

ECONOMIC
AND
SOCIAL COUNCILCONSEIL
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ET SOCIALE/CN.4/SUB.2/SR/5
27 November 1947

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

FIRST SESSION

SUMMARY RECORD OF FIFTH MEETING

held at the Palais des Nations, Geneva, on Thursday,
27 November 1947 at 10 a.m.Present:

Chairman:	Mr. E.E. Ekstrand	(Sweden)
Vice-Chairman:	Mr. Herard Roy	(Haiti)
Rapporteur:	Mr. Nisot	(Belgium)
Members:	Mr. W.M.J. McNamara	(Australia)
	Dr. C.H. Wu	(China)
	Mr. Samuel Spanien	(France)
	Mr. M.R. Nasani	(India)
	Mr. Rezazada Shafaq	(Iran)
	Mr. A.P. Borisov	(Union of Soviet Social- ist Republics)
	Miss Elizabeth Monroe	(United Kingdom)
	Mr. Jonathan Daniels	(United States of America)
Specialized Agencies:	Mr. Rodolphe Lopes	(International Labour Office)
	Mlle M.L. Barble	(I.R.O.)
Non-governmental Organizations:	Mr. Bienenfeld)	
	Mr. Riegner)	World Jewish Congress
	Mr. A.G. Brotman	Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council.
Secretariat:	(Prof. J.P. Humphrey	
	{ Mr. Edward Lawson	
	{ Mr. Emile Giraud	
	{ Mr. A.H. Hekimi	

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ITEMS OF THE AGENDA

6. Examination of Terms of Reference
7. Prevention of Discrimination
8. Protection of Minorities.

THE CHAIRMAN referred to the suggestions (E/CN.4/Sub.2/21) submitted by Mr. BORISOV (Union of Soviet Socialist Republics), whom he asked for any further comments.

Mr. BORISOV (Union of Soviet Socialist Republics) said that he would prefer first to hear the remarks of his colleagues.

Mr. SHAFaq (Iran) asked Mr. BORISOV (Union of Soviet Socialist Republics) whether his suggestion was meant to be included in an Article or in the Preamble. If it was meant to be included in an Article, he felt that most of the points had already been expressed in other Articles, for example Articles 13, 16 and 34.

Mr. BORISOV (Union of Soviet Socialist Republics) said that if this was the only question he had no objection to his text being included in the Preamble.

Miss MONROE (United Kingdom) said that she agreed with Mr. SHAFaq (Iran) that most points were already covered, for example, the first phrase was already included in Article 5. Paragraph 2 was not quite suitable either for a Preamble or for a Declaration, in her opinion.

Mr. NISOT (Belgium) said that he felt that the substance of Mr. BORISOV's suggestion did not belong to Article 6 but to other Articles, and that it therefore should be studied later.

Mr. MASANI (India) pointed out that the first phrase of Mr. BORISOV's suggestion already appeared in Article 5 of the Drafting Committee's suggestions. He felt that it should not be considered in connection with Article 6.

He agreed with the substance of the second paragraph but felt that it could not be considered in connection with Article 6.

Mr. McNAMARA (Australia) agreed with Mr. MASANI (India) that paragraph 2 was substantially different from paragraph 1. As to paragraph 1, he suggested that the proposal of Mr. DANIELS (United States of America) should be made a motion, i.e. that three new categories be added to Article 6.

Mr. DANIELS (United States of America) said that he would make no motion on this.

Mr. McNAMARA (Australia) said he would make a formal motion himself.

Mr. SPANIEN (France) said that the two paragraphs were quite different. Paragraph 1 dealt with principles; paragraph 2 with the method of their application. As to paragraph 1, he was ready to agree to the expansion of Article 6 as suggested, subject to re-wording. As to paragraph 2, he did not agree with the opinion of Miss MONROE (United Kingdom) as implementation was a duty of the Sub-Commission. Such a clause, however, should not be included either in the Preamble or the Articles of the proposed Declaration but among other safeguards in the Convention.

The CHAIRMAN said that in his opinion the suggestion of Mr. BORISOV (Union of Soviet Socialist Republics) certainly had elements referring to Article 6. He therefore suggested that it be considered at once.

Mr. WU (China) supported the Motion by Mr. McNAMARA (Australia), and suggested that paragraph 1 be altered to read as follows:-

"Everyone is entitled to the rights and freedoms set forth in this Declaration, without distinction of any kind as to race, sex, language, religion, property status, national or social origin, political or other opinion." He was in sympathy with paragraph 2 and suggested that it be discussed subject to the reservation made by Miss MONROE (United Kingdom).

