

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



CENTRAL
E/CN.4/SR.250
9 May 1952
ENGLISH
ORIGINAL: FRENCH

DOCUMENTS
INDEX UNIT **MASTER**

15 MAY 1952

COMMISSION ON HUMAN RIGHTS

Eighth session

SUMMARY RECORD OF THE TWO HUNDRED AND FIFTY-EIGHTH MEETING

Hold at Headquarters, New York,
on Friday, 14 April 1952, at 10.40 a.m.

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Recommendations concerning international respect for the self-determination of peoples (A/L.102, A/L.106, A/2112, E/CN.4/557, E/CN.4/516, E/CN.4/549, E/CP.4/562; E/CN.4/L.21, E/CN.4/L.22, E/CP.4/L.23/Rev.1, E/CN.4/L.24, E/CN.4/L.25, E/CP.4/L.25/Rev.1, E/CN.4/L.26, E/CN.4/L.27, E/CN.4/L.28/Rev.1, E/CN.4/L.28/Rev.2, E/CN.4/L.29, E/CN.4/L.30, E/CN.4/L.31) (continued)

<u>Chairman:</u>	Mr. MALIK	Lebanon
<u>Rapporteur:</u>	Mr. WHITLAM	Australia
<u>Members:</u>	Mr. NICOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHENG BINGJIAN	China
	AZKI Bey	Egypt
	Mr. CASSIN	France
	Mr. KYROU	Greece
	Mrs. MEHTA	India

Members: (continued)

Mr. JERKUL	Latvia
Mr. WILFED	Pakistan
Mr. PORATYNSKI	Poland
Mrs. ROSSAL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republics
Mr. MOROZOV	Union of Soviet Socialist Republics
Mr. HONE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELD	United States of America
Mr. BRACCO	Uruguay
Mr. JEVREKOVIC	Yugoslavia

Representative of a specialized agency:

Mr. MORELLET	International Labour Organization (ILO)
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Representatives of non-governmental organizations:

Category A:

Miss KAHN	World Federation of Trade Unions (WFTU)
Miss GANTER	International Confederation of Free Trade Unions (ICTU)
Mr. SIEGELFRAGER	World Federation of United Nations Associations (WFUNA)

Category B and Registrar:

Mr. LEVIN	Agudas Israel World Organization
Mrs. ALTMAN	Catholic International Union for Social Service (C.I.U.S.S.)
Mr. HOLBE	Council of Churches on International Affairs (CCIA)
Mr. HOGKOWITZ	Consultative Council of Jewish Organizations (CCJO)
Mrs. CARTER	International Council of Women (ICW)
Mr. BEER	International League for the Rights of Man
Mrs. POLINSKI) Mr. HOWLANDS)	World Union for Progressive Judaism
Mr. FENCE	World's Alliance of Young Men's Christian Associations (World's Y.M.C.)

Secretariat:

Mr. INSPIREY	Director, Division of Human Rights
Mr. DAS) Miss KITCHEN)	Secretaries of the Commission

/RECOMMENDATIONS

RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT FOR THE SELF- DETERMINATION OF PEOPLES (A/L.102, A/L.106, A/2112, E/CN.4/657, E/CN.4/516, E/CN.4/649, E/CN.4/662, E/CN.4/L.21, E/CN.4/L.22, E/CN.4/L.23/Rev.1, E/CN.4/L.24, E/CN.4/L.25, E/CN.4/L.25/Rev.1, E/CN.4/L.26, E/CN.4/L.27, E/CN.4/L.28/Rev.1, E/CN.4/L.28/Rev.2, E/CN.4/L.29, E/CN.4/L.30, E/CN.4/L.31) (continued)

Mr. KARCZOV (Union of Soviet Socialist Republics), at the request of the Chilean representative, explained the meaning of the third paragraph of the USSR draft resolution (E/CN.4/L.21). The formula employed was general and it was always possible to quote cases which would make it absurd. The question how important a group must be in order to be able to claim the right to national self-determination was a question of fact. The USSR proposal was designed to safeguard the exercise of that right and put an end to the enslavement of people.

