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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND SIXTY-FOURTH MEETING

Held at Headquarters, New York
on Wednesday, 23 April 1952, at 10.30 a.m.

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Recommendations concerning international respect for the self-determination of peoples (A/L.100, A/L.101, A/L.102, A/L.103, A/L.104, A/L.105, A/L.106, A/L.112; E/CH.4/L.216, E/CH.4/L.549, E/CH.4/L.651, E/CH.4/L.662, E/CH.4/L.663; E/CH.4/L.26/Rev.1, E/CH.4/L.32, E/CH.4/L.32, E/CH.4/L.32/Rev.1, E/CH.4/L.35, E/CH.4/L.36, E/CH.4/L.37, E/CH.4/L.38, E/CH.4/L.39, E/CH.4/L.40, E/CH.4/L.41, E/CH.4/L.42, E/CH.4/L.43, E/CH.4/L.44) (continued)

<u>Chairman:</u>	Mr. MALIK	(Lebanon)
<u>Rapporteur:</u>	Mr. WHITLAM	(Australia)
<u>Members:</u>	Mr. NICOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHENG TAO-KAN	China

Members: (continued)

AMNI Bey	Egypt
Mr. CASSIN	France
Mr. KYROU	Greece
Mrs. KHATA	India
Mr. AZKOUK	Lebanon
Mr. WAHED	Pakistan
Mr. BCRATYIFSKI	Poland
Mrs. KXGEL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. NORDZOV	Union of Soviet Socialist Republics
Mr. HOAFE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. BRACCO	Uruguay
Mr. JUVRENOVIC	Yugoslavia

Representatives of specialized agencies:

Mr. MONNET	}	International Labour Organization (ILO)
Mr. PICKFORD		
Mr. ARNALDO		United Nations Educational, Scientific and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:

Category A:

Miss MAE	World Federation of Trade Unions (WFTU)
Miss GEMER	International Confederation of Free Trade Unions (ICFTU)

Category B:

Category B:

Mr. MOSCOWITZ	Consultative Council of Jewish Organizations
Mrs. PARSONS	International Council of Women
Miss SCHAEFFER	International Union of Catholic Women's Leagues
Miss FREEMAN Miss ROSS	Liaison Committee of Women's International Organizations
Mr. JACOBY	World Jewish Congress
Mrs. POLSTEIN	World Union for Progressive Judaism
Mr. PENCE	World's Alliance of Young Men's Christian Associations

Secretariat:

Mr. BURGERY	Director, Human Rights Division
Mr. DAS Miss KITCEEN	Secretaries of the Commission

RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT FOR THE SELF-DETERMINATION OF PEOPLES (A/L.100, A/L.101, A/L.102, A/L.103, A/L.104, A/L.105, A/L.106, A/2112; E/CN.4/516, E/CN.4/649, E/CN.4/657, 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/Rev.1, 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, E/CN.4/L.40, E/CN.4/L.41, E/CN.4/L.42, E/CN.4/L.43, E/CN.4/L.44) (continued)

Mr. AZKUL (Lebanon) submitted two draft resolutions on behalf of the Lebanese delegation (E/CN.4/L.40 and E/CN.4/L.41).

The first, a draft resolution to be addressed to States responsible for the administration of Non-Self-Governing Territories, recognized the importance of official information on political conditions in Non-Self-Governing Territories in facilitating action to promote respect for the right of self-determination. He noted that, although information on the government of Non-Self-Governing Territories was not specifically required under Article 73 of the Charter, the General Assembly had in resolution 144 (II) declared the

/voluntary

voluntary transmission of such information to be entirely in conformity with the spirit of that Article of the Charter and subsequently in resolution 327 (IV) had expressed the hope that members who had not already done so would voluntarily include details on the government of Non-Self-Governing Territories in the information transmitted under that Article 73 e. It was noteworthy that the General Assembly had never gone so far as to make a specific recommendation on the subject. In view of the vital nature of the problem and the importance of the information, a recommendation by the General Assembly urging voluntary submission of such information might have a salutary moral effect and encourage States to supply the information requested.

