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Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND SIXTY-FIFTH MEETING

Held at Headquarters, New York,
on Wednesday, 23 April 1952, at 2.40 p.m.

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<u>Chairman:</u>	Mr. MALIK	(Lebanon)
<u>Rapporteur:</u>	Mr. WHITLAM	Australia

Members:

Mr. NISOT	Belgium
Mr. VALENZUELA	Chile
Mr. CHENG PAOMAN	China
AZMI Boy	Egypt
Mr. CASSIN	France
Mr. KYRCU	Greece
Mrs. MEHTA	India
Mr. AZKOUL	Lebanon
Mr. WAHLED	Pakistan
Mr. BORATYNSKI	Poland
Mrs. RUSSEL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. MOROZOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. BRACCO	Uruguay
Mr. JEVREMOVIC	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:

Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
Miss KAHN	World Federation of Trade Unions (WFTU)

/Category B

Category B and Register:

Mr. NOLDE	Commission of the Churches on International Affairs
Mrs. PARSONS	International Council of Women (ICW)
Mrs. HYMER) Mrs. SOUDAN)	International Federation of Business and Professional Women
Mrs. ROBB	International Federation of University Women
Mr. BEER	International League for the Rights of Man
Mrs. PHILLIPS	Liaison Committee of Women's International Organizations
Mrs. WALSER	Women's International League for Peace and Freedom (WILPF)
Mr. JACOBY	World Jewish Congress (WJC)
Mrs. POLSTEIN	World Union for Progressive Judaism

Secretariat:

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

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.4/664; E/CN.4/L.26/Rev.1, E/CN.4/L.32, E/CN.4/L.32/Rev.1 and Corr.1, 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, E/CN.4/L.40, E/CN.4/L.40/Rev.1, E/CN.4/L.41, E/CN.4/L.42, E/CN.4/L.43, E/CN.4/L.44)
(continued)

The CHAIRMAN requested the Commission to continue its study of the draft resolutions and amendments before it and hoped that it would soon be able to vote. He asked the Indian representative whether she accepted the Egyptian amendment (E/CN.4/L.36), since she had accepted the Polish amendment (E/CN.4/L.42).

Mrs. MEHTA (India) replied that she accepted the Egyptian amendment and asked whether she would be allowed to substitute the word "administration" for the word "sovereignty" in paragraph (2) of the operative part of her revised draft resolution (E/CN.4/L.26/Rev.1) to bring it into closer concordance with the wording of the Charter.

/Mr. MOROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) considered the Lebanese draft resolution on recommendations to be addressed to States Members of the United Nations (E/CN.4/L.40) to be very useful. It added nothing new to the obligations laid down in Article 77 of the Charter, but deserved support from all who wished to achieve the objectives which the Lebanese delegation had set forth in the preamble. He proceeded to analyse the various paragraphs of Article 73 of the Charter, with particular reference to paragraph (e) relating to the information which States were obliged to transmit on the Non-Self-Governing Territories under their administration. The only reservation made in that paragraph referred to such limitation as security and constitutional considerations might require. Hence, he argued, any other information, even of a political nature, and particularly information on progress in the struggle for national self-determination should be transmitted by the administering States. No State could plead the exigencies of security for refusing to transmit the information referred to in the Lebanese proposal. The latter was therefore in the spirit of Article 73 and the USSR delegation would support it.

Turning to the second Lebanese draft resolution (E/CN.4/L.41) concerning the appointment of an ad hoc committee, he said that, while appreciating the motives for proposing the establishment of that committee, he felt it would be premature at that stage to try to organize the General Assembly at its eighth session. It would be preferable to wait until the Economic and Social Council and the General Assembly had had time to consider the results of the Commission's work. The methods for continuing that work, which was far from its final stage, could then be determined.

Referring to the comments made at the morning meeting by the United Kingdom representative, Mr. MOROZOV said he was pleased to agree with him on the discrepancies which he had indicated between the United States draft resolution (E/CN.4/L.32/Rev.1) and the article adopted by the Commission. On the other hand, he criticised the United Kingdom representative for treating the United States draft resolution and the Indian one (E/CN.4/L.26/Rev.1) on a par and implying that they should both be rejected.

Since paragraph (1) of the Indian draft resolution underlined a principle of importance for the maintenance of international peace and security, the USSR delegation would vote for it. He took issue with the United Kingdom representative for his attempts to persuade the Commission to reject the Indian

draft resolution on the pretext that it savoured of the ideas of the Soviet Union. The USSR delegation had never claimed to have the monopoly of constructive proposals and thought that the Commission achieved useful results through the joint work of all its members. He realized the difficulties of the United Kingdom which, as a colonial Power, was unable to encourage national liberation movements; but that in no way affected the need to carry out the principle of the self-determination of peoples.