Referring to the criticism which the representatives of France and the United States had levelled at the Chilean draft resolution (E/CN.4/L.24), threatening to put an end to economic assistance to countries which urged adoption of the Chilean proposal, he said that such a threat clearly showed that the aim of economic assistance was to enslave the under-developed countries. It was, in fact, more plundering by the more powerful States.

With regard to the United States amendment (E/CN.4/L.28/Rev.1) to the USSR draft resolution (E/CN.4/L.21), he felt that paragraph 1 of part B did not replace the first two sentences of the USSR text, but only the first sentence. The second was a literal reproduction of resolution 545 (VI) of the General Assembly, for which the United States text was no substitute. The USSR draft resolution had not contained the first part of the text in the General Assembly resolution, and he felt that the second Egyptian amendment, suggesting an insertion to that effect, was justified (E/CN.4/L.23/Rev.1). He therefore asked the United States representative to replace the words "first and second sentences" by "first sentence".

/s/ Mrs. MEHA

Mrs. MEHTA (India) said that she would like to substitute the synthetic working paper submitted by the Lebanese representative (E/CN.4/L.30) of her delegation's draft resolution (E/CN.4/L.25), subject to the substitution of the words "having responsibility" for the words "assuming responsibility" in the third line, and the addition of the words "and Trust Territories" after the words "Non-Self-Governing Territories" in the fourth line.

Mr. NISOT (Belgium) asked the Indian representative whether her last alteration meant that the Trust Territories were not Non-Self-Governing Territories.

The CHAIRMAN pointed out that those terms were used in Chapters XI and XII of the Charter, which did not rule out the existence of other categories of territory.

Mr. BORATINSKI (Poland) wished to know whether the new text submitted by the Indian representative was an amendment or a new draft resolution.

The CHAIRMAN said that the new text submitted by India would be distributed as document E/CN.4/L.25/Rev.1.

Mr. MOROZOV (Union of Soviet Socialist Republics) thought that the Commission's decision that the time-limit for the submission of new draft resolutions had elapsed could only be reversed by a two-thirds majority. Since the Indian text was new, the Commission would not be able to vote before the Monday morning meeting, if representatives were to be given time to receive their governments' instructions.

The CHAIRMAN pointed out that any representative was entitled to alter the text which he had already submitted. The new Indian text was thus quite in order.

/Mrs. ROOSEVELT

Mrs. ROOSEVELT (United States of America) said, in reply to the USSR representative, that paragraph 1 of part B of the United States amendment (E/CH.4/L.28/Rev.1) was in fact intended to replace the first two sentences of the USSR draft resolution (E/CH.4/L.21). She also said that she had never referred to economic assistance in her remarks on the Chilean draft resolution (E/CH.4/L.21).

Her delegation had submitted a second revised text of its amendment (E/CH.4/L.28/Rev.2) and reserved the right to make certain suggestions on it with regard to voting procedure.

Mr. CHENG PAOWAN (China) thought that the Lebanese synthetic working paper (E/CH.4/L.30) corresponded more closely to the views of his delegation than the United States draft resolution (E/CH.4/L.28/Rev.1) in which he proposed that the following alterations should be made: in paragraph 1 of part A and in paragraph 1 of part B the phrase beginning "shall promote" should be replaced by "shall undertake, within the limits of their responsibilities, to promote or guarantee the free exercise of that right in conformity with the purposes of the United Nations"; paragraph 4 of part A and paragraph 2 of part B should be deleted.

Mr. CASSIN (France) admitted that he had referred to technical assistance ... his remarks on the Chilean draft resolution (E/CH.4/L.24), but he had certainly not intended to attack the substance of the resolution nor to refuse certain countries the enjoyment of their own natural resources, as the USSR representative had maintained. His country, always respected national sovereignty and made every effort to safeguard the property rights of countries whose wealth it exploited.

