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## COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PREVENTION OF DISCRIMINATION  
AND THE PROTECTION OF MINORITIES

## FIRST SESSION

## SUMMARY RECORD OF SIXTH MEETING

Held at the Palais des Nations, Geneva,  
on Thursday, 27 November 1947 at 3 p.m.

## Present:

Chairman: Mr. E.E. EKSTRAND (Sweden)

Vice-Chairman: Mr. Herard ROY (Haiti)

Rapporteur: Mr. Joseph NISOT (Belgium)

Members: Mr. W.M.J. McNAMARA (Australia)

Dr. C.H. WU (China)

Mr. J. DANIELS (United States of America)

Mr. Samuel SPANIEN (France)

Mr. M.R. MASANI (India)

Mr. Rezazada SHAFQAQ (Iran)

Miss Elizabeth MONROE (United Kingdom)

Mr. A.P. BORISOV (Union of Soviet Socialist Republics)

Specialized  
Agencies:

Mr. Rodolphe LOPES (International Labour Office)

Mlle. M.L. BARBLE (I.R.O.)

Non-Governmental  
Organizations:Mr. BIENENFELD )  
Mr. RIEGNER ) World Jewish CongressMr. A.G. BROTMAN Co-ordinating Board  
of Jewish Organizations  
for Consultation with  
the Economic & Social  
Council.

## Secretariat:

Prof. J.P. HUMPHREY

Mr. Edward LAWSON

Mr. Emile GIRAUD

Mr. A.H. HEKIMI

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Discussion of Article 6 (Continued)

The CHAIRMAN pointed out that a document containing suggestions for amendments to Article 6, set out under six headings, had been distributed by the Secretariat. He stated that Point 1: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, sex, language, religion, political or other opinion", had been adopted by the Sub-Commission. He asked Mr. BORISOV, who had drawn up Point 2: "Property status, national or social origin" and Point 6: "Property and social status, national groups and minorities", whether Point 6 was to replace Point 2 which he had previously proposed.

Mr. BORISOV (Union of Soviet Socialist Republics) considered that in Point 6 his idea had been distorted. He withdrew Point 6 and would maintain Point 2: "Property status, national or social origin".

Mr. McNAMARA (Australia) and Dr. WU (China), in reply to the Chairman, agreed to cancel Point 3 which they had proposed: "Property status, national or social origin" (to be inserted after "political or other opinion").

Miss MONROE (United Kingdom) and Mr. SPANIEN (France) withdrew Point 4: "Property status, origin or class".

Mr. ROY (Haiti) declared himself in agreement with the wording suggested by Mr. Borisov, and was willing to withdraw his proposal (Point 5): "Property and social status, national groups", subject to the consent of Mr. McNAMARA and Dr. WU.

The CHAIRMAN put to the Sub-Commission Mr. Borisov's proposal: "Property status, national or social origin" and the amendment submitted by Mr. McNamara and Dr. Wu: "Property status, national and social origin" (to be inserted after "political or other opinion").

Mr. SHAFaq (Iran) considered the term "national groups" inadequate because the meaning of that term was limited by the concept of the State. The term "ethnic" seemed to him preferable but he would accept "national or social origin" provided Mr. Borisov explained exactly what he meant by the term.

Mr. MASANI (India) shared Mr. Shafaq's misgiving. He felt that the word "national" was improperly used here because it stood for a concept of a different kind from that implied in the terms "race, sex, etc." He preferred Mr. Borisov's text, as amended by Mr. McNamara and Dr. Wu.

Mr. McNAMARA (Australia) said that if the word "groups" were adopted, it would have to be used in the singular.

Dr. WU (China) objected to the term "national origin" which might lead to confusion. For example: a Chinaman living in Haiti who was a naturalized Haitian would not be liable to any discriminatory measures on the part of the Government. This would not be the case if that Chinaman took up residence in Haiti without becoming naturalized. The term "national" should be reserved, he felt, for the ethnic group forming a nation.