The United States amendment (E/CN.4/L.43) to the Egyptian amendment (E/CN.4/L.36) to the draft resolution submitted by India (E/CN.4/L.26/Rev.1), was another step backwards compared with the progress achieved by the Commission in adopting the article for insertion in the covenants (E/CN.4/663). The example of the Tunisian question showed that some United Nations bodies sometimes refused to place on their agendas items profoundly affecting the implementation of the principle of the self-determination of peoples. The USSR delegation would therefore vote against the United States amendment.

Mr. WAHED (Pakistan) opposed any proposal to limit the implementation of the principle of the self-determination of peoples or to nullify the effects of the Commission's decision. He doubted whether the French draft resolution (E/CN.4/L.34/Rev.1) would effectively establish a procedure for ensuring respect of that right. On the other hand, he took a favourable view of some passages in the Lebanese draft resolution which suggested that international bodies should play an important part in implementing the principle. He shared the opinion of the Egyptian delegation on the plebiscite question and felt that it would be inconceivable to demand that a people should wait for United Nations authorization before exercising its right to express its wishes.

Mr. CASSIN (France), in reply to the speakers who seemed to be criticising the French delegation for the way in which it conceived the Commission's work, said that the preparation of recommendations concerning respect for the self-determination of peoples was an undertaking in no way inferior to that of drafting an article on that right for inclusion in the covenants. The French delegation considered that certain legal concepts and basic principles should be studied pending the conclusion and application of the

/covenants.

covenants. Although the Commission had no control over the political data, it nevertheless had to concern itself with the legal and technical problems of international law. France was genuinely trying to accomplish serious and constructive work.

While France was most anxious that international commitments should be respected, and recognized the implications of the right of self-determination of peoples, he pointed out that the United Nations Charter was not the only document governing international relations. France did not consider international commitments to be unchangeable; they were subject to revision but should remain inviolate as long as they were in force.

He drew attention to what seemed to him to be a misinterpretation of the Charter, namely to argue that States were obliged to transmit political information concerning Non-Self-Governing Territories under their administration. Article 73 of the Charter stipulated in that connexion the transmission only of statistical and other information of a technical nature on economic, social and cultural conditions. There was no reference whatever to political information. Arbitrary distinctions could not be made in the case of some States by asking more of them than was required by the Charter, while some other States refused to supply information concerning their own territories. France intended to fulfil its obligations but wanted all States to be on an equal footing. It could not admit that some oppressed peoples should have the right to state their claims while others were obliged to suffer in silence because the Government responsible for them did not administer Non-Self-Governing Territories.

Reverting to his earlier point that the Commission ought to study certain basic legal concepts, he remarked that the competence of the Commission on Human Rights was not all-embracing and that it was therefore for the General Assembly to request the competent United Nations bodies, such as the International Law Commission and UNESCO, to clarify the concepts connected with the self-determination of peoples.

Turning to the draft resolutions and amendments, he stated that the preamble of the Indian draft (E/CN.4/L.6/Rev.1) ought to stand, but that he did not agree with the operative part which distinguished between administering and non-administering States. Several amendments had been moved to the operative part. If the Commission adopted the Egyptian amendment (E/CN.4/L.36), the United Nations would be called upon frequently to intervene in problems of minor importance which States could easily settle among themselves, as was illustrated by the Chandernagore plebiscite which had raised no difficulty between India and France.

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While the United States amendment (E/CN.4/L.43) to the Egyptian amendment was more flexible than the latter, it was still too categorical because, if the United Nations did not recommend the plebiscite, no other way remained open.

The Polish amendment (E/CN.4/L.42) seemed acceptable to the French delegation because it merely suggested the plebiscite as a means whereby the people could express their wishes and did not oblige the United Nations to take up the matter.

The first Lebanese draft resolution (E/CN.4/L.40) made an arbitrary distinction between administering States and non-administering States. The second draft proposal, concerning the appointment by the General Assembly of an ad hoc committee (E/CN.4/L.41), was a tacit recognition of the need to undertake legal studies in connexion with the self-determination of peoples. But new organs, particularly political organs which might come between States and the General Assembly or the Security Council, should not be established for that purpose. Although no aspect of human experience should be foreign to the Commission on Human Rights, it nevertheless had to keep within its terms of reference. The work of all United Nations bodies fitted into a general pattern, which would be possible only if each of them kept within its mandate.

