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Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND SIXTY-THIRD MEETING

Held at Headquarters, New York,  
on Tuesday, 22 April 1952, at 2.50 p.m.

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<u>Chairman:</u>	Mr. CASSIN	(France)
<u>Rapporteur:</u>	Mr. WHITLAM	Australia
<u>Members:</u>	Mr. NISOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHENG PAONAN	China
	AZMI Boy	Egypt
	Mr. JUVICHY	France
	Mr. KYROU	Greece
	Mrs. MEHTA	India
	Mr. AZKOUL	Lebanon
	Mr. WAHEED	Pakistan
	Mr. BORATYNSKI	Poland

Members: (continued)

Mrs. ROSSEL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. MOROZOV	Union of Soviet Socialist Republics
Mr. ROARE	United Kingdom of Great Britain and Northern Ireland
Mrs. BOGGEVELT	United States of America
Mr. BRACCO	Uruguay
Mr. JEVREJKOVIC	Yugoslavia

Representatives of specialized agencies:

Mr. MORELLET	International Labour Organisation (ILO)
Mr. ARNALDO	United Nations Educational, Scientific and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:Category A:

Mr. LEARY )	International Confederation of Free Trade Unions (ICTU)
Miss BENDER )	
Miss KAHN	World Federation of Trade Unions (WFTU)

Category B and Register:

Mrs. VERGARA	Catholic International Union for Social Service
Mrs. PARSONS	International Council of Women
Mrs. HYDER )	International Federation of Business and Professional Women
Mrs. SOUDAN )	
Mr. BEER	International League for the Rights of Man
Mrs. PHILLIPS	Liaison Committee of Women's International Organizations
Mrs. POLSTEIN )	World Union for Progressive Judaism
Mr. RONALDS )	

Secretariat:

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

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.4/663, E/CN.4/L.26/Rev.1; E/CN.4/L.32, E/CN.4/L.33, E/CN.4/L.34, E/CN.4/L.35, E/CN.4/L.36, E/CN.4/L.37, E/CN.4/L.38, E/CN.4/L.39) (continued)

Mr. NISOT (Belgium) explained to the Commission that his delegation's amendment (E/CN.4/L.35) to the United States draft resolution would bring that text more into line with the Charter by making it apply to all States, and not to colonial Powers only.

Mr. WAHEED (Pakistan) thought that the United States draft resolution (E/CN.4/L.32) should be clearer and more detailed, he thought it essential that the Committee should expressly provide for a system by which the progressive development of peoples might be ensured. If the article on the right of peoples to self-determination was to be more than a mere declaration of principle, the recommendations concerning the implementation of that right must be more specific than the article itself.

He agreed with the ideas contained in the Indian draft resolution (E/CN.4/L.26/Rev.1) and said that his delegation would support it. That draft, too, however, should be clearer and more specific; in particular it should state that the word "peoples" applied to all national groups alike.

Mr. KYROU (Greece) explained that his delegation's amendment (E/CN.4/L.35) to the United States draft resolution (E/CN.4/L.32) was designed to emphasize that free elections or plebiscites were the best way to implement the right of peoples to self-determination.

Mr. JUVIGNY (France) stressed that his delegation attached great importance to the task which the General Assembly had entrusted to the Commission when it had requested it to examine ways and means of implementing the right of peoples to self-determination. The Commission could not discharge it fully and properly without making a thorough study of those ways and means; mere paraphrases

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of the text of the article it had adopted at the meeting the day before (E/CN.4/662) was not enough. The United States and Indian draft resolutions (E/CN.4/L.32 and E/CN.4/L.26/Rev.1) did not seem entirely adequate for that purpose. The United States draft did not reflect the scope of the article adopted by the Commission which covered States controlling in any manner whatsoever the right of a people to self-determination. The French delegation could not either implicitly or explicitly accept any drafting showing such discrimination; it would support the Belgian amendment (E/CN.4/L.33).

