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Tenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND SEVENTY-FOURTH MEETING

Held at Headquarters, New York,
on Tuesday, 13 April 1954, at 2.50 p.m.

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PRESENT:

<u>Chairman:</u>	Mr. AZMI	(Egypt)
<u>Rapporteur:</u>	Mr. INGLES	Philippines
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. ORTEGA	Chile
	Mr. CHENG PAONAN	China
	Mr. GHORBAL	Egypt
	Mr. CASSIN	France
	Mr. ROUSSOS	Greece
	Mr. DAYAL	India
	Mr. PIRACHA	Pakistan
	Mr. BIRECKI	Poland
	Mr. ASIROGLU	Turkey
	Mr. SAPOZHNIKOV	Ukrainian Soviet Socialist Republic
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
	Mrs. LORD	United States of America
	Mr. RODRIGUEZ FABREGAT	Uruguay

Representative of a specialized agency:

Mr. MANNING	International Labour Organisation
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Representatives of non-governmental organizations:

Category B:

Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. JOFTES	Co-ordinating Board of Jewish Organizations
Mr. LONGARZO	International Conference of Catholic Charities
Mrs. REGISTER	International Council of Women
Miss RANDALL	International Federation of Business and Professional Women
Miss ROBB	International Federation of University Women
Mrs. FOWLER	Pan Pacific Women's Association
Mrs. POLSTEIN	World Union for Progressive Judaism
Mr. PENCE	World's Alliance of Young Men's Christian Associations

Secretariat:

Mr. SCHWELB	Deputy Director of the Division of Human Rights
Mrs. BRUCE)	Secretaries of the Commission
Mr. DAS)	

REPORT OF THE SIXTH SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES: DRAFT RESOLUTION ON FUTURE SESSIONS OF THE
SUB-COMMISSION (E/CN.4/L.374 and 382) (continued)

Mr. ORTEGA (Chile) confirmed that the sponsors of the draft resolution (E/CN.4/L.374) had accepted paragraph 1 of the Chinese amendment (E/CN.4/L.382).

The first paragraph of the draft resolution, as amended, was adopted by 16 votes to none, with 1 abstention.

Paragraph 2 of the Chinese amendment was adopted by 7 votes to none, with 6 abstentions.

The second paragraph of the draft resolution, as amended, was adopted by 11 votes to none, with 5 abstentions.

The words "not less than" in paragraph 3 of the Chinese amendment were rejected by 5 votes to 4, with 5 abstentions.

The remainder of paragraph 3 of the Chinese amendment was rejected by 9 votes to 7, with 1 abstention.

The third paragraph of the draft resolution was adopted by 9 votes to 6, with 2 abstentions.

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

At the request of the representative of Belgium, a vote was taken by roll-call.

Chile, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Chile, Egypt, India, Pakistan, Philippines, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay

Against: France, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium

Abstaining: China, Greece, Turkey

The draft resolution as a whole, as amended, was adopted by 9 votes to 5, with 3 abstentions.

Mr. MOROZOV (Union of Soviet Socialist Republics) explained that he had voted in favour of the draft resolution on the understanding that the General Assembly would be asked to ensure that the financial implications of the resolution would not affect the total United Nations budget and that appropriations would be made at the expense of other items.

Mr. RODRIGUEZ FABREGAT (Uruguay) explained that he had voted against the Chinese amendments to the draft resolution which his delegation had co-sponsored, because he could not approve of any text which weakened the proposal that the Sub-Commission should have sufficient time to carry out its fundamentally important tasks.

Mr. CARAYANNIS (Greece) said that he had abstained from voting on the draft resolution as a whole in order not to give the erroneous impression that his delegation disapproved of the Sub-Commission's work.

RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT FOR THE RIGHT OF PEOPLES AND NATIONS TO SELF-DETERMINATION (E/CN.4/676 and Add.1, 697; A/C.3/SR.525-527; E/CN.4/L.381 and Add.1)

Mr. DAYAL (India), introducing the draft proposals (E/CN.4/L.381) which his delegation had submitted jointly with five other delegations, expressed regret that the Commission had been unable to begin dealing with such an important subject as the right of peoples and nations to self-determination until the last week of its session. The importance of the right was emphasized by the fact that it was stated in the first articles of both the draft covenants. Moreover, the Charter itself placed due emphasis on the right, which was stated in Article 1, paragraph 2, as one of the fundamental Purposes of the United Nations, and again in Article 55. Article 56 was also important in that respect, since it made the obligations assumed under Article 55 mandatory on Member States.

