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SUMMARY RECORD OF THE TWO HUNDRED AND FIFTY-THIRD MEETING

Held at Headquarters, New York,
on Tuesday, 15 April 1952, at 10.30 a.m.

CONTENTS:

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.4/657, E/CN.4/516, E/CN.4/649; E/CN.4/L.21) (continued)

<u>Chairman:</u>	Mr. MALIK	(Lebanon)
<u>Rapporteur:</u>	Mr. WHITLAM	(Australia)
<u>Members:</u>	Mr. NISOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHEUNG FAONAN	China
	AZMI Bey	Egypt
	Mr. CASSIN	France
	Mr. KYROU	Greece
	Mrs. MEHTA	India
	Mr. AZKOUL	Lebanon
	Mr. WAHEED	Pakistan
	Mr. BIRECKI	Poland
	Mrs. ROSSEL	Sweden

Members:(continued)

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

Representative of a specialized agency:

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

<u>Category A:</u>	Miss KAHN	World Federation of Trade Unions (WFTU)
	Miss SENDER	International Confederation of Free Trade Unions (ICTU)
	Mr. THORMANN	International Federation of Christian Trade Unions (IFCTU)

Category B and on the Register:

Mr. MOSKOWITZ	Consultative Council of Jewish Organizations (CCJO)
Mr. AVRAM	International Association of Penal Law
Miss ROBB	International Federation of University Women (IFUW)
Miss SCHAEFER	International Union of Catholic Women's Leagues
Mr. PENCE	World's Alliance of Young Men's Christian Associations
Mr. JACOBY	World Jewish Congress (WJC)
Mrs. POLSTEIN) Mrs. FARBER)	World Union for Progressive Judaism

Secretariat:

Mr. HUMPHRY	Director, Human Rights Division
Mr. DAS Miss KITCHEN)	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.4/657, E/CN.4/516, E/CN.4/649; E/CN.4/L.21) (continued)

The CHAIRMAN invited the Commission to continue its consideration
of agenda item 3.

/Mr. CHENG PAONAN

Mr. CHENG PAONAN (China) considered that the Commission should certainly insert in the covenant or covenants on human rights an article on the right of peoples to self-determination, because the General Assembly, by its resolution 545 (VI), had entrusted that task to it and had even indicated how the article should be drafted, by referring to certain provisions of the Charter. Recognition of the right was essential in an organized democratic world community. Failure to recognize it had done much harm in the past and peoples still felt the consequences. The Commission should therefore reaffirm the right of peoples to self-determination and take the necessary steps to ensure that it was internationally respected; otherwise it would not have been faithful to the Charter and would have failed to carry out its task of ensuring a lasting world peace.

The Government of China considered, in the first place, that the insertion in the covenants of an article concerning the right in question was desirable and necessary. In its opinion, the article should figure in both covenants and not solely in the covenant on civil and political rights, because the dignity and well-being of peoples depended upon the recognition, in all spheres of human activity, of the right of peoples to self-determination. Next, the Chinese Government considered it regrettable that the General Assembly had already drafted the article; if such practices became general, they might have unfortunate consequences, because in certain special questions, the General Assembly could not possess as thorough a knowledge as some of its subsidiary organs. Without wishing to question the General Assembly's freedom of action in that respect, the Chinese Government did not, however, consider itself bound by the wording indicated and was ready to accept any improvement that might be suggested in the course of discussion. In addition it thought that, in drafting the article, care must be taken not to encroach upon the work of the Fourth Committee of the General Assembly, the Trusteeship Council and the Committee on Information from Non-Self-Governing Territories. Lastly, it recognized the usefulness of providing for special measures of implementation concerning the right of peoples to self-determination and was ready to accept such measures as the Commission might propose, provided that they were practical and compatible with the articles of the covenants relating to implementation.

/Mr. KYROU

Mr. KYROU (Greece) wished to make a statement of principle and reserved the right to state his opinion on the various aspects of the matter later. The Belgian representative had recalled that the Charter proclaimed the principle that all peoples, without exception, had the right of self-determination; he had quoted Articles 1, 55 and 56 of the Charter, to which Articles 73 (c) and 76 (b) could be added. He had pointed out that the Commission ought not to confine itself to reaffirming that abstract principle, but should try to make it a reality. He entirely shared that view, provided, however, that the Commission kept within the directives given in the General Assembly resolution.