Miss MONROE (United Kingdom) supported the Motion by Mr. McNAMARA (Australia), which had been seconded by Dr. WU (China). As to paragraph 2, she said that Mr. SPANIEN (France) may have misunderstood her. She had said that in her opinion this text should not appear in either the Preamble or Articles of the proposed Declaration but in the proposed Convention.

Mr. SHAFaq (Iran) supported the joint motion stated by Dr. WU (China) and Mr. McNAMARA (Australia).

Mr. DANIELS (United States of America) also supported their Motion.

The CHAIRMAN suggested that the order of the wording might be changed to read "... political or other opinion, property status, national or social origin."

Mr. BORISOV (Union of Soviet Socialist Republics) asked if it was considered that the second part of paragraph 1 should go into Article 6. As to the first part he thought that the entire phrase "... equal rights in the economic, cultural, social and political life" should all be included in the body of the proposed Declaration as well as in the Preamble.

Mr. DANIELS (United States of America) said that in his opinion Article 6 was not the place to establish specific rights, but merely to lay down the entitlement of all persons to general rights.

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Dr. WU (China) asked the Chairman to put the motion of Mr. McNAMARA (Australia) to the vote, and said that Mr. BORISOV (Union of Soviet Socialist Republics) had made a good point but it was covered by Article 2.

The CHAIRMAN said he would put the additions proposed earlier to the vote and then return to proposals made by Mr. BORISOV (Union of Soviet Socialist Republics).

Mr. BORISOV (Union of Soviet Socialist Republics) agreed that the other Articles dealt broadly with the issues but said that there should be a complete and substantial list of human rights in Article 6, as suggested by the Drafting Committee.

Mr. ROY (Haiti) made the new proposal of adding the word "any" before "opinion".

Mr. DANIELS (United States of America) suggested adding the word "all" before "rights and freedoms".

Miss MONROE (United Kingdom) thought that Mr. ROY (Haiti) meant "without distinction of any kind." She agreed with the amendment of Mr. DANIELS (United States of America).

The CHAIRMAN said that he appreciated that Mr. BORISOV (Union of Soviet Socialist Republics) wished the suggestions of the Sub-Commission to be as complete as possible. However, he pointed out that the first words of Mr. BORISOV's text already appeared in Article 5, and that it would be extraordinary if both Articles started in the same way. He suggested that the members vote on the motion made by Mr. McNAMARA (Australia) as seconded by Dr. WU (China) and amended by Mr. ROY (Haiti).

Mr. BORISOV (Union of Soviet Socialist Republics) did not agree with the Chairman. Rights had no meaning, he said, unless they were linked with Law. He agreed that the first

part of his text already appeared in Article 5, but said that in his opinion his revised text was more progressive and went further in describing the fields of full Rights. He added that what the common man needed was equal rights, and that this should be covered by a full formula.

Mr. NISOT (Belgium) said that the proposal by Mr. McNAMARA (Australia) was independent of the first part of the suggestion of Mr. BORISOV, which clearly belonged to Article 5 and not Article 6.

The CHAIRMAN suggested that members vote on the whole of the amendment of Mr. BORISOV (Union of Soviet Socialist Republics).

Mr. ROY (Haiti) asked for a division of the amendment and for a vote to be taken on the first and second halves. Part I, he felt, belonged to Article 5, and part II was covered by the motion of Mr. McNAMARA.

Mr. NISOT (Belgium) said it did not seem to him possible to divide the sentence into two parts.

Mr. BORISOV (Union of Soviet Socialist Republics) proposed that paragraph I be divided into three parts:

1. "All people are equal before the law."
2. "Shall enjoy equal rights in the economic, cultural, social and political life."
3. "Irrespective of their race, sex, language, religion, property status, national or social origin."

There was no objection to such a division.

The CHAIRMAN said that he did not agree with Mr. NISOT (Belgium) that the motion of Mr. McNAMARA (Australia) was independent as he considered it an amendment of Mr. BORISOV's motion. He called for a vote on the motion.

Mr. SPANIEN (France) raised a question of translation of the French text. He suggested omitting the words "national or social" if Mr. BORISOV (Union of Soviet Socialist Republics) agreed. This would leave "origin" to cover everything.

Mr. BORISOV (Union of Soviet Socialist Republics) said that in his opinion "origin" did not necessarily include "national origin". The U.S.S.R. for example had various nationalities of the same origin. As to part II, with the inclusion of "all" as suggested by Mr. DANIELS (United States of America) there appeared substantial agreement by the members. As to part III, he felt that the vote should not be delayed. He felt that the majority of members agreed that it concerned Article 6. He again suggested voting on his text in three parts.

Mr. NISOT (Belgium) asked the exact meaning of "national origin."

Mr. McNAMARA (Australia) replied that in his view it was synonymous with nationality, but that it might also have a wider meaning.

Miss MONROE (United Kingdom) said that she considered the words not synonymous. She felt that the word "origin" must remain.