The series of resolutions before the Commission urging recognition of the right of self-determination and calling for independence for peoples demanding that right even when, as at present, the States administering Non-Self-Governing Territories were not yet prepared to furnish simple information on the political conditions in these Non-Self-Governing Territories stressed the discrepancy between the aspirations of the peoples of the world and the position of the States responsible for the administration of the Non-Self-Governing Territories.

The second Lebanese draft resolution (F/CN.4/L.41) related to the appointment of an ad hoc committee by the General Assembly to study the entire field of action by the various United Nations organs and the specialized agencies and to prepare recommendations for the eighth session of the General Assembly with a view to promoting international respect for the self-determination of peoples, in particular of the peoples of Non-Self-Governing Territories.

Even after the Commission had acted on all the other proposals before it, the broad question of measures to promote the self-determination of peoples would not be exhausted. Much more remained to be done in the field, but the Commission with its exceedingly heavy agenda was not in a position to consider the matter thoroughly. The French draft resolution calling for local studies was in essence an extension of the article on implementation to be inserted in the covenants, while the other resolutions which had been submitted merely recommended that States should encourage international respect for the self-

/determination

determination of peoples. It was clear, however, that the question was very complex and that many of the specialized agencies and other organs of the United Nations, including the Economic and Social Council, the Trusteeship Council and even the Security Council could contribute to the universal recognition of the right in question. A special study of the field of competence of each organ and specialized agency by an ad hoc committee would tend to clarify the matter and facilitate further progress.

Mr. CASSIN (France) stated that the revised French draft resolution which had just been circulated (E/CN.4/L.34/Rev.1) contained no substantive changes but merely corrected an omission in the preamble and at the same time added the word "eventuellement" to meet the Chilean representative's observation concerning the Sub-Commission Prevention of Discrimination and Protection of Minorities.

Mr. NISKT (Belgium) said the Lebanese draft resolution's recommendation that Member States should submit political information (E/CN.4/L.40/Rev.1) went beyond the scope of Article 73 e of the Charter. In view of that departure from the provisions of the Charter, he wondered why the benefits of the recommendation should be reserved for the peoples of colonies and Trust Territories, to the exclusion of all other subject peoples, who had been incorporated in States. Such an exclusion was unjustified; he would vote against the resolution unless it was made general in scope.

Mr. JEVANDVIC (Yugoslavia) indicated general agreement with much of the criticism and many of the reservations expressed in connexion with various draft resolutions before the Commission.

The Yugoslav delegation considered the United States proposal unacceptable because, in merely repeating principles contained in the Charter, it established a dangerous precedent by which all of the principles of the Charter would, by implication, require reaffirmation as evidence of their validity.

/The French

The French draft resolution was objectionable because it gave the impression that the only obstacle to the solution of the vital question of the right of self-determination of peoples was the absence of legal definitions. Even without precise definitions of the words "nation" and "State", which after all were generally understood, the United Nations must face all questions respecting a threat to peace without delay and in a realistic manner. Moreover, the procedure contemplated in the French proposal would involve indefinite postponement of a solution. The Yugoslav delegation would be unable to support the French proposal which failed to contribute to a settlement of the question of the right of self-determination.

The Indian draft resolution (E/CN.4/L.25/Rev.1) was somewhat better but was inadequate in that it contained no concrete measures for the handling of specific cases and made no provision for an organ to deal with questions of self-determination.

The Lebanese draft resolutions were much more concrete but were also inadequate. E/CN.4/L.40 dealing with the question of Non-Self-Governing Territories was open to criticism because the question of self-determination was much broader and applied not only to Non-Self-Governing Territories but also to sovereign States whose independence was threatened. The said proposal was acceptable although inadequate.

The second Lebanese proposal (E/CN.4/L.41) was also inadequate because the procedure of setting up an ad hoc committee would involve a delay of at least two years in obtaining recommendations on a subject which required prompt action. Moreover the restriction of the terms of reference of the proposed ad hoc committee to specialized agencies and organs already in existence was inadvisable because existing institutions were inadequate to cope with the complex issues involved in self-determination.