The representatives of Egypt and China had pointed out that the General Assembly had already drafted the proposed article and that the Commission's main task was therefore merely to draft recommendations concerning international respect for the self-determination of peoples; for that reason it should try to define the technical problems raised. The Belgian representative had enumerated five questions requiring solution. In the first place, the right to self-determination must be extended to all peoples, which necessitated the adoption of uniform standards of application. Secondly, precise criteria must be established by which it could be determined whether a people was capable of administering itself. The Greek representative thought that, in those matters, it was sufficient to uphold what had been decided at the San Francisco Conference in 1945, when the principle of the right of peoples to self-determination had been closely linked to that of the free expression of the will of peoples. The third question related to the right of secession, the fourth to the attitude of the State directly concerned when a group of inhabitants wished to exercise the right to self-determination and the fifth to the position of third parties in the event of a conflict. Those three problems should not arise if the covenants clearly enunciated the right of peoples to self-determination and provided measures of implementation applicable to all peoples and designed to prevent conflicts.

The Greek delegation considered that the right of peoples to self-determination should never be considered from a negative point of view, or in other words, as a weapon to be used against a given country.

AZMI Bey (Egypt), further to his speech on the previous day, stated that the Commission's task was to draft an article, the first paragraph of which had already been written and the other paragraphs of which were to conform to the General Assembly's instructions. In addition, it was instructed to draw up recommendations concerning international respect for the self-determination of peoples.

Mrs. MEHTA (India) thought that no purpose was served by further referring to the importance of the principle, as that was already accepted. She confined herself to pointing out that it would be preferable for the Commission not to have a general discussion on that point and to wait, before deciding upon the wording of the article in question, until it took up item 4 of its agenda; for the time being it was sufficient for the Commission to study the recommendations which the General Assembly had requested it to formulate. In doing that, the Commission should consider three main questions: the establishment of international guarantees against any aggression liable to deprive peoples of the right to self-determination; secondly, the study of recommendations concerning peoples governed by foreign Powers, when those peoples wished to obtain independence; and lastly, the question of the under-developed nations which had to be under a system of international protection.

The CHAIRMAN thought that the Commission should wait to examine the Indian representative's suggestion until after the end of the general debate.

Mr. KYROU (Greece) proposed that the Commission should first take a decision concerning the second part of the article to be drafted and should then proceed to item 4 of its agenda in order to study measures of implementation.

Mr. VALENZUELA (Chile) emphasized the difficulty of the Commission's task, as it had to give precise legal form to a number of principles which the General Assembly had outlined. It had to draft an article of a

covenant that was to be binding upon contracting States. No one questioned the right of peoples to self-determination, but the article to be inserted in the covenants must not merely enunciate an abstract formula. The task was a delicate one, because the right of peoples to self-determination touched upon one of the most burning questions of the present political struggle and every member of the Commission was aware of concrete instances of that fact. Its task, then, was to arrive at a wording acceptable to all States, both those faced with specific problems in that respect, and other States less directly concerned.

He wished to suggest a provision concerning a question of special interest to small countries and he announced his intention of submitting a draft resolution on the subject. The right of peoples to self-determination should not be regarded solely from the political point of view, but also from the economic aspect, in other words the right of politically independent peoples to dispose of their own natural resources must be affirmed.