The right of self-determination was just as much a natural and fundamental right of peoples as was the right to life, liberty and the pursuit of happiness a natural right of every individual. Just as human beings had striven throughout the ages to attain the personal freedom without which the human spirit could not aspire to its highest achievements, so peoples and nations which had been enslaved had struggled to regain their lost freedom in order to rise to heights which could never be reached in conditions of servitude.

His country naturally regarded the right as a focal point of work on human rights, because so many other rights flowed from it and could not be exercised except in the context of self-determination. The Commission's task of laying firm foundations for the edifice of human rights was indeed stupendous, but it was also inspiring. The Commission should not allow itself to be overcome by a feeling of inadequacy; results might be slow in coming and whole decades might pass before the final goal was reached; nevertheless, the question must not be approached from a pettifogging, legalistic point of view, but in a spirit of idealism and generosity. The Commission was not the place for the political polemics which unfortunately disfigured international life in other spheres. Its work had deep social significance which might affect the lives of hundreds of millions of human beings in years to come.

In the past decade, some seven hundred million people had regained independence and with it the dignity and self-respect which was the consequence of a feeling of equality with all human beings. A vast force of good had been released by the restoration to full nationhood of peoples which had made valuable contributions to the arts of peace. India, which had attained its freedom after many years of non-violent struggle, now felt no bitterness against any nation. That was the spirit in which his delegation approached the study of recommendations concerning international respect for the right.

Recapitulating the instructions which the General Assembly and the Economic and Social Council had given to the Commission with regard to further recommendations, he pointed out that the Assembly's most recent resolution on the subject (resolution 738 (VIII)) requested the Commission to give the question due priority. The Commission had already done some work in that connexion: it was noteworthy that the article on the right of self-determination was the only article in either covenant for which a special article of implementation was provided. Under article 48, States parties which were responsible for the administration of Non-Self-Governing Territories would undertake to report annually to the human rights committee on the effect given to article 1. That information was to be political as well as economic, social and cultural. Moreover, the reporting of violations of article 1, paragraph 3, was mandatory. Complaints of such violation and of failure to give effect to any aspect of the right were to be made in accordance with the procedures laid down in articles 40 to 47, which were applicable to all the articles of the covenant. Moreover, under article 72, relating to territorial application, the Non-Self-Governing Territories could not be exempted from the procedure. The system of periodic reports for the implementation of the covenant on economic, social and cultural rights applies also to the article on the right of self-determination.

Thus, under the two covenants, the States parties would undertake to submit information, including political information, concerning the implementation of the right, to take steps to determine the political status of Non-Self-Governing Territories by democratic means, and to submit their implementation to international scrutiny. The General Assembly, however, had deemed those relatively far-reaching measures to be insufficient and had adopted resolution 637 (VII), which clearly stated that other steps could be taken and requested the Commission to make further recommendations.

To meet the Assembly's wishes, the Commission could take the logical and equitable course of recommending that Member States which would not become parties to the covenants should assume some of the same obligations as the

States parties. That would take the form of submitting information to the appropriate United Nations organ, which would be the Committee on Information from Non-Self-Governing Territories: such information would have to include political information and the Committee's sessions should be prolonged for the purpose. Another course would be to request the Regional Economic Commissions and the specialized agencies to study the aspects of the question which fell within their competence. A third course would be to request an appropriate standing United Nations organ to examine complaints of violation or non-fulfilment; that organ would provide its good offices and would report to the General Assembly if no solution was reached.

Turning to the joint draft proposals, he pointed out that the purpose of the covering draft resolution was merely to request the Council to transmit draft resolutions I and II to the Assembly, with the added comment that further study and recommendations might be required. The purpose of draft resolution I was to set up a commission to conduct a full survey of the right of sovereignty over natural wealth and resources, with the co-operation of the Regional Economic Commissions and the specialized agencies. The Regional Commissions could not deal with the task alone, since it was important to have full information and they did not operate in a number of areas from which data would be required. The specialized agencies, for their part, might hesitate to do full justice to studies which had political implications.

In draft resolution II, it was similarly proposed to set up a commission, to deal with questions of violations of the right which fell within the scope of Article 14 of the Charter. Sub-paragraph (1) of the first operative paragraph provided that the alleged violation would have to be reported to the commission by ten Member States, whereas under the human rights committee procedure violations could be referred to the committee by one State party. The provision of good offices referred to in sub-paragraph (2) was analogous to the procedure laid down in article 43, paragraph 1, of the covenant. Sub-paragraph (3), which provided that the facts should be reported to the General Assembly if no solution could be reached, was parallel to the provisions of article 46.