In conclusion, he recalled that it would be inexpedient and dangerous to set the vast machinery of the United Nations in motion each time the slightest problem arose between States. If the question of a plebiscite cropped up at every turn, it would be a perpetual source of worry to the most peace-loving persons and would be likely to divert them from the more useful efforts for common prosperity or constructive social reforms.

Mr. HOARE (United Kingdom), in reply to the USSR representative, explained that at the 264th meeting he had compared the United States draft resolution (E/CN.4/L.32/Rev.1) to the Indian draft resolution (E/CN.4/L.26/Rev.1) merely in order to bring out the fact that the effect of both drafts would be to impose obligations only on States responsible for the administration of Non-Self-Governing Territories. The article the Commission had adopted (E/CN.4/663) made no such distinction but the article proposed by the Soviet Union delegation and rejected by the Commission made precisely that distinction. He was surprised that the USSR representative had construed his remarks as evidence of prejudice on the part of the United Kingdom delegation; on the contrary, they were an objective statement which he would have made whatever delegation had sponsored the rejected article.

/Mr. WHITLAM

Mr. WHITLAM (Australia) reminded members that they were sitting as a functional commission and should avoid political discussion. In the debate on the principle of self-determination, some basic considerations, which might broadly be grouped under the heading "jurisdiction," had been largely ignored. One such consideration was the limit to the concept of self-determination set by the Charter, a fundamental instrument, but none the less a treaty. The concept was expressed there as a principle but the provisions concerning Non-Self-Governing Territories and Trust Territories did not come under it. Another consideration was that the United Nations was an organization of which the units were sovereign States and that it could not therefore legislate for those States. A third consideration was that the covenant was intended to be a legally binding instrument and the proposed article did not comply with requirements of such a covenant.

The Commission had begun with a principle which it had transformed into an idea, and now that idea was to be extended into a third paragraph. The Australian delegation had no quarrel with the idea behind that paragraph -- the problem of the world's raw materials -- but its inclusion was an extension of the idea of self-determination into a new field for which no provision had been made and no limit set. If the problem of the world's raw materials was to be covered by the principle of self-determination of peoples, then there was no reason why the problem of minorities should not also come under that principle. Indeed the French draft resolution (E/CN.4/L.34/Rev.1) **very** properly urged that a study should be made of the relations between "the self-determination of peoples and the protection of minorities". Ideas might be used as weapons, and the Australian delegation would urge that, as a weapon, "self-determination" should be handled with care.

Mr. AZKOUL (Lebanon) said that his delegation had just submitted a revised version of its original draft resolution (E/CN.4/L.40/Rev.1) so that the last paragraph of the preamble should more accurately represent the real situation.

He dissented from the Belgian representative's statement that the Lebanese draft resolution went further than the Charter. The General Assembly itself had affirmed, in resolutions 144 (II) and 327 (IV), that the voluntary transmission of information was in conformity with the spirit of Article 73 of the Charter.

/In reply

In reply to the French representative, who had criticized the Lebanese draft resolution on the grounds that it made an arbitrary distinction between the States Members of the United Nations, he pointed out that even if no distinction was possible in matters of principle, the same was not true in practice. Since only a certain number of States were responsible for Non-Self-Governing Territories, it seemed natural to impose special obligations on them, as the Charter in fact did.

His delegation's draft resolution recommended the General Assembly to recommend States Members of the United Nations responsible for the administration of Non-Self-Governing Territories voluntarily to supplement the information they had transmitted because in order to obtain a reply it was sometimes advisable to repeat a request. In General Assembly resolution 144 (II) the expression "should be... encouraged" was used, and in General Assembly resolution 327 (IV) "Expresses the hope"; the use of the word "recommend" would therefore merely signify that the General Assembly attached importance to the matter.

The suggested procedure would in fact be favourable to the States responsible for the administration of Non-Self-Governing Territories, inasmuch as it would leave it to them voluntarily to transmit the information in question. The Lebanese draft resolution was the only one which called for simple, direct and positive action.

In reply to the objections raised to the second Lebanese draft resolution (E/CN.4/L.41), Mr. Azkoul observed that the wording of the draft made it clear that the ad hoc committee proposed to be appointed would not usurp any of the functions of other United Nations bodies. The appointment of a new body would avoid overloading the existing bodies and leave the General Assembly as the sole judge of the recommendations submitted to it. Replying to criticisms by Yugoslavia and the USSR, he explained that the draft resolution provided that the proposed ad hoc committee should report to the eighth session of the General Assembly because its appointment would have to be approved at the seventh session.