Mr. HOARE (United Kingdom) thought that the Commission should first of all define precisely what it meant by the right of peoples to self-determination. It had already appeared in the debate that several interpretations were possible. For some, the notion was identical with that of self-government. That interpretation seemed too restrictive. The Charter established a distinction between the two concepts. On the one hand, in Article 1, paragraph 2 and in Article 55, it proclaimed the principle of equal rights and self-determination of peoples, which it considered as forming a whole. The references to "peoples" in the Preamble of the Charter were to the peoples of the sovereign States represented at San Francisco. The references to self-determination in those provisions of the Charter would therefore seem to be to the recognition of the sovereignty of sovereign States and the obligation of such States to respect the sovereignty of other States. That was, at any rate one, and an important aspect of self-determination. On the other hand, in Chapter XI, regarding Non-Self-Governing Territories, the Charter did not mention self-determination but laid among other obligations upon States responsible for administering those territories the obligation to develop self-government. The question then arose whether the General Assembly resolution in its reference to the Non-Self-Governing Territories was not merely re-affirming the concept contained in Chapter XI of the Charter.

The right of self-determination might be understood in a third and more dynamic sense; there were at present, as there had been in the past, peoples who were struggling for independence. It remained to be considered how far those national aspirations and efforts towards liberation should be admitted.

The great majority of modern States had for long recognized the principle of self-determination but not as an absolute. In the United States, President Wilson, addressing Congress after the 1914 war, had said that all well-defined national aspirations should be accorded the utmost satisfaction that could be accorded without introducing elements of discord and antagonism likely to break the peace of Europe. No one disputed the principle; the difficulty was how it should be applied in particular cases, bearing in mind ethnic, geographical, economic and other factors. That question was one that in the past had taxed all the resources of statesmanship. As the representatives of Belgium and Chile had so wisely pointed out, the conversion of a political principle into a legal text binding upon all States and providing all the necessary guarantees was an extremely difficult task. He added that that was doubtless the reason for the reluctance shown by the Commission to enter upon its discussion. It was therefore necessary for the Commission to define first of all the notion of self-determination, to raise the question whether distinctions should be drawn with regard to the nature of national emancipation movements and particularly to decide how far mere separatist movements or vague aspirations to self-government should be countenanced. He recalled that his country, with others, had recognized the principle of the right of peoples to self-determination, particularly after the 1914 war at the time when the Allied Governments had been led to create new States in application of that principle. Then and since, however, the primary need of safeguarding international peace and other political factors had overridden all other considerations, and the principle had not always been applied, sometimes, no doubt, for bad reasons, but sometimes for good and compelling reasons.

It was indispensable to define clearly the concept of the right of peoples to self-determination and to start by stating precisely what would be the content of the article to be included in the international covenants on human rights.

Mr. KYROU (Greece) asked the United Kingdom representative for a fuller explanation on two important points. In the first place, it would appear from the latter's statement that there was a distinction between the right of peoples to self-determination as referred to in Articles 1 and 55 of the Charter, and the right of peoples to self-government or independence, mentioned in Article 76 (b) of the Charter as one of the basic objectives of the Trusteeship System. He himself was not under the impression that there was a difference of sense between those two concepts. Article 76 (b) provided that one of the essential purposes of the Trusteeship System was to promote the "progressive development (of the peoples of the Trust Territories) towards self-government or independence". Article 1 of the Charter defined the right of peoples to self-determination as one of the purposes of the United Nations. It would therefore not seem that the right of peoples to self-determination and their right to self-government were different in essence according to the Charter. Secondly, he wished to know what, in Mr. Hoare's opinion, was the connexion between item 3 on the agenda and the question of minorities. He was entirely in agreement with Mr. Hoare in recognizing that there was need for extreme prudence in encouraging the national aspirations of any human group, since it was desirable to avoid the risk of promoting something that might be no more than a subversive movement. He wondered, however, whether in the case of a clearly defined majority of the population of any given territory, that majority was not entitled to self-determination or to self-government, and therefore to involve the remainder of the inhabitants in that movement.

Mr. HOARE (United Kingdom) in reply to the representative of Greece, said that he had only been expressing his personal point of view. His ideas were, however, not without legal foundation. It might be supposed, until the contrary was proved, that the difference of terminology between the texts of Articles 1 and 55 and that of Articles 73(b) and 76(b) had been intentional. He referred to document E/CN.4/649, which contained a quotation from the

official records of the Preparatory Commission at San Francisco; according to that text the term "independence" had been omitted from Article 73 (b) of the Chapter regarding Non-Self-Governing Territories, on the understanding that it would appear in Article 76(b) which referred to the independence of peoples as one of the alternative objectives of the Trusteeship System. On the other hand, it appeared that the expression "self-determination" mentioned in Articles 1 and 55 of the Charter referred rather to sovereign States. It should be noted that Article 76(b) also stated that regard must be had to the "particular circumstances of each territory and its peoples" and that in consequence the Charter did not postulate independence either as a right or as an absolute principle. That was precisely the difficulty in drafting a legal text binding upon all States. When drafting an article of such a nature care must be taken to avoid making an involuntary amendment to the Charter.