The proposals had been made in a constructive spirit and in the endeavour to give practical effect to article 1 of the covenants. Only thus could the millions of people in dependent territories be given grounds for hope and be made aware of the fact that the United Nations had assumed its obligations towards all peoples, irrespective of their political status. The sponsors of the draft proposals hoped that the Administering Powers would be persuaded to carry out their obligations under the Charter in respect of the sacred right of self-determination.

Mr. SCHWELB (Secretariat) presented a statement (E/CN.4/L.381/Add.1) of the financial implications of the joint proposals.

Mr. PIRACHA (Pakistan) regretted that once again the item on self-determination was being considered at the very end of the Commission's session and that there was a likelihood that that vitally important subject would be relegated to limbo for yet another year. One of the purposes of the United Nations was to develop friendly relations among nations based on respect for the principle of self-determination of peoples; the work of the Commission on Human Rights and, indeed, of the United Nations itself would not be completed until the exercise of that right had been secured for millions for whom the United Nations was the only hope. So long as that hope was unfulfilled bitter conflict would continue. Any academic approach to the matter should therefore be deplored. Certain delegations had argued with monotonous reiteration that nothing could be done until a definition of self-determination, peoples and nations had been formulated. It was much to be regretted that precisely those countries which had given the world the concept of self-determination should be those which now argued for the narrow academic approach. Definitions were useful, but they would always be inadequate where the fate of human beings was concerned. With or without a definition, self-determination for all peoples would inevitably be achieved.

It had also been contended that the exercise of the right of self-determination would be a threat to world peace, and that the rule of law would give way to anarchy. The argument was untenable. The Charter regarded the achievement of self-determination as one of the methods of securing international peace and security; obviously it could not at the same time be a threat to the

peace. It had also been contended that measures to achieve self-determination would infringe Article 2, paragraph 7, of the Charter and destroy the United Nations. His delegation was second to none in its respect for that Article, but it believed that nothing would weaken the Organization or destroy the world community as much as the undermining of the moral principles of the Charter.

Perhaps the Commission would not have time to give the joint proposals the attention they merited, but it was to be hoped that it would be able unanimously to adopt them and transmit them to the General Assembly, not only as evidence of the importance attached to the question but also as an earnest that the Commission would continue its work on self-determination at subsequent sessions. Some progress had been made in the incorporation of the right in the draft covenants, but the work was only beginning. The members of the Commission had a solemn international obligation to fulfil. They could give evidence of their ability to fulfil it by, at the very least, transmitting the resolutions to the General Assembly.

Mr. ASIROGLU (Turkey) said that he regarded the subject under discussion as the most important item on the agenda and wondered whether the Commission would have time to give it the thorough consideration it deserved. He felt that very special attention should be given to that basic question of human rights and that the Commission should avoid hasty decisions that might divert it from the goal it was anxious to attain. He agreed with the sponsors of the joint proposals that the application of the right of self-determination would fulfil the purposes of the Charter and would lead to the easing of international tensions, provided that the principle was applied disinterestedly and objectively; but those principles might be exploited and become a source of conflict unless adequate safeguards were provided. The international complications to which a premature decision on the joint draft resolution might lead induced the Turkish delegation to reserve its attitude on it. It could not, therefore, take a definite stand on the joint proposals until they had been thoroughly examined. As two or three meetings at the most could be devoted to considering that thorny problem, of which there were several aspects, particularly political aspects, he thought that it would be virtually impossible to consider it properly in so short a time. Moreover, the delegations had only just received them and some might have to consult their Governments; that might not be possible before the

end of the session. There was no objection to a preliminary discussion but the Commission would be better advised to retain the item on its agenda than to take a decision at the current session.

Mr. ROUSSOS (Greece) said that the right of peoples and nations to self-determination was so deeply ingrained in contemporary moral thinking that no country would dare to affront public opinion by openly stating its refusal to recognize that right. Such a statement would be tantamount to a breach of Articles 1 and 55 of the Charter.

If the right was to become a reality, ways and means of applying it must be found. The only possible means was by a legal instrument within the scope of written and customary international law. That instrument should not be drafted in a negative and aggressive spirit; it should not be against something, but positively in favour of something. The co-operation of the liberal great Powers would be essential. All nations, great and small, had a vested interest in the maintenance of peace and security. No group of Powers should be harassed in the effort to find a workable solution. The trend towards self-determination was a trend in history. Historical trends might be retarded or accelerated; they could not be reversed.