His delegation would like the recommendations to contain a statement to the effect that the right of peoples to self-determination should be exercised by democratic means only, and that political rights must not be attained in disregard of human rights. He further would like the recommendations to refer to the provisions of the Charter, as it was necessary to emphasize that the right of self-determination of peoples should be exercised in a manner compatible with international peace and security. The French delegation could not agree to a conception of the right of peoples which admitted the right for them to kill one another. Lastly, a reservation should be made in respect of international obligations such as those arising out of the desire to prevent the recurrence of aggression, the memory of which was still fresh.

If the Commission wished to do more than state the general principles he had set forth, it should study the question thoroughly; such a study could not be carried out without the help of the qualified organs. That was why the French draft resolution (E/CN.4/L.34) proposed that the International Law Commission, the Sub-Commission on Prevention of Discrimination and the Protection of Minorities -- if the Economic and Social Council should re-establish it -- and UNESCO should be asked to make studies designed to clarify the subsequent work of the Commission on Human Rights.

AZMI Bey (Egypt) noted that his delegation had submitted an amendment (E/CN.4/L.36) to the Indian draft resolution (E/CN.4/L.26/Rev.), to add the words "held under the auspices of the United Nations" after the word "plébisците"

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as it feared that some elections and plebiscites organized by local governments might not provide the same safeguards as those held under the auspices of the United Nations.

That was also the reason for point 2 of his delegation's amendment (E/CN.4/L.38) to the Greek amendment (E/CN.4/L.35) to the United States draft resolution (E/CN.4/L.32) and for point 1 of his delegation's amendment (E/CN.4/L.39) to the French draft resolution (E/CN.4/L.34).

He further explained that point 1 of his delegation's amendment (E/CN.4/L.38) to the Greek amendment (E/CN.4/L.35) to the United States draft resolution (E/CN.4/L.32) called for the deletion of the words "for example" because it seemed to imply, to no particular purpose, that other examples were possible.

The object of his delegation's amendment (E/CN.4/L.51) to the United States draft resolution (E/CN.4/L.32) was to reproduce, in the first two paragraphs of the draft's operative part, the exact definition of the right of peoples as contained in the article adopted by the Commission (E/CN.4/663).

Lastly, he noted that point 2 of his delegation's amendment (E/CN.4/L.39) to the French draft resolution (E/CN.4/L.34) was to omit reference to other international obligations in that connexion, so as to avoid the difficulty already dealt with under Article 103 of the Charter which provided that the obligations of Member States under the Charter would prevail over their obligations under any other international agreement.

Mrs. MEHTA (India) saw no need for the first sub-paragraph of paragraph I of the French draft resolution (E/CN.4/L.34) which merely recalled the provisions already laid down in the Charter. The second sub-paragraph made no provision to enable Non-Self-Governing Territories to attain their legitimate aspirations. She feared, besides, that that consultation of the International Law Commission among others might result in an unfortunate delay in the exercise by some peoples of their right to self-determination.

Her delegation accepted the Egyptian amendment (E/CN.4/L.36) to the Indian revised draft resolution (E/CN.4/L.26/Rev.1).

/s/ Mr. KYROU

Mr. KYROU (Greece) shared the Indian representative's misgivings regarding the French draft resolution (E/CN.4/L.34). He noted, further, that paragraph I of the operative part of that draft amounted to an admission that the Charter was not being respected. As regards the studies advocated in paragraph II of that draft, the Commission would be shirking its task if it submitted a recommendation to the General Assembly of that kind. Furthermore, the proposed consultation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities might confuse the question.

Mrs. ROOSEVELT (United States of America) hoped the Egyptian representative would withdraw his delegation's amendment (E/CN.4/L.36) to the Indian revised draft resolution (E/CN.4/L.26/Rev.1). The amendment was designed to guarantee freedom of elections, but it was difficult to state, in principle, that the elections or plebiscites would, in all the cases in question, have to be carried out under the auspices of the United Nations. It could not be denied that certain elections were free; those recently held in Puerto Rico, Hawaii and Alaska were cases in point.