Mr. BORISOV (Union of Soviet Socialist Republics) stated that if the members of the Sub-Commission so desired, he was prepared to revise his first proposal. In any case, he asked for a vote on his proposal as a whole and not only on the last few words.

The CHAIRMAN replied that the vote would be taken on the text as a whole, since amendments to the text formed the subject of the present discussion.

Mr. ROY (Haiti) felt that the expression "national origin" might be just as dangerous as the term "national groups". He observed that the Constitutions of most of the States Members of the United Nations discriminated between native-born and naturalized citizens. All Haitians for example, were equal before the law, except for privileges granted to Haitians by birth. Naturalized Haitians could not fill certain posts (such as that of President of the Republic), until a certain number of years after naturalization (Document E/CN.4/Sub.2/4).

The CHAIRMAN stated that in his opinion the same objection held good with regard to the term "national groups".

Mr. McNAMARA (Australia) drew the attention of the members of the Sub-Commission to the grave consequences which might ensue from the use of a general formula in Article 6. This article might conflict with other articles of the draft, such as Article 26, for instance. The Drafting Committee should not overlook this difficulty.

The CHAIRMAN explained that Article 6 defined principles the application of which was provided for in subsequent articles. He could see no objection to putting the amendments to the vote.

Professor HUMPHREY (Secretariat) emphasized that Article 28 defined the application of a principle laid down in Article 6. Article 28 read as follows: "Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen. Access to examinations for public employment shall not be a matter of privilege or favour." The difficulty pointed out by Mr. ROY could therefore be considered when that article was discussed.

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Mr. NISOT (Belgium) was dubious about this. He felt that Article 6 might affect subsequent articles because of the word "all" on the first line of the Article.

Mr. ROY (Haiti) observed that many Constitutions discriminated between native-born and naturalized citizens, not only in regard to the holding of public office, but in other spheres also, such as (in Haiti) that of commerce. If Article 6 did not discriminate as to national origin, it would be in flagrant contradiction with other articles which recognized certain limitations. One might say: "...all rights and freedoms, subject to the provisions of the following Articles...."

The CHAIRMAN replied that examples should not be taken from the various Constitutions now in existence; the Sub-Commission should endeavour to secure the maximum protection and freedom for all. It would be the duty of the various States to see that these principles were applied.

Mr. ROY (Haiti) accepted this viewpoint. Personally he was anxious to abolish all inequalities, but he had wished to draw attention to a possible contradiction between a general formula and the provisions embodied in the Constitutions of several Members of the United Nations. He was not opposed to the insertion of this absolute formula in the Bill of Human Rights, or even in the Convention. But in that case it should be clearly stated that absolute equality was the goal the Commission had in view.

Mr. SHAFaq (Iran) proposed a new amendment to Mr. BORISOV's text in which only the terms "property status" and "social origin" would be retained, on the understanding that this latter term would cover ethnic and national differences.

He reserved the right to revert to his proposal for the inclusion of the term "national groups" when Article 28 came up for discussion.

Mr. SPANIEN (France) considered that the Sub-Commission should not be slavishly bound by texts. Its task was, not to draw up the texts of the articles submitted to it, but rather to study the principles underlying those articles. It should further be entitled to make special reservations, which would be taken into account when the text was drawn up.

He proposed that the Sub-Commission should revert to Mr. BORISOV's first proposal, since the latter's explanation had cleared up the point.

Mr. BORISOV (Union of Soviet Socialist Republics) wished to clarify the meaning he attached to the word "national". He did not agree with Mr. SHAFaq, for he considered that within the same nationality there could be different origins. Article 6 defined equal rights for all. This meant that any citizen of the Soviet Union, were he Jew, Negro, Georgian, Caucasian, etc. could become a member or the President of the Supreme Council. The social ranks to be found within every country should not stand in the way of equality of rights. He asked whether in the United States a Negro, a Jew or a naturalized Mexican could become President. If there were any discrimination in that field, there could be no equality of rights.

