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COMMISSION ON HUMAN RIGHTS

Nineteenth Session

SUMMARY RECORD OF THE SEVEN HUNDRED AND FORTY-FOURTH MEETING

held at the Palais des Nations, Geneva,  
on Thursday, 14 March 1963, at 3.15 p.m.

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of all forms of racial discrimination (item 12 of the agenda)  
(continued)

Present:Chairman:Rapporteur:Members:

Canada

Chile

Denmark

France

India

Lebanon

Liberia

Netherlands

Philippines

Poland

Turkey

Ukrainian Soviet Socialist Republic

Union of Soviet Socialist Republics

United Kingdom of Great Britain  
and Northern Ireland

United States of America

Mr. PAZHWAQ (Afghanistan)

Mr. SPERDUTI (Italy)

Miss AITKEN

Mr. DIAZ-CASANUEVA

Mr. MADSEN

Mr. CASSIN

Mr. CHAKRAVARTY

Mr. HAKIM

Mr. DOE

Mr. BEAUFORT

Mr. BRILLANTES

( Mr. RESICH

( Mr. WIECZOREK

Mr. LÜTEM

Mr. NEDBAILLO

Mr. NASSINOVSKY

Sir Samuel HOARE

Mrs. TREE

Observers for Member States:

Cuba

Israel

Yugoslavia

Mr. GONZALEZ-PINEIRO

Mr. ROSENNE

Mr. SOC

Representative of a specialized agency:

International Labour Organisation

Mr. METALL

Representatives of non-governmental organizations:International Confederation of  
Free Trade Unions

Mr. BARTON

International Association of  
Penal Law

Mrs. ROMNICIANO

Secretariat:

Mr. HUMPHREY

Mr. TARDU

Director, Division of Human Rights

Secretary of the Commission

DRAFT DECLARATION AND DRAFT CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (item 12 of the agenda) (E/CN.4/841 and Add.1, E/CN.4/846 and Corr.1, E/CN.4/853; E/CN.4/L.635 and Corr.1, L.636, L.637, L.639) (continued)

Sir Samuel HOARE (United Kingdom) supported the statements made by the representatives of Canada, Philippines and Turkey and welcomed the interesting new ideas put forward by the Lebanese proposal (E/CN.4/L.639). There was nothing sacrosanct about the draft declaration which had been prepared by the Sub-Commission (E/CN.4/846, para. 210, annex), and the Commission should consider all the texts dispassionately and decide which was the best one.

Comparing the Sub-Commission's draft paragraph by paragraph with the joint Danish-United States draft (E/CN.4/L.635), he observed that the first four preambular paragraphs of the Sub-Commission's draft were covered by the first, fourth, fifth and seventh preambular paragraphs of the Danish-United States draft, while the latter's second preambular paragraph summed up, very succinctly, the substance of the fifth, sixth, seventh and eighth preambular paragraphs of the Sub-Commission's draft. In his opinion, the ninth preambular paragraph of that draft contained nothing that was worth stating, while the idea in the last preambular paragraph was contained in operative paragraph 7 of the Danish-United States draft.

With regard to part I of the Sub-Commission's draft, it seemed to him that the series of assertions concerning the nature of racial discrimination was unnecessary in a declaration. As the Danish representative had implied at the 741st meeting, scientists of a body such as the United Nations Educational, Scientific and Cultural Organization (UNESCO) might make the statement in the first paragraph, but it was hardly appropriate for the General Assembly to do so, although it might mention in the preamble that scientists had made such a statement. Despite their truth, most of paragraphs 2 and 3 of part I must be described as platitudinous; he would only exempt from the criticism the second sentence in paragraph 2. That sentence ("Racial discrimination is injurious not only to those who are the objects of discrimination but also to those who practise discrimination") contained an idea which was both meaningful and not too obvious, and the Working Group might consider its incorporation in the preamble. The provisions of paragraph 4 were to be found in the sixth preambular paragraph of the Danish-United States draft, while operative paragraph 8 of that draft contained the ideas expressed in paragraphs 5 and 6.

With regard to part II of the Sub-Commission's draft, he shared the misgivings expressed by the representative of Chile at the previous meeting in connexion with the gist of paragraph 7; it was highly questionable whether the language of that paragraph was appropriate in a declaration; moreover, paragraph 8 was in contradiction with the prohibitions in paragraph 7. Paragraph 9 was reproduced in operative paragraph 3 of the Danish-United States draft and, in spite of the Ukrainian representative's criticisms of the previous meeting, he could see no difference between the provisions of those two paragraphs in regard to legislative action against discrimination. But, as was well known, some forms of discrimination, particularly those in the social field, were not amenable to legislation and could only be eliminated by education. That idea was contained in operative paragraph 6 of the Danish-United States draft which, in fact, expressed in better terms the provisions of paragraph 10 of the Sub-Commission's draft. Paragraph 11 of the Sub-Commission's draft was to be found in operative paragraph 1 of the Danish-United States draft, while paragraph 12 was very similar to operative paragraph 5 of that draft, which followed the language used in the Universal Declaration of Human Rights. Paragraph 13 was also open to the criticisms which had been made by the representative of Chile, since the language used was more that of a convention than of a declaration. Paragraph 14 concerning the duty of the United Nations to discover and disclose the forms taken by racial discrimination suggested that the United Nations had an investigatory function, which it did not in fact possess; that paragraph had therefore been properly omitted in the Danish-United States draft. Paragraph 15 was subsumed under operative paragraph 7 of the latter draft; despite the objections of the Ukrainian representative, the latter part of the two paragraphs was actually identical. In conclusion, the Danish-United States draft included almost all the elements to be found in the Sub-Commission's draft and was considerably shorter; he hoped that the Working Group, in preparing its final draft, would avoid too great prolixity, particularly in the preamble, and rely on strength rather than length.

