if it did so, that the result would be a foregone conclusion.

For the sake of its reputation and that of the Sub-Commission, it would not be advisable for the Commission to take an immediate decision on the matter.

Mr. INGLES (Philippines) pointed out that in paragraph 1 of resolution J the Sub-Commission mentioned two possible methods of expediting its work, and that there was no need for the second method, which had been suggested only as an alternative, to be acted upon by the Commission on Human Rights, since in accordance with the first method, it had already set aside adequate time at the present session to review the Sub-Commission's report. It was only in the event of the Commission on Human Rights, as had happened in the past, not being in a position to consider the report of the Sub-Commission, whose work would consequently be delayed by a year that the Sub-Commission had contemplated the possibility of being authorized to report direct to the Council in order to avoid wasting time.

Reviewing the criticisms which had been made of draft resolution C, he noted that some speakers had held that the Sub-Commission's recommendation was premature, because the appointment of a rapporteur for the additional study which the Sub-Commission proposed to undertake in 1955 was, in their view, hypothetical. It was not, however, a matter of a hypothesis but of a near certainty. It was certain that, whichever of the three studies the Sub-Commission decided to undertake, it would not be able to rely on the assistance of any specialized agency since none of the subjects contemplated was of direct concern to the specialized agencies or belonged to their exclusive sphere of competence. It was clear, therefore, that the Sub-Commission would not be able to follow the procedure adopted in the case of the study relating to discrimination in employment and occupation, for which it had asked for the assistance of the ILO, and that it would have to appoint a special rapporteur; the recommendation did not, therefore, rest on a hypothesis. The contingency that the Sub-Commission might wish to appoint an independent expert instead of a special rapporteur had been foreclosed by the Commission's decision on the Sub-Commission's draft resolution B. So that it was a foregone conclusion that a special rapporteur would have to be appointed for each of the three special studies contemplated by the Sub-Commission.

Moreover, the reason that the Sub-Commission wished the General Assembly to take a decision concerning the payment of rapporteurs before the study contemplated for 1955 was undertaken was that it wanted to avoid its work being delayed by a year; if the Sub-Commission, which would meet at the beginning of 1955 and would decide at that time which of the three topics should be the subject of a study, then asked the General Assembly to reconsider its decision, the Assembly would receive its request through the Commission on Human Rights and the Council and would not be able to take a decision until the end of 1955. It would therefore be better for the Assembly to take a decision in 1954, so that the Sub-Commission would know that decision when it met in 1955.

He stressed that paragraphs 2 and 3 of the operative part of draft resolution C were closely linked and he pointed out that paragraphs 218 to 225 of the Sub-Commission's report clearly set forth the reasons for which the Sub-Commission had adopted them. The Sub-Commission had felt that a special rapporteur who gave whole-time attention to the Sub-Commission's work should be remunerated. He felt that view to be fully justified, since the Sub-Commission could not complete the studies it had been called upon to make in four weeks. To demand that all the members of the Sub-Commission undertake studies in the interval between the annual sessions of the Sub-Commission would in effect be to demand that all twelve members act as special rapporteurs. He did not think that it would be possible to find twelve persons who would undertake such a task without remuneration. He pointed out that in adopting resolution 677 (VII) the General Assembly had doubtless confused rapporteurs of United Nations organs and special rapporteurs assigned to a special study. Members of the Sub-Commission were elected not as representatives of governments but as private individuals and the presumption was that they were not paid by their respective governments. Unless a member of the Sub-Commission were of independent financial means, his election as special rapporteur without remuneration, though it might conceivably be regarded as an honour bestowed on his country, would be an empty distinction. That was why the Sub-Commission was asking the General Assembly to

reconsider its resolution, the Secretary-General's representative on the Sub-Commission having stated that resolution 677 (VII) applied to all rapporteurs. He noted that the Commission's members were divided on the question and, like the Chinese representative, he pointed out that the Commission was not called upon to make the decision but merely to transmit the Sub-Commission's wishes to the Economic and Social Council and the General Assembly.

Mr. HOARE (United Kingdom) endorsed the French representative's remarks and added that the question of the outcome of the preliminary consideration of methods referred to in the Sub-Commission's resolution D was linked to its decision on the method to be adopted for whichever study it decided to undertake. It was pure speculation to suppose that the Sub-Commission would decide to appoint a special rapporteur for the study selected. The discussions which had taken place in the Commission might modify the Sub-Commission's views in that respect; moreover, everything would depend on the scope of the study selected. The Commission must, moreover, maintain its right to give its own decision on the study selected and the method to be adopted after the Sub-Commission itself had formulated its conclusions on the matter. He felt, therefore, that a problem of that nature should not be settled at the present stage.

Other United Nations organs, such as the Commission on the Status of Women, had managed, by basing their work solely on information compiled by the Secretariat, to make recommendations on subjects of a scope comparable to those envisaged by the Sub-Commission, although their annual sessions were no longer than that of the Sub-Commission. Paragraphs 2 and 3 of draft resolution (c) therefore prejudged the question which the Sub-Commission would be called upon to settle at its next session, when the three experts it had appointed had completed their preliminary work. Like the French representative, he felt that the grounds for asking the General Assembly to make an exception to resolution 677 (VII) were very weak.