Mr. MASANI (India) supported Mr. SHAFaq's amendment. The example quoted by Mr. BORISOV did not seem to him relevant, for the different categories to which he had referred were ethnic or racial groups, whose rights were guaranteed by the term "race". He suggested that the discussion of the term "or national origin" in Article 6 be resumed.

Mr. DANIELS (United States of America) thought the Sub-Commission was overlooking an important part of a phrase in Article 6, namely the word "all". He recalled that Article I, Paragraph 3 of the Charter mentioned "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". The list of rights and freedoms must therefore not be expanded. In reply to Mr. Borisov he explained that in the United States there was nothing to prevent a citizen from becoming President, on the sole condition that he was born on United States territory.

The CHAIRMAN proposed that a vote should be taken on the third part of the first paragraph of Mr. Borisov's proposal: "property status, national or social origin". Now, Mr. McNamara and Dr. Wu had proposed that text again, in the form of an amendment to Article 6. Those words were to be added after "or other opinion". As this amendment was the most far-reaching, it was the one on which the vote should be taken first.

Mr. ROY (Haiti) on a point of order, recalled Mr. Shafaq's sub-amendment to the effect that the word "national" be deleted. That sub-amendment should have priority.

The CHAIRMAN replied by referring to Rule 54 of the Commission's Rules of Procedure which stated that: "If two or more proposals are moved relating to the same question, or if one or more amendments are moved to a proposal, the Commission shall first vote on the most far-reaching proposal or amendment, and then on the next most far-reaching proposal or amendment, and so on, until...all the proposals and amendments have been put to the vote...".



Mr. ROY (Haiti) said those Rules of Procedure would be applied as far as possible. Otherwise, the Rules of Procedure of the General Assembly must be applied. Now, the latter in Article 76, provided that: "when an amendment revises, adds to or deletes from a proposal, the amendment shall be voted on first, and if it is adopted, the amended proposal shall then be voted on".

This, moreover, was in conformity with the usual parliamentary procedure.

Mr. MASANI (India) asked how, if the more far-reaching amendment were adopted, a decision could be taken with regard to Mr. Shafaq's sub-amendment.

Mr. ROY (Haiti) added that the Rule mentioned by the CHAIRMAN applied to cases where there were two amendments relating to the same question. In the case in point there was only one amendment, that of Mr. Shafaq, to Mr. Borisov's proposal.

Mr. NISOT (Belgium) asked for the straightforward application of the Commission's Rules of Procedure.

The CHAIRMAN wished to consult Members as to whether the Commission's Rules of Procedure should be applied.

Mr. ROY (Haiti) said that if a vote were taken on the question, he would of course vote for the application of the Rules of Procedure. The question, however, was badly put, as it was here simply a case of interpretation of the Rules.

Miss MONROE (United Kingdom) preferred a vote to be taken first on Mr. Shafaq's amendment.

Mr. MASANI (India) repeated his question: if the amendment of Mr. McNamara and Dr. Wu were adopted, could Mr. Shafaq's amendment be voted on or not?

Mr. McNAMARA (Australia) thought that a vote could first be taken on the most far-reaching amendment. If it were adopted, the Sub-Commission might then decide that that was sufficient; or they could go on, and vote on each amendment in turn.

The CHAIRMAN asked whether members regarded Mr. Borisov's text as an amendment or a proposal.

Mr. BORISOV (Union of Soviet Socialist Republics) repeated that his proposal constituted a new text, far-reaching and complete as to substance. It was intended to replace Article 6 and could therefore not be regarded as an amendment. Members could decide whether certain terms should be added to Article 6 or to other Articles.

The CHAIRMAN said that all proposals for changes discussed both that day and on the previous day had been regarded as amendments. It would be strange if the Sub-Commission were now to regard Mr. Borisov's additional text as anything else than an amendment.