The proposal for a draft declaration submitted by Poland and the USSR (E/CN.4/L.636), he considered, had all the form and appearance of a binding convention but little in it to suggest a declaration. He approved, however, of the

simple and straightforward reference to the Declaration on the granting of independence to colonial countries and peoples which was contained in both the Polish-USSR draft and the Danish-United States draft, in contrast to the rather rhetorical reference in the third preambular paragraph of the Sub-Commission's draft.

It would, lastly, be appropriate to include in the final draft some reference to the declarations on discrimination which had been drafted by UNESCO and the International Labour Organisation (ILO).

Mr. CASSIN (France) noted that the working group would certainly have enough texts before it, but the proposal by Poland and the USSR (E/CN.4/L.636) had previously been submitted in another form to the Sub-Commission and the Sub-Commission had included much of it in its draft declaration. That was not the case, however, with the proposal by Denmark and the United States of America (E/CN.4/L.635). The working group should therefore take into account the chronological order in which those two proposals had been presented. All members agreed on the principle that all forms of racial discrimination should be eliminated and their views on how to do so did not differ so widely as to make success in drafting a declaration impossible. But that would require the general acceptance of some limitations for the sake of balance. Needless repetitions and sub-divisions should also be avoided; for example, there seemed to be no particular reason why the operative part should consist of two sections. The text should be logically constructed and should not contain ideas set down at random.

Nor should the declaration be of a temporary nature. It should be borne in mind that the Universal Declaration of Human Rights, although adopted shortly after 72 million human beings had died in the Second World War, made no reference to that war or to Hitlerism, although it was permeated by those events. The Commission should be careful not to draft a declaration which could be used as an instrument for polemics against any country, for there was no country which had not committed errors in the course of its history. While he did not object to a reference to the Declaration on the granting of independence to colonial countries and peoples, it could hardly be maintained that colonialism was the sole cause of racial discrimination, as the example of the Second World War sufficed to prove. It was also wrong to maintain that discrimination was due solely to

laws, decrees or regulations. Some forms of discrimination had deep-seated causes and were due to custom, long-ingrained habits or physiological differences. A broad definition of racial discrimination was therefore necessary and the door should be left open for far-reaching studies in the future.

It should also be remembered that the declaration was to be concerned with human rights and therefore with the individual. Unlike the League of Nations Covenant, which had concentrated on minorities, the United Nations Charter was based on the rights of individuals, and those rights should therefore be given their proper place in the operative part of the declaration. Too direct a reference to scientific theories, such as that contained in operative paragraph 1 of the Sub-Commission's draft, should also be avoided. The term "differentiation" was scientifically inaccurate, and the Commission should not take a stand on matters relating to natural history, which could have no effect on politics. The inclusion of untenable theories in the declaration was likely to weaken its moral authority.

The Commission should reserve the draft convention for the obligations of States and strive in the declaration to educate popular thinking. What was needed was a text which would show the way and proclaim true and noble principles. Above all, it should not be too long. He agreed that, as proposed by the Italian representative (E/CN.4/L.637), the end of the preamble of the Universal Declaration might be used to provide a link between the preamble and the operative part, although there was no need to reproduce it word for word.

Mr. SPERDUTI (Italy) agreed with the French representative's closing remark. In reply to the Ukrainian representative he must observe that the draft declaration was more limited in scope than the Universal Declaration of Human Rights. The USSR representative had uttered a warning against seeming to accuse all States of practising discrimination, and it was precisely with that in mind that his delegation had submitted its proposal (E/CN.4/L.637). When the Ukrainian representative had criticized the Danish-United States proposal (E/CN.4/L.635) on the ground that it contained no provision for implementation, he appeared to have been under a misapprehension for the Universal Declaration, too, did not contain any provision of that kind; the proper place for it was in a future international convention.

The French representative had rightly observed that the Polish-USSR proposal (E/CN.4/L.636) repeated that submitted to the Sub-Commission by the Polish member, which had, moreover, been taken into account in the Sub-Commission's draft. The Danish-United States proposal, on the other hand, was not an exact repetition of the United States member's proposal in the Sub-Commission. He hoped that the working group would take into consideration not only the Sub-Commission's draft but also the preliminary drafts which had been submitted to it.