Mr. NISOT (Belgium) asked the United States representative whether the new text of her delegation's amendment (E/CH.4/L.28/Rev.2) to the USSR draft resolution (E/CH.4/L.21) had intentionally maintained before the word "people" the word "another" which appeared in the Lebanese synthetic working paper (E/CH.4/L.30).

Mr. AZKOUJ

Mr. AZKUL (Lebanon) explained that his text envisaged three categories of States: States in general, those which administered Non-Self-Governing Territories and those which exercised the right of sovereignty over another people. He emphasized that the word "including", used in the synthetic working paper, proved that all the peoples which were parties to the covenant were in fact covered.

Mr. HESOT (Belgium) said that he preferred a more explicit text on that point.

Mr. BORATYNSKI (Poland) recalled that the Commission had decided at its 254th meeting to accept no further draft resolutions after 1 p.m. on 16 April. He felt that a revision of a text should consist merely in some changes of form. By accepting the new Indian draft resolution, the Commission would be granting the privilege of submitting new texts only to representatives who had already submitted draft resolutions, and he objected to such an interpretation of the rules of procedure.

The CHAIRMAN shared the Polish representative's view. He noted, however, that the United States delegation had submitted a revised text of its amendment (E/CN.4/L.28/Rev.1) at the 256th meeting without objection from anyone. Moreover, the United States delegation had just announced a new text (E/CN.4/L.29/Rev.2). The time limit set by the Commission, which had now expired, applied to the submission of new draft resolutions, and not of amendments. As regards the text which the Indian delegate wished to submit (E/CN.4/L.25/Rev.1), the question was whether it differed in substance from the original proposal (E/CN.4/L.25). It was not always easy to decide whether a proposal was entirely new. The Chairman could rule that the Indian text was not new, but merely a revised draft, and it would be for the Commission to decide on the ruling.

Mr. KIROU (Greece) had been under the impression that the time limit had applied both to draft resolutions and to amendments.

/The CHAIRMAN

The CHAIRMAN replied that the decision taken at the 25th meeting did not apply to amendments, contrary to what was said in the summary record of that meeting (E/CN.4/SR.254, page 13), from which the Polish representative had quoted.

Mr. LYON (Greece) stated that the main thing was to submit a satisfactory text. In any case, the Commission could reconsider its decision and so make the Indian draft resolvable, even if it was really new.

Mr. MEROZOV (Union of Soviet Socialist Republics) did not wish to deny a delegation the possibility of improving a text it had submitted, but so long as the previous decision stood, it would be unfortunate if the Commission itself did not abide by it. He thought that the Indian draft (E/CN.4/L.25/Rev.1) was an entirely new text and therefore not resolvable. He had no objection to the Commission reversing its decision and setting a new time limit, but a proposal to that effect should be put to the vote and would require a two-thirds majority for adoption.

He did not see how the Chairman could use the fact that the United States delegation had submitted a revised amendment at the 25th meeting (E/CN.4/L.28/Rev.1) and was presenting another one at the current meeting (E/CN.4/L.28/Rev.2) as an argument for the submission of the new Indian draft. The United States texts were amendments, for which no time limit had been set. He wished the Commission would set a time limit for amendments at once so that representatives could study them.

The CHAIRMAN said that Mr. Merozov was right in maintaining that the time limit did not apply to the new United States amendment, but felt that the Commission could reconsider its decision by a simple majority. The rules of procedure of the functional Commissions of the Economic and Social Council did not call for a two-thirds majority in such cases.

Mr. AZEUL

Mr. AZEVL (Lebanon), noting that there was a procedural difficulty, asked whether the Indian representative would agree to withdraw her new draft (E/CN.4/L.25/Rev.1) in view of the fact that the United States text (E/CN.4/L.26/Rev.2) embodied the Lebanese synthetic working paper (E/CN.4/L.30).

Mrs. MEHTA (India) was prepared to withdraw her new draft provided that the words "and Trust Territories" were added after the words "Non-Self-Governing Territories" in part A, paragraph 1, of the United States amendment (E/CN.4/L.26/Rev.2) and that paragraph 2 of that part was deleted.