The Commission had reportedly spoken of implementation measures and the necessity of establishing an organ to implement all human rights. In view of the general agreement on the importance of self-determination as a fundamental right, the Commission should consider the possibility of

/authorizing the

authorizing the organ for implementation of human rights to consider all cases of violations of the right of self-determination of peoples and report to the General Assembly. A definite procedure for violations was most essential.

Referring to the amendments submitted, particularly by Egypt, he stated that the procedure of plebiscites was acceptable to the Yugoslav delegation.

In his opinion the Indian and Lebanese draft resolutions (E/CN.4/L.26/Rev.1 and E/CN.4/L.47) were worthy of consideration. He wished however to reserve the right of his delegation to adopt a final position on the various proposals at a later stage.

Mr. BOBATYNSKI (Poland) remarked that the Indian representative herself did not appear to think that a plebiscite was the only possible way of ascertaining the particular wish for self-government; in order to indicate that other ways were acceptable, he proposed the addition of the words "in particular" at the end of paragraph 2 of the operative part of the revised Indian draft resolution (E/CN.4/L.26/Rev.1).

Mrs. KAZDA (India) accepted that amendment.

Mr. HOARE (United Kingdom) remarked that the revised Indian and the United States draft resolutions (E/CN.4/L.26/Rev.1 and E/CN.4/L.32) dealt only with the respect of sovereign States for one another's rights and with the realization of the right of self-determination by the peoples of Non-Self-Governing and Trust Territories. Such a recommendation on the subject of self-determination was obviously inadequate, as it excluded groups of population in the territory of a sovereign State. There were two objections to that approach. First, the Powers responsible for the administration of Non-Self-Governing Territories had already accepted, under Article 73 of the Charter, the obligation to help the populations concerned to develop self-government; yet the proposed recommendation would exhort them to still greater efforts, while turning a blind eye to the same problem in other States.

/Secondly,

Secondly, the recommendation was inconsistent with the article on the right of peoples to self-determination already adopted by the Commission. The Commission had rejected the USSR text which would have limited that right to Non-Self-Governing Territories and had made it apply to all States. Yet in its recommendations to the General Assembly the Commission was being asked to revert to a principle it had refused to accept. Such an action on its part would be interpreted as meaning that in the article it had been merely paying lip service to a broad conception of the right of self-determination, but really intended it to apply to Non-Self-Governing Territories alone.

The content of paragraph 1 of the operative part of the revised Indian draft resolution was strangely reminiscent of a mutual agreement and of Article 10 of the Covenant of the League of Nations. Such a provision had been deliberately omitted from the United Nations Charter. Paragraph 2 was not only confined to Non-Self-Governing and Trust Territories but was dreadfully imprecise. The right of self-determination was to be granted to the people of those territories on their demand; but vociferous demands could be made by a small group, or anyone who purported to represent the people. Granting such demands might do irreparable harm to the people as a whole, while refusing them on the ground that they were not representative would bring the administering State criticism in United Nations bodies, the fact that a plebiscite was proposed to ascertain the popular will showed how uncertain it would be whether a demand was in fact a demand of the people.

That the popular wish should be ascertained by plebiscite was in itself a worthy concept; unfortunately, the usefulness of a plebiscite was affected by the area covered, the conditions under which it was administered, and even the time when it took place. Plebiscites were often calculated to lead to strife and bloodshed. If plebiscites had indeed been the answer to the problem, they would have been applied in numerous areas of the world -- other than Non-Self-Governing Territories -- where serious political disputes now existed essentially on the same question, namely, under whose sovereignty a particular population should be. The resolution of such questions was not simple, but called for the highest statecraft. Furthermore, the populations of the Non-Self-Governing Territories were not always the subject of a single dispute, for the population representative appeared to have in mind and only were aware of their demand of different races, but frequently ethnic groups overlapped from one territory into another. Minority problems arose in those territories just as they did in other States.

He failed to understand the Indian representative's unwillingness to recognize that the right of self-determination extended to those national minorities who could claim to be "peoples". Such minorities, of course, represented a thorny problem, but it was one to which the Commission could not close its eyes, and it was worth stressing that the article adopted by the Commission applied to national minorities as well.