Mr. Azkoul then explained his delegation's attitude towards the various draft resolutions.

As he had pointed out before, although a principle should be enunciated in general terms, recommendations concerning its application should be precise and contain certain restrictions. He would bear that fact in mind when voting on the United States draft resolution (E/CN.4/L.32/Rev.1) and the various amendments to it.

/He was

He was prepared to support the Indian draft resolution (E/CN.4/L.26/Rev.1), in which he would, however, suggest certain alterations. The second paragraph of the preamble seemed to imply that colonialism could be tolerated on condition that its object was to bring the blessings of civilization to the subject peoples or to help them to develop their national resources. That was a dangerous principle and might be used by a State as a pretext for occupying a territory, even by force. In paragraph (1) of the operative part, it would be better to recommend the States Members of the United Nations to "respect" the independence of nations rather than to "guarantee" it, which might be difficult. With regard to paragraph (2), he thought the recommendation which comprised the second part of that paragraph went too far. It would be better to recommend States Members to grant the right of self-determination to peoples which made a "general and persistent demand" for it. The addition of those words would mean that the demand would have to be made by the great majority of the population and should not be the outcome of a passing wave of enthusiasm or an ephemeral reaction to some isolated incident. The last words of the paragraph might be "through a plebiscite which, if appropriate, should be held under the auspices of the United Nations".

He thanked the French delegation for filling a gap on which the Commission had remarked at the beginning of its proceedings. It was true that a thorough study of the subject was needed, but the General Assembly should not wait for the conclusion of that study before making recommendations to Member States and laying down the obligations which those States should undertake. With regard to part I of the operative part of the French draft resolution (E/CN.4/L.34/Rev.1) it was difficult to see how the General Assembly could recommend Member States to "undertake" to respect the right of self-determination. The proposed wording would be suitable for an article in an agreement to be ratified by Member States, who would thus assume a legal obligation, but it was unsuitable for a recommendation. The suggested conditions for the exercise of self-determination were not without danger at the present stage of the work. He would therefore have to abstain from voting on part I of the operative part but would be able to vote for part II.

/Mr. NISOT

Mr. NISOT (Belgium) thanked the representative of Lebanon for his explanations, and regretted that the benefit of his recommendation had not been specifically extended to indigenous peoples on whose territory their conquerors had established themselves permanently, taking the place of the former inhabitants.

Mrs. MEHTA (India) said she would accept some of the Lebanese representative's suggestions. She would agree to delete the words "and exploit them for their selfish interests" in the second paragraph of the introductory part of her draft (E/CN.4/L.26/Rev.1). She further agreed to replace the word "guarantee" by the word "respect" in the first paragraph of the operative part; that amendment entailed the deletion of the last words of the sentence which ended with the words "the independence of nations against alien aggressors". Finally, she would agree to add the word "general", but not the words "and persistent" in the second part of paragraph (2) of the operative part.

AZMI Bey (Egypt) said that, together with some of his colleagues, he had asked the United States representative to modify her amendment (E/CN.4/L.36) in order to make it more elastic. The new amendment would make it quite clear that the proposed plebiscite should be held "under the auspices of the United Nations where the United Nations considered it to be a popular request for self-determination". As the United States representative, who had been approached unofficially, had rejected the amendment, he was going to raise the matter again and to ask her to make a conciliatory gesture in return for the sacrifice which he, for his part, was prepared to make.

Mrs. ROOSEVELT (United States of America) thanked the Egyptian representative for his spirit of conciliation but was nevertheless unable to accept the proposed amendment. It would hardly be reasonable to expect the United Nations to organize every plebiscite, for after all it was conceivable that in some cases plebiscites might be held under favourable conditions even without United Nations intervention.

/Mr. ARNALDO

Mr. ARNALDO (United Nations Educational, Scientific and Cultural Organization) said in commenting on part II, paragraph 3 of the French draft resolution (E/CN.4/L.34/Rev.1) that UNESCO appreciated the confidence placed in it and was prepared to undertake the required study. Certain factors would have to be taken into account so far as the procedure was concerned. Firstly, United Nations recommendations to UNESCO were submitted to the Executive Board or to the General Conference. Secondly, UNESCO's budget and programmes of 1952 would allow only certain preparatory work to be done on the proposed study. Lastly, the estimates of expenditure in 1953-1954 had already been prepared and would be considered in May by the Executive Board and adopted in November by the General Conference which might conclude its work before the General Assembly had adopted the resolution on the proposed study. It would thus be impossible to begin the study until 1954 as in future UNESCO's General Conference would meet only once every two years. If the recommendation was to be acted upon in 1952, perhaps the Economic and Social Council should transmit the resolution in question directly to UNESCO without waiting for a General Assembly decision.