With regard to the question of minorities, he said that if the principle that national aspirations must be fulfilled were to be interpreted absolutely, those minorities which could claim to be "peoples" would take advantage of that right. The national aspirations of peoples should therefore be clearly defined. Some authors maintained that the right of secession was an essential element in the right of peoples to self-determination; a like prudence was necessary in that connexion.

AZMI Bey (Egypt), speaking on the same point, said that there was an obvious difference between the right of peoples to self-determination and their right to self-government. The first referred to the right of peoples freely to choose their international status, which did not necessarily, as the United Kingdom representative appeared to believe, entail the right of secession; in the second place, it was a question of autonomy in the domestic administration of a country. The right of self-determination meant, for a people, the right to take a decision on its own international status, i.e. to decide whether it wished to become a protectorate, to achieve its independence, form part of a commonwealth, etc.

/As an example,

As an example, he mentioned the case of the Sudan -- to recognize the Sudan's right to self-government would entail allowing it to provide itself with a Sudanese government having the power to manage its own domestic affairs; if the Sudan were allowed to exercise its right to self-determination, that would mean that a plebiscite would be organized and the Sudanese would be asked to make their own decision on their international status. The same procedure might be applied by analogy to Cyprus, now administered by a British Governor-General.

The CHAIRMAN pointed out that human rights extended to all aspects of individual life and that problems of a political nature must sooner or later be studied by the Human Rights Commission. That body had hitherto touched but lightly on the question and there was therefore a need to carry the debate further.

Mr. CASSIN (France) said that he was not desirous of explaining the point of view of any particular country; he wished rather to establish a procedure for work. He recalled that eighteen months previously, when the Commission on Human Rights had been given its present assignment, he had made two reservations. In the first place, it was the Commission's task to consider relations between the individual and the group and not relations between groups. In the second place, the Commission had already, in the Universal Declaration of Human Rights, a subject of vast scope, so vast that it had not yet been able to prepare the final draft of the covenants on human rights.

The Commission did not have to turn back and consider the expediency of the terms of reference assigned to it by the General Assembly; it should carry out those terms of reference in a spirit as consistent as possible with the United Nations Charter. The nature of those terms of reference proved that the General Assembly had felt that the Commission could not deal with the question of the self-determination of peoples in the same way as other rights considered human rights. It had therefore decided, firstly, that an article on the self-determination of peoples should be

/included

included in the covenants on human rights and, secondly, that the Commission should prepare recommendations concerning international respect for that right. He wondered how the Commission could best fulfil its dual assignment.

Firstly, the covenant should deal with the self-determination of peoples. There were several ways open to the Commission. According to the Egyptian representative, the first paragraph of the article was already drafted; the second paragraph and the other paragraphs in their turn were easy to draw up. But the Belgian representative had opened a new perspective with regard to the eventual contents of the other paragraphs. He had raised questions which bore on the very substance of the right and he had warned the Commission of the danger of merely reaffirming the right of self-determination. But he had not spoken about "ways and means of implementation". The Commission must not limit itself to affirmations; it must act, in other words it must make appropriate recommendations. It should therefore take up the substance of the problem, and the comments just made showed that the Commission had succeeded in grasping certain basic ideas more closely.