He urged the Commission not to adopt the Indian or United States draft resolutions unless it was prepared to go back on a decision of principle which it had taken in adopting its article on self-determination for inclusion in the covenants on human rights.

The revised French draft resolution (E/CN.4/L.34/Rev.1) had the merit of applying to all States; but its proposal that the International Law Commission should study certain aspects of the right of self-determination was not realistic. As the Lebanese representative had pointed out, there was little international doctrine or jurisprudence on the subject, and the proposed study could never result in a complete set of rules of statecraft for solving the problem. Moreover the International Law Commission was already heavily overloaded. By adopting that resolution, the Commission would be merely evading responsibility.

The same objection could be raised to the Lebanese draft resolution concerning the appointment of an ad hoc committee (E/CN.4/L.41). Furthermore, the recommendation either applied to States which had already achieved political self-determination and required the aid of the specialized agencies in promoting their economic, social and cultural self-determination -- in which case the recommendation was superfluous, as that was the very function of the specialized agencies -- or it called on the specialized agencies to promote the economic, social and cultural self-determination of groups not yet politically autonomous, and would involve the specialized agencies in political subversion injurious to all concerned. He could only regard the proposal as dangerous.

The Lebanese draft resolution on recommendations to be addressed to Member States (E/CN.4/L.40) was unnecessary since it did no more than echo the hope expressed in General Assembly resolution 327 (IV). If the General Assembly wished to recall that recommendation to the attention of Member States, it would do so on its own initiative.

He regretted that his remarks had been critical and destructive; he could only suggest that the Commission should frankly admit to the Assembly that it was not in a position to frame adequate recommendations, or, alternatively, should draft a recommendation repenting the terms of the article it had adopted on the right of peoples to self-determination.

In reply to Mr. KYROU (Greece), he said that he would certainly be unable to vote for such a recommendation, as he had opposed the article on which it was based.

Mrs. MEHTA (India) stated, in answer to the United Kingdom representative's remarks, that paragraph 1 of the revised Indian draft resolution called on all States to uphold the principle of self-determination in all areas and was therefore all-embracing. The same paragraph said that those States should "guarantee the independence of nations against alien aggressors". Any State which deprived a nation of its independence was an aggressor and violator of peace, and as such should be dealt with by the United Nations. The United Nations had followed that principle with regard to Korea, and she hoped that it would take similar action whenever any State attempted to prevent a people from exercising its right of self-determination.

She failed to understand the United Kingdom representative's objection to paragraph 2. The right of self-determination could be granted only when a people demanded self-government -- which must precede self-determination -- and a plebiscite or some other method should then be used to ascertain whether the demand did indeed represent the wishes of the whole people. The paragraph stressed the needs of Non-Self-Governing and Trust Territories because it was there that the right in question was being most flagrantly denied.

Mr. BOARE (United Kingdom) explained that, while paragraph 1 of the revised Indian draft resolution applied to all States, there was a striking disparity between the vague and inconclusive terms in which it was couched and the concrete and detailed treatment of the needs of Non-Self-Governing Territories in paragraph 2. The impression was that only paragraph 2 was meant to lead to practical results.

Mr. CHENG PAONAN (China) said that his delegation had abstained from voting on the draft article on the right of peoples and nations to self-determination (E/CN.4/663) because it had thought that paragraph 3 should be included only in the draft covenant on economic, social and cultural rights. The Indian draft resolution (E/CN.4/L.26/Rev.1) should be amended to bring it into line both in form and in substance with the draft article already adopted; but even so he would still have to abstain from voting on the Indian draft resolution thus amended, for the same reasons as those that had led to his previous abstention. In any case, the Commission's recommendation should, for consistency's sake, be divided into three paragraphs to parallel the three paragraphs of the draft

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article. After thorough consideration, however, he had been unable to find an appropriate place in the draft covenants for the article on self-determination and he wondered whether there might not be a separate draft covenant on the right of self-determination, particularly as that was mainly a political problem which could not readily be solved by the insertion of an article thereon in the draft covenants. Such a covenant might be submitted to the General Assembly at the same time as the other two and the Commission might even recommend that it should be taken up first.

The CHAIRMAN, addressing the representative of China, expressed his regret that, unless the Commission changed its previous decision, the time limit for receipt of amendments was past.

