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1 December 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 TENTH MEETING

held at the Palais des Nations, Geneva,
on Monday, 1 December 1947 at 10.0 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)
	Mr. Arturo Meneses P. (Ecuador)
	Mr. 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)
Representative of the Commission on the Status of Women:	Mme. Lefauchaux
Specialized Agencies:	Mr. Rodolphe Lopes (ILO)
International Non- Governmental Organizations:	Mr. Bienenfeld (World Jewish Congress)
	Dr. G.M. Riegner " " "
	Mr. A.G. Brotman (Co-ordinating Board of Jewish Organizations)
Secretariat:	Mr. Edward Lawson
	Mr. Emile Giraud
	Mr. A.H. Hekimi

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27 JAN 1948

The CHAIRMAN said that in future Professor J.P. HUMPHREY would be attending the meetings of the Commission on Human Rights, and he thanked him for his assistance on behalf of the members of the Sub-Commission.

Article 36.

He suggested that the Sub-Commission should finish the discussion of Article 36 at that session.

Mr. MASANI (India) proposed that the words "and script" be added after the word "language" in line 6.

The CHAIRMAN put Mr. Masani's motion to the vote. The motion was adopted unanimously.

Mr. SHAFaq (Iran) said that, in his opinion, the Commission on Human Rights did not desire to encourage a spirit of linguistic or racial isolation among the nations. He had suggested, for this reason, that the words "well defined" be added before the word "ethnic", as contained in his written proposal (document CHR/INF.9).

Mr. DANIELS (United States of America) supported Mr. SHAFaq's proposal in principle. He pointed out, however, that the right of language seemed to him to be the only right enumerated in Mr. Shafaq's proposal which was not guaranteed elsewhere in the Bill.

The CHAIRMAN welcomed Mr. MENESES (the Representative of Ecuador) to the Commission.

Mr. BORISOV (Union of Soviet Socialist Republics) said that, as a point of order, Article 36 was concerned only with rights. In his opinion, Mr. SHAFaq's proposal contained definitions of minorities which in his view could not be adopted prior to the discussion on the problem of minorities. He proposed that the Sub-Commission should adopt the text of Article 36 as drafted.

Mr. MASANI (India) suggested that the word "minorities" might be replaced by the word "groups".

Mr. BORISOV (Union of Soviet Socialist Republics) said that, in his opinion, this amendment was not a motion of order, and did not affect his proposal.

Mr. SPANIEN (France) said that if the Sub-Commission later agreed upon a different definition of minorities, it would then be possible to alter the text of Article 36.

The CHAIRMAN put to the vote Mr. BORISOV's motion that Article 36 should be voted on immediately and independently of Mr. SHAFQA's proposal. There were five votes in favour, six against, and one abstention. Dr. WU (China) reserved the right later to propose an amendment.

Miss MONROE (United Kingdom) said that she agreed with the proposal to replace the word "minorities" by the word "groups". She said that she supported Mr. SHAFQA's proposal to add the words "if they chose to do so" at the end of the Article. She supported a suggestion that the word "persons" should be replaced by the word "nationals". She considered that the words "established historical evidence" were too vague and added nothing to the words "ethnic, linguistic or religious minorities."

Mr. NISOT (Belgium) said that he supported Mr. SHAFQA's proposal to introduce the word "groups". He had suggested that the word "persons" should be replaced by the word "nationals", as all relevant treaties had only been concerned with nationals.

Mr. MASANI (India) said that he supported Mr. SHAFQA's proposal to introduce the word "groups" and that he had no objection to Mr. NISOT's proposal to use the word "nationals".

Mr. McNAMARA (Australia) suggested four alterations. First, to delete the words "a substantial number". He considered that the rights contained in the Article should be granted even to a

small numerical group. Secondly, to delete the words "as far as compatible with public order." He considered that this condition could be abused by a dictator government. Thirdly, to add the words "on the basis of loyalty to the State, of which they are resident members" after the words "shall have the right." Fourthly, to add the words "where they have not a practicable facility in the official language" before the words "before the courts."

Mr. DANIELS (United States of America) said that he considered Mr. SHAFaq's proposal denied those rights to groups which were not "well defined".

Mr. BORISOV (Union of Soviet Socialist Republics) said that he would not comment on Mr. SHAFaq's proposal, but made the following comments on the present text. First, to add in line 1 the words "and nationality" after the word "race", as contained in Article 6. Secondly, to add the word "national" after the word "ethnic". Thirdly, to delete the words "as far as compatible with public order." He also considered that a government could abuse this condition. Fourthly, to add at the end of the Article words to the effect that "the government has the duty to establish conditions permitting a minority to practice effectively their rights, both by the use of State funds and by the creation of an autonomy." He considered that this provided a guarantee that a State would effectively secure the rights granted to a minority. Referring to Mr. SHAFaq's proposal, he reserved the right later to make comments.

Mr. MENESES (Ecuador) said that he did not support the replacement of the word "minorities" by the word "groups". He wished to retain the word "persons", as he considered that the rights of the individual were the most important. He supported

the two proposals; first, to delete the words "as far as compatible with public order"; secondly, to add the words "if they chose to do so."

Mr. MASANI (India) said that, in his opinion, both the proposals referring to "public order" and "basis of loyalty" could provide a government with opportunities for abuse.

Dr. WU (China) suggested that the proposers of the various amendments might be able to draft a single text.

Mr. SPANIEN (France) proposed adding after the word "minorities", in line 2 of Mr. SHAFaq's proposal, the words "having the wish to benefit from a special status." He thought that it was important to consider the conditions of a group of persons who wished to be included in a community.

Miss MONROE (United Kingdom) said that, in her opinion, the Sub-Commission had not yet agreed upon the object of Article 36. This object could be either that rights be granted to groups in the same manner as to individuals, or that no rights should be granted to groups as the rights already granted to individuals were adequate. Mr. McNAMARA (Australia) felt that Mr. SHAFaq's proposals added restrictions and were fundamentally different from his.

Miss MONROE (United Kingdom) said, in answer to Mr. MENESES (Ecuador) that she considered that other Articles had already granted rights to individuals, and that the object of Article 36 was to grant rights to groups. She proposed a motion that an Article establishing minority rights, in addition to individual rights, should be discussed.

Mr. BORISOV (Union of Soviet Socialist Republics) again said that the question of the definition of minorities should

not be raised at that time. He suggested that Article 36, as drafted by the Drafting Committee, should be voted upon by the Sub-Commission. He suggested that Article 36 would have no object, if it was considered that only individuals, and not groups, existed.

Mr. DANIELS (United States of America) considered that Article 36 might later prove to be unnecessary.

Miss MONROE (United Kingdom) proposed that no single text be discussed until the Sub-Commission had agreed on the basic definition of "protection of minorities".

Mr. MENESES (Ecuador) said that, in his opinion, it was not possible to distinguish between the rights of individuals and the rights of groups composed of individuals.

The CHAIRMAN proposed the immediate establishment of a Sub-Committee to draft a single text. There was no opposition to his further proposal that the members should be Mr. SHAFaq (Iran), Miss MONROE (United Kingdom), Mr. McNAMARA (Australia) and Mr. SPANIEN (France).

Mr. MASANI (India) proposed that the Sub-Committee should attempt to agree upon the amendments, if they were not able to agree upon a text.

The meeting rose at 12.30 p.m.