She was prepared to vote in favour of the Indian draft resolution. She shared the Indian representative's view concerning the French draft (E/CN.4/L.34) which she could not support. After studying the Belgian amendment (E/CN.4/L.35) to the United States draft resolution (E/CN.4/L.32), her delegation preferred to maintain its original proposal.

AZMI Bey (Egypt) said that no one doubted that the elections referred to by the United States representative had really been free. On the other hand, elections recently held in Europe had been rigged by means of various manoeuvres and tricks, and conducted in a spirit showing an entirely new conception of constitutional and electoral law. For that reason he would prefer the United Nations to supervise elections in order to ensure that they were entirely free and to endow them with the prestige attaching to the Organization.

/Mr. VALFARZELA

Mr. VALENZUELA (Chile) was in complete agreement with that view. The solution proposed by the Egyptian representative was in harmony with the spirit of the task entrusted to the Commission by the General Assembly, involving, as it did, the practical application of the right of peoples to self-determination. With such a guarantee the results of the elections or plebiscite could not be open to question. The Egyptian representative had also rightly noted that the obligations of Member States entrusted with the administration of Non-Self-Governing Territories should not, as in the United States draft resolution, be limited to the political field alone.

Apparently the phrase "other international engagements" in paragraph I of the French draft resolution (E/CH.4/L.34) had been inserted to cover the case of the Saar. The Commission should not adopt a proposal which, though couched in general terms, actually dealt with a specific and temporary situation. Such a provision would hinder progress, as some international engagement or other, which a Non-Self-Governing Territory was bound to observe, could be invoked with regard to any such Territory. The Chilean delegation would therefore vote against that paragraph.

The study which the French draft resolution would have the International Law Commission undertake would doubtless prove interesting. But the International Law Commission already had a very heavy agenda and it was legitimate to ask what measures would be taken pending the Commission's report. Moreover, the Economic and Social Council had decided to abolish the Sub-Commission on Prevention of Discrimination and Protection of Minorities and, while it was true that the General Assembly had asked the Council to review its decision, there could at the present time be no question of asking the Sub-Commission to undertake such a study. Accordingly, the Chilean representative could support only sub-paragraph 3 of paragraph II of the operative part. It would indeed be useful to ask UNESCO to undertake the proposed study. As the number of territories which did not enjoy full sovereignty diminished, it became ever clearer that there was one continent -- Africa -- where, owing to arbitrary territorial divisions for political reasons, the concept of a people no longer had any real meaning. Administrative districts did not correspond to the areas inhabited by specific peoples, and some populations which definitely formed ethnic units were split up among different territories. UNESCO had concerned itself with that question and it would be useful to engage its services.

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He would vote for the Indian revised draft resolution (E/CN.4/L.26/Rev.1) as amended by Egypt (E/CN.4/L.35), and for the United States draft resolution (E/CN.4/L.32) as amended by Greece (E/CN.4/L.33) and Egypt (E/CN.4/L.37 and E/CN.4/L.38).

Mr. JUVIGNY (France) thanked the members of the Commission for the consideration they had given his delegation's draft resolution. He would reply to some of the remarks made.

With regard to the Egyptian representative's comments on the phrase "by democratic means," it should be noted that the French delegation was referring not only to a plebiscite but to any demonstration of opinion on the right of self-determination. Before any plebiscite, there was a preparatory stage when an active political minority might resort to non-democratic tactics, for example, by terrorizing the population or practicing a kind of blackmail against it to compel it to proclaim a right which was not in accordance with its real wishes.

The reference in his draft resolution to international engagements was not intended to apply to the Saar, but to cases like that of Germany where restrictive measures were still enforced for security reasons. Reference to those international engagements would not, as some feared, create international difficulties because either those engagements were in conformity with the Charter and there was no objection to mentioning them, or else they were not in conformity with the Charter and therefore could not figure in a United Nations document. There might be a question of interpretation, but there was no ambiguity on the substance.