Moreover, paragraph 2 could not be construed to mean that the Commission would simply transmit the Sub-Commission's request to the Economic and Social Council without assuming responsibility for it. Many other United Nations organs would have at least as much, if not more, reason to transmit such a request to the General Assembly and the Commission could not overlook the repercussions

that the making of an exception in this instance would have in other fields of United Nations work. The Assembly had clearly shown the firmness of its attitude on the subject by adopting resolution 677 (VII) almost unanimously and it was certain that the Sub-Commission's request would be rejected. His delegation would therefore vote against draft resolution C.

Mr. MOROZOV (Union of Soviet Socialist Republics) thought that draft resolution C should not be reduced to a mere request for reconsideration of General Assembly Resolution 677 (VII); the draft contained other proposals designed to expedite the Sub-Commission's work. The Sub-Commission's request in paragraph 1 of resolution J that the Commission should set aside adequate time to review the Sub-Commission's work was reasonable. No formal decision on the matter was necessary; it was sufficient for the Commission to take the request into account.

With regard to paragraph 2 of resolution J, he approved of the studies undertaken by the Sub-Commission but pointed out that as the Commission did not agree on the method to be adopted for proceeding with them the Sub-Commission would have to reconsider its position in that respect. Lastly, it was not for the Commission to criticize the appointment of a special rapporteur, as provided in resolution D. His delegation would therefore vote in favour of the preamble and paragraph 1 of draft resolution C.

He reserved the right to criticize the appointment of special experts if the Commission decided to vote on the passages of paragraphs 1, 2 and 3 of draft resolution C which related to them. He did not share the Philippine representative's misgivings in the event of the Commission's deciding not to request the Economic and Social Council to ask the General Assembly to reconsider resolution 677 (VII).

Unlike the Philippine representative, he felt that the provisions of General Assembly Resolution 677 (VII) did not give rise to any confusion and expressed a very lofty ideal. It was unquestionably a great honour to be called upon to represent one's country on any United Nations organ, and particularly

on the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Questions of principle rather than financial considerations had inspired the framing of resolution 677 (VII), which therefore had great moral authority. He feared that any exception to the principle established in resolution 677 (VII) might create a precedent which would be constantly invoked by other organs whose work was likewise important. His delegation would vote against paragraphs 2 and 3 of draft resolution C and, if the majority of the Commission's members voted in favour of those two paragraphs, would vote against draft resolution C as a whole.

Mr. ROUSSOS (Greece) thought that draft resolution C contained elements of doubt and uncertainty which were incompatible with the precision that was essential in public finance. The Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions were making every effort to achieve economies and it was improbable that vague and uncertain considerations would succeed in bringing about a reversal of that trend which might create a precedent.

Mr. WHITLAM (Australia) stressed the dual hypothesis underlying the requests of the Sub-Commission, which contemplated undertaking certain work for which it was possible that it might wish to appoint a special rapporteur. He recalled the almost unanimous agreement of the Assembly on the principle expressed in resolution 677 (VII), which, drafted in clear and precise terms, had been adopted only after a serious examination of the question. His delegation would vote against draft resolution C.

Mr. RODRIGUEZ FABREGAT (Uruguay) had already pointed out a certain ambiguity in the drafting of draft resolution C. In his opinion the Commission could not adopt a resolution whose effects were subject to the later and still hypothetical decisions of a sub-commission. He thought, however, that it would be possible to amend the present text of the draft resolution and to make it clearer and more concise. It had already been agreed that the mention of an independent expert would be deleted from the text of the draft resolution. It would be more appropriate, moreover, to begin paragraphs 2 and 3 of the draft

resolution in the same way as paragraph 1, by saying, for example: "Draws the attention of the Economic and Social Council to the Sub-Commission's desire that the General Assembly should reconsider resolution...". That wording would enable the Commission to avoid assuming responsibility for the Sub-Commission's wishes. The question of remunerating the special rapporteur was only secondary and should not be taken into consideration in determining whether to adopt or reject draft resolution C. For a man to represent his country in United Nations organs, and especially in those whose mission was the protection of human rights, was a sacred task and a great honour; the silent message of public opinion was doubtless sufficient remuneration. Recalling the confidence which world public opinion placed in the Commission on Human Rights, he appealed to the Commission to encourage the Sub-Commission in its work. If the Commission restricted the Sub-Commission's field of action by too close and too strict control, it would be running counter to the mission with which it had been entrusted.

Mr. INGLES (Philippines) announced that he had just submitted the text of an amendment which would replace paragraphs 2 and 3 of draft resolution C and would take into account, among other things, the Uruguayan representative's remarks.

The CHAIRMAN asked the members of the Commission who wished to submit other amendments to do so without delay, so that the Commission could have them before it at the beginning of its next meeting.

The meeting rose at 5.5 p.m.