Mr. SHAFaq (Iran) took the view that Mr. Borisov's text was a proposal and not an amendment.

Miss MONROE (United Kingdom) understood that Mr. Borisov was asking for a vote on the third part of the first paragraph of his proposal, with no change. She pointed out that the Sub-Commission had, however, already adopted an amendment to Article 6 to the effect that the words "political or other opinion" be added to the original text, and those words did not appear in Mr. Borisov's text.

Mr. NISOT (Belgium) thought that the Chairman was right because, while Mr. Borisov might originally have made a separate proposal, this had in point of fact become an amendment. He formally requested the Chairman to apply his previous ruling.

The CHAIRMAN said that members were to vote on the third part of Mr. Borisov's original amendment, which consisted of adding to Article 6 the words "property status, national or social origin".

Mr. BORISOV (Union of Soviet Socialist Republics) explained that he had proposed a complete text to replace Article 6. The third part of the first paragraph was part of the whole. The first and second parts had been rejected, and he requested that the Sub-Commission should now vote on the whole of the third part and not only on two or three words of it.

Mr. NISOT (Belgium) feared that would be incompatible with what the Sub-Commission had decided that morning. In his opinion the only thing to do was to vote on the last part of the proposal. If Mr. Borisov thought that the Sub-Commission should not vote on the last part, there was no need to take any vote whatsoever.

Mr. ROY (Haiti) thought there was some confusion between changing and amending the text. The Sub-Commission was studying Article 6, and if it decided to change that Article this would not, in that particular case, constitute an amendment, but a proposed change. To that proposal, however, there were amendments. Mr. Shafaq should thus be regarded as having moved an amendment to Mr. Borisov's proposal.

Miss MONROE (United Kingdom) understood that Mr. Borisov wished for a vote on the third part of his proposal, beginning with the words "irrespective of" down to the words "national or social origin". She asked Mr. Borisov, in order to avoid any misunderstanding, to be good enough to read out the exact text on which he wished a vote to be taken. She drew the Sub-Commission's attention to the fact that the first and second parts had already been rejected, and that the third part did not contain the words "political or other opinion", which

had already been adopted.

Mr. BORISOV (Union of Soviet Socialist Republics) again wished to facilitate the Sub-Commission's task. He said that the text he proposed constituted a new proposal, and not an amendment to Article 6. He had never said that he would accept an amended version of Article 6, and that was why he had proposed a new text of which certain parts had not been adopted, while it seemed that agreement might be possible with regard to others. He reminded members that he had asked for a vote on the three parts which formed a whole. It seemed that the Sub-Commission agreed on the third part except for certain words. He saw no objection to the Sub-Commission taking a majority vote on the whole of that third part.

The CHAIRMAN requested Mr. Borisov to read out the text on which he wished a vote to be taken.

Mr. BORISOV (Union of Soviet Socialist Republics) began by pointing out that the Sub-Commission had not yet voted on the second part of his text, although it had voted on a text which had been modified following a proposal by Mr. Daniels. Amendments had been submitted in regard to the third part, which read "irrespective of their race, sex, language, religion, property status, national or social origin." Some members believed that the terms "race, sex, language, religion" should not be mentioned since they were already incorporated in Article 6; the phrase "property status, national or social origin", then remained.

Miss MONROE (United Kingdom) pressed Mr. Borisov to read out the whole of Article 6, in the form in which he wished it to be drafted.

Mr. BORISOV (Union of Soviet Socialist Republics) stated that the first part of his proposal, reading "all people are equal before the law" had been rejected because this provision was embodied in Article 5. The second part of his proposal had not been accepted because it had been replaced by the word "all", added by the Sub-Commission in the first line of Article 6. In regard to the third part, reading "irrespective of their race, sex, language, religion, property status, national or social origin", an amendment had been proposed whereby the words "irrespective of their race, sex, language, religion" would be deleted in order to avoid repetition. It appeared, then, that the Sub-Commission wished to retain only the terms "property status, national or social origin" of his proposed text, but he was not sure that no other amendment had been proposed, in respect even of the last mentioned terms.