The attainment of self-determination mainly concerned the Non-Self-Governing Territories. It should be an evolutionary process, which presupposed two prerequisites: the fixing of a time-limit and the arrangement for transitional measures. The time-limit should be flexible, but it should not allow of indefinite delay. The transitional measures might include the increasing participation of indigenous inhabitants in legislative and administrative organs in order to acquire experience. Stock should be taken from time to time of political advancement, preferably by means of periodic reports. The discrepancy between Chapter XI and Chapters XII and XIII was unfortunate, inasmuch as countries responsible for Non-Self-Governing Territories were not required to submit reports on political advancement or to accept a system of supervision. Any attempt to impose such supervision would naturally be met with the contention that it was an attempt to infringe domestic jurisdiction, but evolutionary progress could not be blocked by obsolete arguments.

The aim should be the exercise of self-determination on the basis of a choice among several possible forms of status, the wishes of the people being ascertained through plebiscites or other recognized democratic means, preferably under the auspices of the United Nations. It was essential that some impartial organ should ascertain whether conditions existed for the genuine expression of the people's wishes, as had been proposed during the sixth session of the Assembly, with respect to the possible German elections. Each case should be dealt with on its own merits, with the ultimate aim of achieving a full measure of self-government or independence. Any premature action might prejudice the future of the parties concerned.

An international organ might be set up to promote the granting of self-government to entities with sufficient political maturity. In the present state of international law such a body would not have advisory powers, but it could exert a moral influence in shaping the policies of Governments which genuinely wished to fulfil their obligations under the Charter. The General Assembly possessed such moral authority, and should and could play an increasing part in the achievement of self-determination, despite the limitations inherent in its powers under the Charter.

He had not yet been able to study the joint proposals in detail, but wished to express his gratitude to the sponsors, who had made a real contribution to a worthy cause.

Mr. GHORBAL (Egypt) said that his delegation would never have accepted any suggestion that the Commission should close its session without discussing the right of self-determination. It had failed to discuss that item at its ninth session and the General Assembly in resolution 738 (VIII), had instructed it to give due priority to the subject. Previous discussions in the Commission had led to the adoption of Assembly resolution 637 (VII), which to a large extent covered the points raised by the Greek representative. By its adoption of resolution 637 (VII) and its insistence that an article on the right of self-determination should

be inserted in both draft covenants on human rights, the General Assembly had shown that it would never countenance the weakening of fundamental rights and freedoms by the acceptance of the shopworn arguments adduced against the application of the right of self-determination.

The sponsors of the joint proposals (E/CN.4/L.381) had endeavoured to comply with the Assembly's instructions, set forth in section C of resolution 637 (VII). The article on self-determination embodied in the two draft covenants stated that all peoples and all nations should have the right freely to determine their political status, as also their economic, social and cultural status. While section A of General Assembly resolution 637 (VII) dealt with the political aspect of the right, there was as yet no recommendation to cover the right as far as the economic, social and cultural status was concerned. Again, section B of resolution 637 (VII) dealt with aspects of the principle enunciated in paragraph 2 of the article on self-determination but there was as yet no recommendation to deal with paragraph 3 of that article.

Draft resolution I was designed to rectify some of those omissions; its provisions sought to ensure economic as well as political self-determination. Effective action by the United Nations required the submission of full information about the territories concerned. Such information had frequently been requested by the Council and the Assembly, in particular with regard to the development of under-developed countries. Full information regarding the actual extent and character of permanent sovereignty over the natural wealth and resources of peoples and nations would assist the Council and Assembly not only to promote the welfare of all peoples without discrimination but also to encourage respect for the right of self-determination. There would be no problem about collecting and sifting the information; the Secretariat had already shown that it was eminently qualified to undertake the work. On the other hand, the problems were so intricate and delicate that a commission appointed by the General Assembly might preferably analyse and appraise the material gathered by the Secretariat with the co-operation of the specialized agencies and all United Nations organs concerned.

Turning to draft resolution II, he said that every country represented on the Commission had at one time passed through the phase of self-determination and still cherished the memory of the day on which it had attained its

independence. Each of them was jealous of its own freedom and each, in its own way, had contributed to the cause of freedom throughout the world. As recognized in the Charter itself, friendly relations among States, as well as universal peace, depended inter alia on respect for the right of peoples to self-determination. Conversely, denial or inadequate realization of that right might well strain international relations and endanger world peace. It was the purpose of draft resolution II to ensure that appropriate action was taken whenever any such situation arose.

He drew attention to the fact that the joint proposals were drawn up in very general terms; they applied to all peoples and they did not single out any one area, whether in Asia, Africa, or the Mediterranean.

As draft resolution I and II, even taken together with the recommendations already adopted by the General Assembly, would not exhaust the subject, it was suggested in the covering draft resolution that the item should be retained on the agenda of the Commission's following session.