Mrs. ROOSEVELT (United States of America), introducing the revised United States draft resolution (E/CN.4/L.32/Rev.1) and an amendment (E/CN.4/L.43) to the Egyptian amendment (E/CN.4/L.36) to the Indian draft resolution, explained that the intention had been to meet the Egyptian delegation's concern that plebiscites should be held under the auspices of the United Nations, but also to make clear that such a procedure need not necessarily be used in every case.

AMM Bey (Egypt) regretted that he could not accept the limitation implied in the phrase "where the United Nations so recommends". The United Nations could not take action unless and until a request for a plebiscite was brought before it; the question who should bring the request was still not settled. Furthermore, once the request had been received, a great many precedents, such as the case of Indonesia, Morocco and Tunisia, showed the danger of the innumerable and costly delays and difficulties encountered in obtaining a hearing at all and the even greater difficulties in the way of obtaining effective action. He was well aware of the liberal attitude towards such problems shown by the United States, but unfortunately many other countries did not share it; that was why the limitation implied in the United States amendment was unacceptable. If, however, the Egyptian amendment was adopted and the principle stated in it accepted, the Secretary-General, perhaps assisted by a body of experts, might be able to prepare the plebiscite as a matter of course in compliance with the General Assembly resolution adopted as the result of such a general recommendation. The United Nations was obviously the channel through which recommendations concerning international respect for the self-determination of peoples should be put in force.

/Mr. KIROU

Mr. KYROU (Greece) recalled that the idea of recommending plebiscites had been originated by the Greek delegation, and so he was particularly interested in seeing that it was soundly based. The suggestion that the Secretary-General might be asked to conduct a plebiscite under United Nations auspices could not be entertained; the Secretary-General himself would not act without specific instructions from the General Assembly or the Security Council. He wondered whether the Egyptian representative could accept the substitution of the words "if accepted by the United Nations" for the phrase to which he objected so strongly.

AZMI Bey (Egypt) could not accept that suggestion because it still left unsettled the question who would submit the request for the United Nations acceptance. He had raised the idea of action by the Secretary-General merely by way of illustrating how dangerous delay might be prevented. The General Assembly would of course decide the procedure to be employed; it might perhaps set up a special committee directly responsible to it.

Mr. KYROU (Greece) observed that the problem who was to make the request was not solved by the Egyptian amendment either. The solution would no doubt emerge in practice. The danger of the rejection of a request might not be so serious as the Egyptian representative feared. The Security Council, for example, had not rejected out of hand the request for a hearing of the Tunisian question, as some members, including Greece, had abstained simply because they had thought -- and had in fact stated (S/PV.575) -- that more time should be given for the consideration of the matter.

AZMI Bey (Egypt) declined to be drawn into political controversy, even at the expense of being blamed in certain quarters for failing to reply fully to the Greek representative in connexion with the Tunisian question. The Greek representative's argument had failed to convince him that such delaying tactics might not be employed in the United Nations as might exhaust the patience of the peoples concerned.

/srs. ROJEVELT

Mrs. ROOSEVELT (United States of America) said that the Egyptian representative ought to be able to accept the amendment suggested by the Greek representative, as it was self-evident that unless the United Nations accepted the request for the holding of a plebiscite under its auspices, it would not undertake to hold it.

AZMI Bey (Egypt) admitted the logic of the United States representative's argument, but it still would apply only to individual cases; whereas, if the Egyptian amendment was adopted as it stood, the United Nations would have accepted the principle that all plebiscites would be held under United Nations auspices.

Mr. KYROU (Greece) wondered whether that would mean that the United Nations would be bound to hold a plebiscite whenever a small group on the territory of a self-governing country asked for one, and whether that would always be wise or desirable.

AZMI Bey (Egypt) could see no reason why the United Nations should not do so.

Mr. CHENG PAOPAI (China) felt that the time limit for amendments should not have been interpreted so strictly when representatives were permitted a great deal of latitude in introducing irrelevant political issues. He would abstain from voting on all the amendments as well as on the draft resolutions.

The meeting rose at 1.10 p.m.