Mr. McNAMARA (Australia) remarked that Mr. Borisov's explanations had clarified the debate and asked whether Mr. Borisov accepted the amendment the purpose of which was to avoid a repetition of the terms "race, sex, language, religion". He was of the opinion that the best procedure would be to vote, as proposed by the Chairman, on the most far-reaching amendment.

The CHAIRMAN wished to know whether Mr. Borisov was asking for a vote on the phrase "irrespective of their race, sex, language, religion", in view of the fact that these terms were already included in the text adopted by the Sub-Commission.

Mr. BORISOV (Union of Soviet Socialist Republics) replied in the affirmative, since his text was a proposed new draft of Article 6 and was not an amendment to it. The third part of his proposal followed logically from the first two. He was therefore asking for a vote on the whole text.

Mr. ROY (Haiti) was unwilling to accept the procedure proposed by Mr. McNamara. If the Sub-Commission began by voting on the last part of the first paragraph proposed by Mr. Borisov he did not see how it could thereafter vote on Mr. Shafaq's amendment, the effect of which would be to omit a term which would by then have been adopted. Such a voting procedure would be illogical.

Miss MONROE (United Kingdom) stated that she would vote on the text proposed by Mr. Borisov provided he agreed to delete the terms "race, sex, language, religion", which were repetitive.

Mr. BORISOV (Union of Soviet Socialist Republics) could not agree to omit these terms from his proposal, which, he repeated, formed a complete text. He stressed the fact that other members, having the right to submit amendments, could propose their deletion.

The CHAIRMAN concluded from this exchange of views that the Sub-Commission should proceed to vote on the whole of the third part.

Mr. ROY (Haiti) formally moved an amendment, that the words "irrespective of their race, sex, language, religion" be deleted.

The CHAIRMAN put to the vote Mr. Borisov's text, reading "irrespective of their race, sex, language, religion, property status, national or social origin".

DECISION: This text was rejected by seven votes to one, with three abstentions.

The CHAIRMAN put to the vote the amendment proposed by Mr. McNamara and Dr. Wu, to add the words "property status, national

or social origin" to Article 6. Article 6 would then read "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of race, sex, language, religion, political or other opinion, property status, or national or social origin".

Mr. ROY (Haiti) stated that he had abstained from the preceding vote because he did not agree with the voting procedure. He wished to know when the Sub-Commission would be called upon to vote on Mr. Shafaq's amendment, supported by himself, which was to delete the word "national". The Sub-Commission could not first vote to incorporate this word in Article 6, and vote a second time to delete it.

Mr. McNAMARA (Australia) thought the Sub-Commission could vote on both amendments. Delegates who did not accept the first, would vote for the second, and vice versa.

The CHAIRMAN stated that the Sub-Commission was therefore required to vote, in turn, on the two following texts:

- (1) "Property status, or national or social origin"
- (2) "Property status, or social origin".

The first text was put to the vote.

DECISION: This text was adopted by six votes, with five abstentions.

Mr. ROY (Haiti), on a point of order asked, what the position would be if the second text were also adopted.

Mr. NISOT (Belgium) considered that, since the Chairman had taken a clear-cut decision on the question of voting procedure, the debate was closed.

Mr. MASANI (India) did not share the fears expressed by Mr. Roy. In the unlikely event of both texts being adopted, the Sub-Commission could decide to vote for one text, as against the other.

The CHAIRMAN accepted this proposal and pointed out that he had had this in mind when deciding to call for successive votes on the two texts. He put the second text to the vote.

DECISION: This text was rejected by five votes to three, with three abstentions.