Mr. ROARE (United Kingdom) wondered whether, by accepting the United States amendment (E/CN.4/L.26/Rev.2), the Commission would not be prejudging the question whether the first article on the right of peoples to self-determination should be included in only one covenant or in both. He thought the question should be discussed immediately.

The CHAIRMAN stressed that the Commission must proceed to a vote on the proposals submitted to it.

Mr. KIDOT (Belgium) stated that perhaps he would have accepted the first revised draft of the United States proposal (E/CN.4/L.26/Rev.1), but that the new revised draft (E/CN.4/L.26/Rev.2) might give rise to misunderstanding in referring to "the exercise of that right by another people" instead of "by a people". He asked the United States representative whether she would agree to change her text.

Mr. CHENG PANG-KAI (China) reserved the right to submit an amendment to the new United States text.

Mr. WHITLAM (Australia) felt that the various draft resolutions submitted to the Commission had contributed greatly to clarifying the question of the right of peoples to self-determination, so enabling an appreciation to be made of what was involved. Mr. Azouzi, particularly because of his position as Rapporteur of the Third Committee, had been able to give an illuminating review of the problem as dealt with in that Committee.

It was obvious that General Assembly resolution 545 (VI) had to be complied with but rightly the Egyptian representative had pointed out that all the Commission's decisions would be examined by the Economic and Social Council, and the General Assembly, and it was in the light of that prospect that the Australian delegation had brought the proposals before the Commission. It favoured the United States draft (E/CN.4/L.30 (Rev.2)) as being nearest to the General Assembly directive and would support the idea in paragraph 1 of part A of that draft and in the Lebanese working paper (E/CN.4/L.30). However the working paper was directed too specifically against the States having responsibilities under Chapter XI of the Charter. The United States proposal had the advantage of being as regards paragraph 1 in fairly strict accordance with the General Assembly resolution and that was the limit to which the Australian delegation was prepared to go. It was nevertheless opposed to the defining words because they were too far-reaching, but it attached importance to the words "within the limits of their respective responsibilities" taken from the Lebanese working paper (E/CN.4/L.30). Those words strengthened the implication that the proposed article as a whole was not intended to interfere with the responsibilities of States under Chapters XI and XII of the Charter.

The Australian delegation sympathized with the aims of paragraph 2, part A, of the United States draft as explained by the representative, but it felt that the paragraph was open to another interpretation. The first sentence was largely repetitious and inexact; the words "in accordance with constitutional processes" could be positively restrictive, inasmuch as the right of self-determination could be made dependent upon conditions beyond control of the peoples directly interested but imposed at the will of the controlling State; and the phrase "with proper regard to the rights of other States and peoples" was not sufficiently explicit.

/Having stated

Having stated his delegation's views concerning texts, he wished to indicate the context in which it was taking its decision and giving its vote. Firstly, its position was, as already indicated, that consideration should be given to the kind of instrument that should contain the article and it was hoped that there would yet be a fresh examination. Secondly, it was clear that further studies were demanded. Discussion had shown that all attempts to amplify the concept of "self-determination" contained implications that were obscure. It was hoped therefore that that fact would be reflected in the recommendations to be made. Thirdly, the necessity of some further reference back to Chapters XI and XII of the Charter was all too clearly indicated. The Australian Delegation gave to the concept of "self-determination" in the Charter an application which was distinct from Chapters XI and XII, and it urged that no attempt be lightly made to depart from the Charter provisions. The importance of Chapters XI and XII should not be underestimated. Australia had had the experience of being a colony, but it had passed from colony, through Dominion status, to nationhood in the space of a lifetime. Those changes had taken place through a process of evolution, they had not happened through violence though they had been hastened by participation in external wars. The fact that the process of change had been evolutionary, a matter of growth, had meant that for Australia the experience had been one of broadening freedom, the end result of which was that Australia now enjoyed the best of two worlds -- the world of nations and the world of the Commonwealth. Another result had been that Australia, becoming more conscious of her neighbours of the Asian world was finding amongst them new affinities, and in consequence still broader freedom.

