

ECONOMIC
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SOCIAL COUNCILCONSEIL
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ET SOCIALE/CN.4/Sub.2/SR.7
28 November 1947

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

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

FIRST SESSION

SUMMARY RECORD OF THE SEVENTH MEETING

held at the Palais des Nations, Geneva,
on 28 November 1947 at 10.00 a.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)

Dr. Samuel Spanien (France)

Mr. M.R. Masani (India)

Mr. Rezazada Shafaq (Iran)

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

Miss Elizabeth Monroe (United Kingdom)

Mr. J. Daniels (United States of America)

International Non-
Governmental
Organizations:

Mr. Bienenfeld (World Jewish Congress)

Mr. A.G. Brotman (Co-ordinating Board of
Jewish Organizations)

Secretariat:

Prof. J.P. Humphrey

Mr. Edward Lawson

Mr. Emile Giraud

Mr. A.H. Hekimi

Specialized
Agencies:Mr. Rodolphe Lopes (International
Labour Office)

Mlle. M.L. Babbie (IRO)

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UNITED NATIONS

I. PROPOSED TIME-TABLE

The CHAIRMAN said that the first item for discussion was the second paragraph of Mr. BORISOV's proposal (Document E/CN.4/Sub.2/21). Before proceeding to that, he presented for consideration a time-table, prepared by himself and the Secretariat, in which was set out the amount of time which might be devoted to the various questions remaining for consideration. He requested Members who wished to make proposals to hand such proposals in writing to the Secretariat not later than Saturday morning.

Miss MONROE (United Kingdom) moved and Mr. NISOT (Belgium) seconded the motion, that the Sub-Commission accept the proposed time-table.

Mr. BORISOV (Union of Soviet Socialist Republics) proposed that Friday and Saturday should be allotted for consideration of the Articles 6, 13, 15, 28 and 36, after which the Sub-Commission should return to the Agenda it had adopted.

The CHAIRMAN thought the proposed time-table and the Agenda adopted by the Sub-Commission were identical.

Mr. McNAMARA (Australia) was disturbed at the amount of work which the proposed time-table envisaged for Wednesday.

Dr. WU (China) said he was unable to agree with Mr. McNAMARA's views and supported Miss MONROE's motion to accept the proposed time-table.

Mr. MASANI (India) also supported Miss MONROE's proposal and moved the closure of the debate, which was seconded by Mr. DANIELS (United States of America).

Mr. BORISOV (Union of Soviet Socialist Republics), after further examining the proposed time-table, still felt that most of the time of the Sub-Commission had been allotted to consideration of the Articles suggested by the Drafting Committee, which, in his opinion, was not the task assigned to it. He therefore repeated his previous proposal to consider Articles 13, 15, 28 and 36, and then return to the Agenda which had been adopted.

The CHAIRMAN ruled that the discussion was closed. He then put Miss MONROE's motion to accept the proposed time-table to the vote, and it was carried by 10 votes, with one abstention.

II. Items, 6, 7 and 8 of the Agenda (Continued)

The CHAIRMAN stated that paragraph 2 of Mr. BORISOV's proposal should now be examined.

Mr. NISOT (Belgium) proposed that study of the paragraph in question should be deferred until Monday and be taken under the heading "Consideration of Additional Items".

Mr. SHAFaq (Iran) opposed Mr. NISOT's proposal and suggested that the procedure suggested by the CHAIRMAN ought to be followed.

Mr. BORISOV (Union of Soviet Socialist Republics) also objected to Mr. NISOT's proposal and said he must insist on the Sub-Committee taking up consideration of the rest of his proposal at that meeting.

Miss MONROE (United Kingdom) supported Mr. NISOT's remarks. In her opinion, the proposal was a statement of something which Mr. BORISOV wished to see embodied in domestic law. As such,

she did not consider it should be incorporated in Article 6, which was part of a Declaration. She formally moved that the second part of Mr. BORISOV's proposal did not belong to Article 6 and should be considered later.

Mr. NISOT (Belgium) seconded Miss MONROE's motion.

Mr. McNAMARA (Australia) said he could not agree with Miss MONROE's views. The CHAIRMAN had given an undertaking at the end of the previous meeting and again that morning that Mr. BORISOV's proposal would be discussed. He felt that such undertakings should be honoured.

Mr. DANIELS (United States of America) supported the right of Mr. BORISOV to have his proposal considered at that meeting. He went on to say, however, that he was directly opposed to the proposal. He mentioned that an International Law Committee had been appointed with the task of co-ordinating international penal law. In his opinion, a Declaration was not the place for a penal provision. He was personally opposed to any proposal aimed at restricting hostile propaganda, and felt that the virtue in permitting such propaganda was that it served to maintain the liberty of the individual.

Dr. WU (China) supported Mr. McNAMARA's views and pointed out that, when the procedure to be followed had been declared by the CHAIRMAN no one had opposed it.

Mr. NISOT (Belgium) felt there was no violation of any undertaking to Mr. BORISOV. In discussing whether the proposal pertained to Article 6, the Members were discussing a matter of substance.

The CHAIRMAN put Miss MONROE's motion to the vote; it was rejected by 8 votes to 3.