Mr. BORISOV (Union of Soviet Socialist Republics) stated that he had abstained from the second vote, since he had voted for the first text. He considered that the insertion in the text of the concept conveyed by the term "national" was most important, and that having done this, the Sub-Commission should bring this question to the attention of the Drafting Committee, which would have to produce a final text.

The CHAIRMAN requested the Sub-Commission to vote on the text as a whole.

Mr. DANIELS (United States of America) considered that there was a drafting error in the English text. He thought that the words "as to" had a restrictive meaning by no means in accordance with the Sub-Commission's intention.

Mr. MASANI (India) proposed that the words in question be replaced by "such as".

The Sub-Commission

DECIDED

To adopt the formal change proposed by Mr. Masani, while leaving the French text as it stood.

The CHAIRMAN put to the vote the full text of Article 6, which read: "Every one is entitled to all the rights and freedoms set forth in this Declaration, without distinction such as race, sex, language, religion, political or other opinion, property status, or national or social origin".

DECISION:

The text was adopted by 9 votes to 1 with one abstention.



Mr. DANIELS (United States of America) desired to make some observations on the Sub-Commission's working methods. He noted that the Sub-Commission had spent more than 4 of the 5½ hours of that day's meetings in discussing matters of procedure. He felt that it ought not to waste time by deciding on a final text for the drafting of the Articles. Its business was to express its views on the prevention of discrimination and protection of minorities. He asked the Sub-Commission to grant the Chairman more latitude in taking decisions. Time for discussion ought to be limited, and the Chairman ought to have the necessary authority to plan out the work.

Miss MONROE (United Kingdom) supported Mr. Daniels. Drafting of any changes which the Sub-Commission wished to be made in the draft should be left to the Drafting Committee.

Mr. BORISOV (Union of Soviet Socialist Republics) remarked that prompted by his own experience, he had proposed at the first meeting, that the Sub-Commission should confine itself to a general discussion on principles and the expression of members' views, and should not undertake the drafting of the Articles in question. The Sub-Commission had not even been asked to undertake that task. It was to record the views brought to light by the discussion in a report to be submitted to the Commission on Human Rights.

Mr. NISOT (Belgium) failed to see any difference between these two methods of procedure. The difficulties would remain whatever method of working was adopted. One could not indeed make one's meaning clear except by drawing up articles or formulating principles.

Mr. ROY (Haiti) was of the same opinion as Mr. Nisot. To Mr. Borisov he replied that the report to be submitted to the Commission on Human Rights ought to reflect the opinion of the Sub-Commission not the opinions of members.

Mr. SPANIEN (France) stated that preparing texts for the Drafting Committee, drafting articles or altering them by means of amendments was not a quick way of working. He proposed that the Sub-Commission should adopt a method that would enable it to produce not texts of articles for submission to the Drafting Committee, but a report embodying the Sub-Commission's opinion as to the recommendations to be submitted to the Drafting Committee. This method of work would make it possible to avoid long discussions about the drafting of articles and even simple matters of syntax.

Mr. NISOT (Belgium) said that he had just learned that the Drafting Committee would not be giving immediate attention to the Sub-Commission's work. The Committee would only undertake the drafting of the Declaration and Convention when it had received the replies from the various Governments. He felt that in those circumstances it was not superfluous for the Sub-Commission to do a little drafting.

The CHAIRMAN reminded members that the Commission on Human Rights expected the Sub-Commission to produce texts that reflected its views. The Drafting Committee moreover would not be meeting before the session of the Human Rights Commission. The Commission desired to know the Sub-Commission's views, whether in the form of suggestions, proposals, alterations, amendments, additions or deletions. However, experience had shown that it was better not to try to produce a final draft of the Articles. He felt that the Sub-Commission would do well to devote more attention to the expression of concrete views. He proposed therefore that members should adopt the latter method in future. Lastly he gave notice that the Sub-Commission would examine the second paragraph of Mr. Borisov's proposal the following day.

The meeting rose at 5.50 p.m.