The Indian representative had stated that paragraph I of the operative part merely reiterated the terms of the article to be included in the covenants and was therefore superfluous. It must be borne in mind, however, that the General Assembly might adopt the recommendations before adopting the texts of the covenants and even after the covenants had been adopted, they would still not be legally enforceable. Moreover, even after they had been ratified by certain Member States and had come into force, there would still be States which had not ratified them. In order to take account of those facts, the recommendations should have a legal basis of their own. The representative of India had also insisted that the Non-Self-Governing Territories should exercise  
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the right of self-determination while the recommended studies were going on. But a right could be exercised only if it were defined. On the other hand, a United Nations decision could not impose obligations on States administering Non-Self-Governing Territories which went beyond those prescribed in the Charter, the supreme law of the United Nations.

It was regrettable that the French delegation had introduced the concept of minorities in its draft resolution. In carrying out studies on the right of peoples to self-determination in contradistinction to a mere statement of that right, it was normal to study the relationship between the right and the protection of minorities.

As the Chilean representative had observed, the International Law Commission's agenda was very heavy and the French delegation had not overlooked that fact. It was for the General Assembly, however, and not for the Commission on Human Rights, to decide what priority the International Law Commission should give to a study on the right of peoples to self-determination.

Taking account of the Chilean representative's observation regarding sub-paragraph 2 of paragraph II, he proposed that the words "should the occasion arise" be inserted after the word "request". He intended, moreover, to submit a revised draft resolution.

Mr. NISOT (Belgium) recalled that his delegation's amendment (E/CN.4/L.35) was intended to ensure the universal application of the right of peoples to self-determination in accordance with the Charter. As the United States representative had said she could not accept the amendment, he wondered whether the Indian representative would consent to alter the paragraph to take account of the Belgian amendment, since paragraph (2) of the Indian draft resolution (E/CN.4/L.26/Rev.1) also referred only to States responsible for the administration of Non-Self-Governing Territories.

Mr. ERACCO (Uruguay) would vote for the Indian draft resolution (E/CN.4/L.26/Rev.1) and for the Egyptian amendment (E/CN.4/L.36). He would also

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support the United States draft resolution (E/CN.4/L.32) but would have to vote against the Belgian amendment (E/CN.4/L.35). He would vote for the Greek amendment (E/CN.4/L.33) which was completed by the Egyptian amendment (E/CN.4/L.36). He considered it necessary to state explicitly that the elections or plebiscites would be organized under the auspices of the United Nations. In specific cases, there would perhaps be no need for the United Nations to intervene, but it was important to lay down a general rule.

Mr. Bracco would be unable to vote for most of the provisions of the French draft resolution (E/CN.4/L.34). Some of the expressions used, for example the phrase "by democratic means", were too vague and precision was essential if effect were to be given to the principle of self-determination of peoples. Moreover, the international engagements mentioned in the draft referred to engagements between certain States and the Non-Self-Governing Territories they administered. To maintain those engagements would simply mean to maintain the status quo. The Uruguayan representative could only vote for sub-paragraph 3 of paragraph II because he felt that the study UNESCO was requested to undertake might be very useful.

Mr. MOROZOV (Union of Soviet Socialist Republics), referring to the three main draft resolutions before the Commission, submitted by the United States, France and India respectively, said that the United States draft resolution (E/CN.4/L.32), far from bringing the Commission nearer the goal assigned it by the General Assembly, was a backward step in relation to the stage the Commission had reached when it adopted a very concrete article on the right of peoples to self-determination (E/CN.4/663).

In the spirit of the General Assembly's resolution (A/L.102), the article on the right of self-determination of peoples should be closely related to the recommendations the Commission had been asked to make. The recommendations should set forth measures for the implementation of the principle defined in the article. Certain basic elements of the article adopted by the Commission, however, were lacking in the United States draft resolution.