He saw no objection to including in the draft declaration a passage based on article 7 of the Polish-USSR proposal, which was couched in stronger terms than the corresponding passage of the Sub-Commission's draft. On the other hand, the appropriate place for article 11 of the Polish-USSR proposal would be, he thought, in a draft convention.

He approved, in principle, of the Lebanese suggestions (E/CN.4/L.639), which would give the declaration the form of a solemn proclamation, but the Declaration on the granting of independence to colonial countries and peoples should be mentioned only in the preamble. The General Assembly had instructed the Commission to prepare both a draft declaration and a draft convention, and the appropriate place for the legal obligations of States was in the convention. The Declaration on the granting of independence had its value from a juridical standpoint, but in preparing the draft declaration the Commission should aim essentially at drawing up an instrument imbued with great moral force.

The CHAIRMAN suggested that he should close the list of speakers. Members could, of course, exercise their right to reply.

It was so agreed.

Mr. WIECZOREK (Poland) said that the representative of Italy's observation that the Polish-USSR text scarcely differed from that submitted to the Sub-Commission by the Polish member was true, but that was not the Polish delegation's fault. His delegation had always said it was willing to accept the Sub-Commission's draft as the basis for the Commission's work, but other members had been reluctant to do so as well and had produced alternative texts. His delegation, together with that of the USSR, had therefore decided to submit the text they preferred. There was no reason why that text should be depreciated, particularly since it contained provisions which did not appear in the Sub-Commission's and the Danish-United States

drafts. All his delegation wanted was that the Commission should prepare a draft declaration which it could approve and the General Assembly could adopt unanimously.

Mr. SPERDUTI (Italy) explained that he had in no way intended to depreciate the Polish-USSR proposal. The Working Group, he must repeat, should take into consideration all the drafts submitted.

The CHAIRMAN proposed that the representatives of Chile, France, Lebanon, Liberia, the Union of Soviet Socialist Republics and the United States of America should be asked to serve on the Working Group set up under the procedural resolution adopted at the 742nd meeting. The interested specialized agencies might attend its meetings, if invited.

It was decided that the Working Group would be composed of the representatives of those countries.

Mr. BARTON (International Confederation of Free Trade Unions), speaking at the invitation of the Chairman, said that the magnitude of the problem had become apparent during the Commission's debates. Some of the difficulty might be attributed to the fact that for the first time the Commission was discussing racial discrimination as an issue separate from other forms of discrimination. The Commission had perhaps failed correctly to assess the importance of racial discrimination for, unfortunately, references had been made to many other issues. Racial discrimination was an evil in itself and there was no need to refer in a declaration against racial discrimination to expansionist tendencies or colonialism. Similarly, the declaration should not refer to United Nations texts other than the Charter and the Universal Declaration of Human Rights. The Commission was not endeavouring to combat racial discrimination because there were other United Nations resolutions on the subject. The declaration was a major endeavour to be dealt with on its own merits.

He was disturbed by the fact that none of the drafts submitted had drawn attention to the many instances where distinctions, based on ethnic or racial origin, were made between citizens of a single State. The declaration should expressly state that any documents, such as identity cards, showing the racial origin of citizens were inadmissible.



The declaration also had to take account of various kinds of discrimination. There were cases where the majority of the population were discriminated against. In others, discrimination was directed against the minority. In the latter case discrimination might continue even after the abolition of discriminatory laws, but in the former the abolition of discriminatory measures would enable the majority to attain its rights. In many cases the practices of a country were at variance with its laws. There were countries where racial discrimination was practised despite the fact that it was illegal. The declaration should refer specifically to such matters and should exhort governments to take active steps to eradicate the racial prejudices of their citizens. If all such prejudices were taken into account it could not be denied that manifestations of racial discrimination were still in evidence throughout the world. In his proposal relating to the last paragraph of the preamble to the draft declaration (E/CN.4/L.637) the representative of Italy had suggested that in combating racial discrimination recourse should be had to teaching and education. In his Organization's opinion, recourse should also be had to collective bargaining. If the declaration contained a specific reference to employment - as in operative paragraph 2 of the Danish-United States of America draft - mention should be made of the necessity for preventing discrimination in the field of trade union rights.

Finally, he wondered whether in preparing the declaration the Commission should not consider instructing the Sub-Commission, or any other appropriate body, to make an investigation into factual situations in various countries. Such information would be helpful in the preparation of the Convention and would give a clearer picture of the manifold patterns of racial discrimination.

Mrs. ROMNICIANO (International Association of Penal Law), speaking at the invitation of the Chairman, urged the Commission not to forget two very important factors. First, it was not governments alone but also the peoples themselves that were responsible for discrimination. Second, as the Italian representative had pointed out, teaching and education had an important part to play in combating discrimination, and it was essential that the declaration adopted should take due account of that fact.

The CHAIRMAN inquired which item of the agenda the Commission wished to discuss while awaiting the text to be prepared by the Working Group.

Mr. CASSIN (France), supported by Mr. BRILLANTES (Philippines), proposed that the Commission should consider item 10 while awaiting the completion of the Working Group's draft.

It was so agreed.

The meeting rose at 5.20 p.m.