He urged the Commission to make an effort to reach a decision on the joint proposals at the present session.

Mr. NISOT (Belgium) thought that the Turkish representative had been quite right to question whether the Commission had sufficient time to give the important proposals before it the serious consideration they deserved.

As the proposals had been circulated that very day, he wished to make only two preliminary remarks. Draft resolution I was based on mere draft covenants. The recommendations tending to establish a right of sovereignty over natural wealth and resources, for example, had not been approved, even by the General Assembly. Moreover, that question related to sovereign States, or peoples who had already exercised their right of self-determination; the matter was therefore one for the International Law Commission, which was competent to study the rights and duties of States.

Mr. CASSIN (France) said that, as delegations would not have time to ask their Governments for instructions with regard to the joint proposals, he did not think action could be taken on them at the present session.

In token of the importance he attached to the proposals, however, he would make some preliminary comments on them. As compared with past sessions, the attitude of the sponsors seemed to have evolved in the right direction, in the sense that they had couched their proposals in general and universal terms, making no discriminatory mention of any particular area. They recognized the need for further serious study of the entire complex question which, above all else, affected international peace. Lastly, they recognized that, the principle of the right of peoples to self-determination being a political matter, it was for the political organs of the United Nations to examine its implications and to direct the study of its legal aspects.

Those features of the joint proposals showed a change of method, a partial departure from the regrettable confusion of the rights of peoples with the body of human rights; the French delegation had always objected to that confusion, since the individual was an indivisible whole, whereas a nation was subject to division and therefore needed Article 2, paragraph 7, of the Charter to protect its unity.

Nevertheless, certain objectionable features were immediately apparent. It seemed illogical that after referring a proposal to set up political organs to the General Assembly, the Commission should retain any competence in regard to its agenda in future.

There also seemed to be a contradiction between the system of draft recommendations and the texts already embodied in the draft covenants; he wondered how those texts could stand in the circumstances. Furthermore, draft resolution I provided for a commission to study the economic aspect of the right of peoples to self-determination, but failed to establish a similar body to deal with the political aspect. He wondered why draft resolution II was concerned with a subject which was within the province of the Security Council as well as of the General Assembly, and yet it failed to provide for so much as consultation of the Council. That seemed hardly in conformity with the balance which the Charter sought to establish.

Those criticisms were not offered in a destructive spirit. On the contrary, he hoped that a new approach could be found and that, at its following session, the Commission would be able to do fruitful work on the subject by avoiding the contradictions by which it was now hampered.

Mr. CHENG PAONAN (China) said that his delegation's motives in co-sponsoring the joint proposals were somewhat different from those of the other sponsors. He recalled that the Chinese delegation had played a very active role at the San Francisco Conference in securing the adoption of Chapters XI, XII and XIII of the Charter. Since then, in various United Nations organs, it had consistently championed the right of peoples to self-determination. It had considered placing before the Commission a proposal calling for a third covenant, dealing solely with that right, but had refrained from doing so in order not to overload the Commission; nevertheless, it reserved the right to raise the question in the Third Committee. As the Commission had made no recommendations on the subject of self-determination for the past two years, his delegation had co-sponsored the joint proposals in the hope that the Commission would be able to take at least preliminary action on them and to forward some material for the Third Committee to discuss. He realized that the question was a complex one and that many delegations might wish to consult their Governments about it, and he would not, therefore, be disappointed if the Commission failed to take final action on it at the present session.

The problem dealt with in draft resolution I was not as simple as it looked. For one thing, the Economic and Social Council was even now discussing the establishment of a commission to study primary commodities; as such commodities were part of a country's natural wealth, any action the Council might take in the matter would have to be taken into account.

He had an open mind on whether the commissions mentioned in draft resolution I and II should be composed of experts or Government representatives.

With regard to draft resolution II, he agreed with the French representative that it dealt with a question in which other organs of the United Nations besides the General Assembly had a legitimate interest. Some arrangements would therefore have to be made to achieve co-ordination with those organs with regard to the action proposed in sub-paragraphs 1 and 2 of the operative part. Where sub-paragraph 3 was concerned, the time-limit of six months could be adjusted if other delegations considered it inadequate and he would welcome discussion on

whether the proposed commission should merely report the facts to the General Assembly or should also, as suggested in that paragraph, make appropriate recommendations.

He hoped that the joint proposals would give rise to an informed and constructive debate which, if the Commission was unable to take a decision on the proposals, would at least offer a useful guidance to the Third Committee.

The meeting rose at 5.35 p.m.