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First, there was no reference to the right of "all nations" to self-determination, probably because the United States delegation had voted against the inclusion of those words in the article adopted by the Commission. That was a curious way to abide by the Commission's decision.

Secondly, the United States draft resolution destroyed the clear definition of the right of self-determination of peoples proposed by the Egyptian delegation and adopted by the Commission, namely, that every people had the right freely to determine its political, economic and cultural status.

Thirdly, the provision on the right of peoples to sovereignty over their natural resources proposed by the Chilean delegation and adopted by the Commission was likewise ignored in the United States draft resolution, once again probably because the United States delegation had voted against it.

With such obvious gaps, the United States draft resolution was an invitation to ignore all the Commission had accomplished so far and to reiterate ad infinitum the general principles of the Charter without ever defining them.

The same gaps could be noticed in the French draft resolution (E/CH.4/L.32) and the Chilean delegation's criticism of it was largely justified. Peoples aspiring to national liberation had little use for pseudo-scientific studies or legal subtleties on well-worn topics invented by experts who paid no heed to the facts. He wondered what legal aspects of the right of self-determination of peoples the International Law Commission must study before the principle was given effect. A guess might be made that France wanted a study of those legal aspects of the principle which were straining the relations of metropolitan France with its colonies. In its Constitution of 1946 France had imposed on the peoples of the empire to determine the status of Associated States of the French Union, but had refused that status to Madagascar on the grounds that there were legal difficulties. An analysis of the provisions of article 73 of the Constitution of the French Republic and the fact that the peoples of the empire were not equal in the establishment of legislative organs showed that they did not enjoy equality of status.

In the case of Tunis and Morocco, earlier treaties affirming their protectorate status were applicable, not the 1946 Constitution. Thus the French Union did not recognize the sovereignty of the States it comprised. The difficulties France was now encountering, which had moved eleven Member States to ask the Security Council to consider the question of Tunis, were caused by France's desire to maintain the status quo indefinitely.

No legal problem prevented the Commission on Human Rights from making appropriate recommendations to give effect to the principle of the right of self-determination of peoples. The French draft resolution only complicated the Commission's work to no purpose and should be rejected.

On the other hand, the Indian draft resolution (E/CH.4/L.26/Rev.1) might serve as a basis for a useful discussion. It was designed effectively to carry out the General Assembly's instructions to the Commission to prepare recommendations on the implementation of the principle of the right of self-determination of peoples. Some of the provisions of the Indian draft were realistic and, subject to a few alterations, it might enable the Commission to accomplish its task and draw up a text worthy of submission to the General Assembly for approval.

Mr. JUVIGNY (France), replying to the USSR representative, pointed out that Mr. Morozov appeared to have misunderstood the position of the Associated States of the French Union. It was not true, if that was what Mr. Morozov had meant, that only metropolitan France was empowered to elect representatives to the legislative organs. The component parts of the French Union elected their representatives to those bodies by universal suffrage.

He had not understood the USSR representative's criticism of the quasi-federal structure of the French Union. Federated States were not unknown in the present-day world and the Union of Soviet Socialist Republics was a clear example of such a State.

The legal studies intended to elucidate the concept of the right of self-determination of peoples hardly warranted the contempt with which the USSR representative would seem to want to treat them. The Soviet Union itself had published scientific works on a related subject known as "the national question" and the author of those works appeared to enjoy considerable prestige in the USSR.

The CHAIRMAN reminded delegations that the time-limit for the submission of draft resolutions expired at 5.30 p.m. on 22 April and, after consulting the Commission, he fixed the time-limit for amendments at noon on 23 April.

AMBIROY (USA) moved the adjournment of the meeting.

The motion for adjournment was adopted by 12 votes to none, with 5 abstentions.

The meeting rose at 5.10 p.m.