It was because similar possibilities were to be found in the working out of responsibilities under the Charter with respect to Non-Self-Governing Territories and Trust Territories that the Australian delegation stressed the value of maintaining the integrity of the Charter provisions. In particular, the provisions concerning Non-Self-Governing Territories represented a great historical change -- the transformation of imperium to stewardship, and his delegation urged that, rather than depart from the existing provisions, the endeavour should be to give the fullest working efficacy to them as they stood.

/Mrs. ROOSEVELT

Mrs. ROOSEVELT (United States of America) said that her delegation was prepared to accept the Indian representative's proposal to include mention of the Trust Territories in her amendment (E/CH.4/L.29/Rev.2).

She asked for a vote on her amendment in parts, as follows: (1) in part A, paragraph 1, on the first clause of the first sentence; (2) on the remainder of the first sentence reading "that is to say, the right freely to determine their political status"; (3) on the second sentence, except for the words "within the limits of their respective responsibilities"; (4) on the omitted words; (5) in part B, paragraph 2, on the first part of the sentence, namely "The right referred to above shall be promoted and realized as provided in the Charter of the United Nations"; (6) on the words "in accordance with constitutional processes"; and (7) the remainder of the paragraph.

There would be a similar division of the vote on part B.

The CHAIRMAN took note of the United States representative's acceptance of the first part of the Egyptian amendment (E/CH.4/L.31).

Mr. AZEDUL (Lebanon) hoped that the United States representative would not press her proposal for a separate vote on the words "within the limits of their respective responsibilities" and would even agree simply to delete them. The words had been inserted in consideration of the Lebanese synthetic working paper (E/CH.4/L.30), but did not have the same meaning as in the latter document, where they were intended to indicate a different degree of responsibility on the part of countries administering Non-Self-Governing Territories from that of countries having less direct control over the exercise of the right of self-determination. On the other hand, in the United States amendment the phrase might be interpreted as limiting the obligation of States to facilitate the exercise of that right even within their own territories.

Mrs. ROOSEVELT (United States of America) said that she preferred to abide by her earlier proposal, that is, to have a separate vote on the words in question.

/Mr. CASSEB

Mr. JASSIN (France) wished to know whether the United States representative was accepting the Belgian representative's suggestion to substitute "the exercise of that right by a people" for "the exercise of that right by another people". He felt that the suggestion should be accepted in view of the fact that the proposed amendments did not say simply "All States" but all States "including those having responsibility for the administration of Non-Self-Governing Territories and those controlling in whatsoever manner the exercise of that right...".

Mrs. ROOSEVELT (United States of America) stated that her delegation preferred to retain the wording she had proposed.

Mr. NISOT (Belgium) formally proposed an amendment to the United States amendments, substituting "the exercise of that right by a people" for "the exercise of that right by another people".

Mr. CASSIN (France) wished to know whether, if the clause "that is to say, the right freely to determine their political status" in the United States amendments was adopted, such a decision would prejudice the question of the inclusion of the article on the right of self-determination in one covenant or in both covenants.

Mrs. MEHTA (India) felt that it would be necessary to alter the wording of the United States amendments if the same text was to be included in both covenants.

Mr. HOWE (United Kingdom) suggested a solution which would obviate an immediate decision on the point. The United States delegation had only to draft a third version of its text deleting the titles "For the covenant on civil and political rights" and "For the covenant on economic, social and cultural rights". The Commission could then adopt the text and decide subsequently whether to include it in one covenant or both.

Mrs. ROOSEVELT (United States of America) explained that she had asked for a separate vote on the words "freely to determine their political status" precisely because, if part B of the amendment were not adopted, part A, with

that phrase deleted, could easily be incorporated in both covenants, if an article were to be included in each of the covenants. It would be better to make it clear that one of them related to the right of peoples freely to determine their political status and the other to the right of peoples to determine their economic, social and cultural status.