Mr. CASSIN (France) said that he would accept the Australian representative's suggestion to replace the word "recognize" by the word "reaffirm" in the first paragraph of the operative part of the French draft resolution (E/CN.4/L.34/Rev.1). He would have liked to agree to the suggestion of the UNESCO representative but did not think that the Commission could approach UNESCO without the concurrence of the General Assembly, in view of the actual terms of the Assembly's resolution.

The CHAIRMAN asked the United States representative whether she would accept the Greek representative's suggestion to replace the words "where the United Nations so recommends" in paragraph 3 of the operative part of her delegation's draft resolution (E/CN.4/L.32/Rev.2/Corr.1) by the words "where the United Nations agrees".

Mrs. ROOSEVELT (United States of America) preferred her own delegation's form of words.

Mr. KYROU (Greece) withdrew his suggestion.

/The CHAIRMAN

The CHAIRMAN invited the Commission to vote on the Indian draft resolution (E/CN.4/L.26/Rev.1). The Polish amendment (E/CN.4/L.42) would not have to be put to the vote as the Indian representative had accepted it. There remained the United States amendment (E/CN.4/L.43) which was intended to replace the Egyptian amendment (E/CN.4/L.36), and he asked the Commission whether it would agree to replace that amendment by the United States amendment.

The Commission decided by 10 votes to 2, with 6 abstentions, not to replace the Egyptian amendment by the United States amendment.

The CHAIRMAN put the Egyptian amendment (E/CN.4/L.36) to the vote.

The Egyptian amendment was adopted by 8 votes to 2, with 8 abstentions.

Mr. CASSIN (France) asked that the Indian draft resolution should be voted on in parts.

The CHAIRMAN put to the vote the preamble to the Indian draft resolution (E/CN.4/L.26/Rev.1).

The preamble to the Indian draft resolution was adopted by 12 votes to 3, with 3 abstentions.

The CHAIRMAN put to the vote paragraph (1) of the operative part.

Paragraph (1) of the operative part was adopted by 11 votes to 1, with 6 abstentions.

Mr. MOROZOV (Union of Soviet Socialist Republics) asked that the words "general and persistent" which had been suggested for insertion in paragraph (1) of the operative part, should be voted on separately.

The CHAIRMAN put to the vote the words "general and persistent".

The words "general and persistent" were rejected by 5 votes to 4, with 9 abstentions.

Mr. AZKOUL (Lebanon) asked that paragraph (2) of the operative part should be voted on in parts.

/The CHAIRMAN

The CHAIRMAN put to the vote paragraph (2) of the operative part up to the end of the third line.

The first part of paragraph (2) of the operative part was adopted by 11 votes to 5, with 2 abstentions.

The CHAIRMAN put to the vote the rest of paragraph 2 of the operative part.

The rest of paragraph 2 of the operative part was adopted by 10 votes to 5, with 3 abstentions.

The CHAIRMAN put to the vote paragraph 2 of the operative part as a whole.

Paragraph 2 of the operative part as a whole was adopted by 11 votes to 5, with 2 abstentions.

The CHAIRMAN put to the vote the draft resolution as a whole.

The Indian draft resolution was adopted by 11 votes to 5, with 2 abstentions.

Mr. NISOT (Belgium) explained his negative vote. Whatever the view as to its value, it must be admitted that the machinery for implementation provided by the resolution was only intended to apply to the so-called colonial States and the non-self-governing peoples subject to them. It would not apply to the much larger number of peoples merged, either as a majority or a minority, in States of which they formed an integral part and which were governed by another race. But the machinery for implementation should have applied in the same way to those peoples and the States to which they were subject, particularly in the frequent case in which such States thus exercised authority over peoples who had not reached the stage of full evolution and to whom they were, in consequence, like the colonial States, bound by the imperious duty of the mission of civilisation itself. By such discrimination the Commission had repudiated, to the detriment of a considerable fraction of humanity, the principle of self-determination intended by the Charter to be the right of all peoples.

19/5 p.m.

The meeting rose at 5.40 p.m.