Mr. DANIELS (United States of America) asked if members would have an opportunity to vote for the joint proposal of Mr. McNAMARA (Australia) and Dr. WU (China).

The CHAIRMAN said that the joint amendment related to part 3 of Mr. BORISOV'S proposal and that the Sub-Commission would deal with parts 1 and 2 first, and then vote on the Australian proposal as amended by Mr. DANIELS (United States of America).

Mr. McNAMARA (Australia) said that he and Dr. WU (China) accepted the addition of the word "all".

The CHAIRMAN put to the vote the proposal that the words: "All people are equal before the law" be inserted in Article 6,

with the understanding that the rejection of this proposal would in no way preclude the insertion of those words in any other Article.

The proposal was rejected by 10 votes to 1.

Mr. McNAMARA (Australia) said that although he had voted against the proposal, he would like it to be noted that if those words should be omitted from Article 5, they should be considered for inclusion in some other Article. Such a procedure, he felt, would allay Mr. BORISOV'S fear that the words might be omitted altogether.

The CHAIRMAN noted Mr. McNAMARA'S remark. He called for a vote on the second part of the first paragraph of Mr. BORISOV'S proposal, as amended by Mr. McNAMARA, Dr. WU and Mr. DANIELS: "Everyone is entitled to all the rights and freedoms set forth in this Declaration."

The proposal was adopted by 10 votes with one abstention.

Mr. NISOT (Belgium) said that he had abstained from voting because he objected to any alteration which did not faithfully conform with the terms of the Charter. He requested that the reason for his abstention be recorded.

The CHAIRMAN read the amendment, drafted jointly by Mr. SPANIEN and Miss MONROE, to the third part of the first paragraph of Mr. BORISOV'S proposal, proposing that the second part of Article 6 read: "without distinction of any kind, whether of race, sex, language, religion, political or other opinion, property status, origin or class."

Mr. BORISOV (Union of Soviet Socialist Republics) objected to the new text. He thought that the Sub-Commission should vote on his original suggestion and that the opinion of Mr. SPANIEN and Miss MONROE as to the interpretation of that text should be noted in the report. He did not consider that the words "or

class" could be used to replace the words "national or social origin."

Miss MONROE (United Kingdom) explained that in the draft she had prepared with Mr. SPANIEN the words "or class" had been proposed as a clearer version of, "or social origin." The word "national" had been omitted because "national origin" was liable to be confused with "nationality."

Mr. BORISOV (Union of Soviet Socialist Republics) agreed that the words "or class" could be used to express "social origin," but he objected to the omission of the word "national." It was important, in his opinion, in the interests of countries where people of different national origins lived together under the same government, that the words "national origin" should be specifically mentioned.

Mr. DANIELS (United States of America) objected to the use of the word "class" because it had some undesirable meanings which in his view made it unsuitable for inclusion in a Declaration of Rights.

Mr. McNAMARA (Australia) agreed with Mr. BORISOV that the original wording should be retained. He considered that the omission of the word "national" made the phrase meaningless. He felt that the idea of nationality, which had been the cause of a great deal of discrimination in the past, should be included.

Mr. NISOT (Belgium) pointed out that there might be a political connotation in the words "property status," since in some countries income was one of the factors considered in determining the right to vote.

Dr. WU (China) agreed with Mr. DANIELS that the word "class" was undesirable, and supported the original wording. In some countries there existed national groups which needed to be protected against discrimination. If the words "national origin"

referred to such national groups, he thought that they should be retained.

Mr. BORISOV (Union of Soviet Socialist Republics) agreed with Dr. WU'S definition of the words "national origin." He had no wish for aliens to be given the right to vote in a foreign country, but he thought that the rights of national groups, living as citizens in a country, should be protected.

The CHAIRMAN called for a vote on the proposal that the words "property status, origin or class" should be added to the text which had been adopted on the previous day. He explained that since, in his opinion, this was the text with the widest meaning, it would have to be voted on first.

The proposal was rejected by 7 votes to 3 with 1 abstention.

The CHAIRMAN called for a vote on the proposal that the words "property status, national or social origin" should be added to the text which had been adopted on the previous day.

Dr. WU (China) suggested that the word "national" should be replaced by "ethnic" to avoid ambiguity.

Mr. ROY (Haiti) suggested that the proposal under consideration should be amended to read "property or social status or national groups."

Mr. BORISOV (Union of Soviet Socialist Republics) agreed with that text and suggested that the phrase might further be extended to read "national groups or minorities." He did not consider that the words "social origin" were synonymous with "social status."

Mr. DANIELS (United States of America) suggested that the Sub-Commission should adjourn so that delegates could have time to consider all the proposals.

The meeting closed at 1.15 p.m.