The CHAIRMAN pointed out that the covenant on civil and political rights included articles on rights which were not strictly political, such as freedom of thought and freedom of religion. If the articles were included as it stood, the covenant would no longer be homogeneous.

AMRI Bey (Egypt) recalled that the amendment submitted by his delegation (E/CN.4/L.23/Rev.1) was to be put to the vote before the United States amendment and pointed out that the definition in both was couched in general terms. The difficulties mentioned by the Chairman would be overcome if that definition were adopted.

The CHAIRMAN wondered whether the USSR representative's statement at the preceding meeting meant that the USSR delegation had accepted the Egyptian amendment.

Mr. MORCZOV (Union of Soviet Socialist Republics) recalled that the Commission first had to vote on the Polish amendment (E/CN.4/L.27) to the Egyptian amendment. He had approved the latter in principle and thought it advisable to put it to the vote to satisfy the Egyptian representative; he would vote for it.

Mr. AZKOUK (Lebanon) thought that the question whether to include the article under discussion in both covenants or only in one of them had been left to the Commission, as shown in the text of resolution 545 (VI), which used the words "in the covenant or covenants".

/With regard

With regard to the phrase "to determine their political status", obviously the idea of political status was very clear and was bound up with the idea of political independence or dependence of peoples. The rights covered in the covenant on civil and political rights did not enter into that concept; they were individual rights, mainly civil and civic rights and not political rights, strictly speaking. The suggested distinction was therefore artificial. On the other hand, it was possible that some States would be willing to ratify the first covenant and not the second, and that other States would ratify the second and not the first. The States in the first group would consequently differ from the second group in defining the right of self-determination and that would be a serious anomaly.

It would be better for the Commission not to adopt a definition because it might be too restrictive or open to unexpected interpretations.

Mr. WALENTELA (Chile) maintained that the General Assembly resolution obliged the Commission to include an article on the right of peoples to self-determination in both covenants. The Assembly had affirmed that right during its fifth session in resolution 421 D (V). As the Commission on Human Rights had been unable to undertake the study requested during its seventh session, the Assembly had adopted resolution 545 (VI), which had decided on the inclusion of an article on the right of self-determination in the covenant or covenants. The Third Committee of the Assembly had used the phrase "in the covenant or covenants" merely to take account of the fact that the Assembly had not yet decided in plenary meeting whether there should be one or two covenants on human rights.

Mr. CASSIN (France) agreed with the Chilean representative. It would be useful to include an introductory statement or a proclamation drafted in identical terms in both covenants. The Commission should adopt as simple a resolution as possible and attempt to work out a recommendation concerning international respect for the right of peoples to self-determination.

/The CHAIRMAN

The CHAIRMAN thought that the articles were expected to appear in both covenants. It remained to be decided whether they should be similar.

Mr. MURPHY (Union of Soviet Socialist Republics) considered that the articles could not be different in the two covenants. They were to deal with the same right and the realization and safeguarding of economic, social and cultural rights was the essential foundation for the recognition and guarantee of civic rights.

Mr. NISOT (Belgium) was in complete agreement with that view.

Mrs. ROOSEVELT (United States of America) pointed out that the two articles in her delegation's amendment were identical in substance; the only difference lay in the rights affected by self-determination.

Mr. VALDEVEGA (Chile) shared the United States representative's view. Uniformity was undoubtedly desirable. Besides, it had been decided that the two covenants should include as many analogous provisions as possible. That rule should of course be followed so far as possible, although no attempt should be made to apply it rigidly. Otherwise, it would be pointless to draft the covenants because their texts would be identical in every respect. Adoption of an article applicable to both civil and economic rights in relation to the right of self-determination would be tantamount to eliminating that right in the economic field.

At that stage, the Commission should confine itself to adopting the texts of the articles contemplated and decide subsequently where they should be placed in the covenants.

The meeting rose at 1.05 p.m.