Mr. DANIELS (United States of America) moved that a vote be taken on Mr. BORISOV's proposal. In his opinion the members were sufficiently clear on the subject to warrant a vote being taken, without further discussion.

Mr. NISOT (Belgium) seconded the motion.

Dr. WU (China) considered that further discussion was necessary. He was in general sympathy and agreement with the spirit of the proposal, but felt that the words "shall be punishable under the law" were too concrete. In their place he suggested "should be made illegal". Regarding freedom of speech, he pointed out that no freedom is absolutely unlimited, and cited the example of laws against slander. In his opinion it could not be considered an unwarrantable limitation of freedom of speech to wish to protect races and religions from hostility, in the interests of international order and peace.

Mr. MASANI (India) said he was opposed to Mr. BORISOV's proposal on the grounds that it was out of place in Article 6. Article 6 was intended to form part of a Declaration, and as such was not the place for the incorporation of a penal clause.

Mr. NISOT (Belgium) felt that Mr. BORISOV's proposal was not only incompatible with Article 6, but that it directly contradicted Articles 21 and 22, on Freedom of Speech and Expression.

Mr. McNAMARA (Australia) felt that the Members must approve of the spirit of the material in this paragraph, with the exception of the words "of national exclusiveness" contained in the second line. In his opinion no one should be penalised for wishing to be exclusive. He considered that the substance of

this paragraph might be suitable for inclusion in a convention and proposed that it be forwarded to the Human Rights Commission for consideration. He pointed out that Article 9, Clause 3, of the suggested Convention contained the points mentioned in Mr. BORISOV's proposal. He added that a similar proposal had already been adopted by the General Assembly of the United Nations in general terms. The Sub-Commission was therefore not entitled to reject it.

Mr. SPANIEN (France) agreed with the substance of Mr. BORISOV's proposal, but felt it should not be discussed in connection with Article 6. He was of the opinion, however, that the text should be considered at another time.

Mr. SHAFaq (Iran) said that, while sharing the views expressed by Mr. MASANI and Mr. SPANIEN that this paragraph did not appear to belong in Article 6, he did not agree with Mr. NISOT regarding its incompatibility with Articles 21 and 22. In his opinion there was nothing in Mr. BORISOV's proposal to contradict Articles 21 and 22.

Mr. ROY (Haiti) said that it should be possible to decide whether the proposal was relevant to Article 6. If it was relevant, he wished to speak in its support.

Mr. NISOT (Belgium) said that he would be against the proposal made by Mr. BORISOV (Union of Soviet Socialist Republics), wherever it was placed, as he considered that it impeded freedom of speech.

Miss MONROE (United Kingdom) stated that if Mr. BORISOV (Union of Soviet Socialist Republics) desired his proposal to be voted on as a whole, she would be against it because of the words "constitute a crime". Some points of the proposal would

be right in their right place, for example, "Religious Hostility" should in her opinion be in Article 8, and "National and Racial Hostility", should be in Article 22. "National Exclusiveness" was part of the so-called "War Mongering Resolution" of the Assembly.

Mr. SHAFQAQ (Iran) suggested that a vote be taken as to whether the proposal of Mr. BORISOV (Union of Soviet Socialist Republics) should be considered under Article 6 or not.

Mr. BORISOV (Union of Soviet Socialist Republics) said that the Sub-Commission's action on Part 2 of his proposal might indicate whether or not the United Nations Organization was to be effective in its protection of minorities and whether or not the Sub-Commission could effectively carry out its Terms of Reference. The position was difficult for certain delegates in whose countries he considered that discrimination existed.

Mr. NISOT (Belgium) objected to the proposal on legal grounds as it seemed to be against the freedom of the Press.

Mr. DANIELS (United States of America) objected on substantial grounds as he said that Part 2 should not be included in any part of the Bill or Convention. Mr. BORISOV considered that it was not a question as to whether the proposal was relevant to Article 6 or Article 21. It seemed clear to him that the thought behind the proposal was not accepted.

He was not surprised by the objection of Mr. DANIELS (United States of America) as discrimination against the negroes apparently existed in the United States of America. Fifteen million Negroes had addressed themselves to the American Government against this discrimination. He cited statistics indicating that

up to 1927 there had been 4,000 cases of lynching, and that since the end of the war, there had been 40 cases of lynching. He gave several examples of lynching. Such cases, he maintained, could only be considered as crimes.

If Part 2 of his proposal was not to be accepted, he felt it might indicate that the Sub-Commission was not to be trusted to carry out its Terms of Reference.

Mr. DANIELS (United States of America) said that it was strange that any member of the Sub-Commission should advocate measures to suppress freedom of expression.

He pointed out that in the United Kingdom and the United States of America freedom was not "absolute" but was limited, for example, by measures against incitement of violence. He hoped that the Sub-Commission would do something against the discrimination as had been described both in his own and other countries.

He opposed the proposal because he considered that it would result in a suppression of freedom.

He proposed an amendment to include in Part 2 of the Russian proposal all those terms now accepted by the Sub-Commission, i.e. "race, sex, religion, language, political or other opinion, property status, national social origin".

The CHAIRMAN summed up the proposals before the Sub-Commission.

The meeting rose at 12.30 p.m.