He wondered which method should be followed and noted that the Commission had the choice of two possibilities. The first was to include in the covenant an article consisting of two general paragraphs in the nature of statements of principle. That method did not require any thorough examination of the substance of the right and would be quicker in view of the fact that the General Assembly had not apparently wished the covenant to give rise to a detailed study of the self-determination of peoples. The other solution was based on the idea that, as soon as it had been decided to draft a covenant binding all States, it was essential to prepare a precise juridical text stipulating the commitments of States, to define the proposed right, to lay down its limits and to specify the cases where it could be invoked. The latter method was undoubtedly of a more long-term nature and, if it were adopted, the drafting and conclusion of the covenant would be retarded. The Commission had therefore to choose between two methods: either to include a short article in which the right of self-determination would be grouped with the other collective freedoms; or to draft a long article, a chapter of the covenant, even if it did not broach the question of methods of implementation there.

/Even if

Even if a mere superficial study of the question was sufficient for drafting the article, the Commission could not make recommendations without thoroughly studying the right of self-determination of peoples, the conditions for its implementation, its limits and the ways and means intended to guarantee that right. It was fundamentally a political problem which was more closely related than any other to the rights and duties of States and which had complex technical and legal aspects. The Commission should therefore question the bodies which were able to clarify all those aspects. The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities might study the relationship between the right to self-determination and the concept of minorities; the International Law Commission would be particularly competent to study the right of peoples in relation to the rights and duties of States and the links between that right and the major principles of international law; lastly, UNESCO could inform the Commission about the different characteristics of human groups and the method of ascertaining whether a given group constituted a people. The nation concept, which had enabled several human groups to become States in the nineteenth century, had a different meaning in the USSR, for example, where nations were considered to be political groups within a State.

He reserved the right of the French delegation to state its position on such matters later. The Commission should try to find a balance between the aspirations of the world as a whole and those of each community. Just as, in drafting the Universal Declaration of Human Rights, it had been obliged to study the relationship between the individual and the group and the limits inherent in human rights, the Commission should now analyse the relationships among various groups, their duties and the limits to their rights.

The CHAIRMAN pointed out that, in the first line of the English and French translations of the Russian text of the USSR draft resolution (E/CN.4/L.21), the words "Covenant" and "le projet" should read "Covenants" and "les projets" respectively.

Mr. NISOT (Belgium) remarked that the French translation of the second paragraph of the USSR draft resolution (E/CN.4/L.21) did not in his opinion concord with the English translation.

The CHAIRMAN replied that, since the Russian text was the original, the USSR representative would doubtless explain the meaning of that paragraph when he introduced his delegation's draft resolution.

/Mrs. ROOSEVELT

Mrs. ROOSEVELT (United States of America) thought that the USSR draft resolution and the drafting of the article on the self-determination of peoples should be considered in relation to each other. She wondered whether examination of that draft should not be postponed until a later stage in the discussion.

The CHAIRMAN said that, as he understood it, the general discussion was not closed and he requested the members of the Commission to submit draft resolutions to guide the discussion.

Mr. WAHEED (Pakistan) stated that the right of self-determination of peoples should be proclaimed in such a way as to prevent weak peoples from being dominated by strong peoples. If that right was sanctioned by an international code, it would be a valuable contribution to peace. Countries were becoming increasingly dependent on each other and their national sovereignty must be safeguarded. Any attempt to make dissimilar groups live in the same State could only result in armed conflict. The Pakistani delegation considered it essential for the government of a country to be freely chosen by its inhabitants and for aliens to be excluded from it. The implementation of those principles, recognized by the Charter and the Universal Declaration of Human Rights, apart from its moral effect, would serve the cause of world peace and security.

Mrs. MEHTA (India) pointed out that the questions of minorities and of the self-determination of peoples should not be confused.

The CHAIRMAN stressed that, although the two questions were actually separate, they nevertheless had certain points in common.

Mr. NISOT (Belgium) asked the Indian representative whether, in her delegation's opinion, minorities should, in principle, have the right to self-determination denied to them.

/Mrs. MEHTA

Mrs. MEHTA (India) replied that it all depended on what was meant by minorities.

Mr. NISOT (Belgium) thought that minorities which met the requirements should be entitled to aspire to self-government; otherwise several Members of the United Nations which formerly had been minorities would have come into existence as States by an irregular procedure.

AZMI Bey (Egypt) felt that the substance of the problem had already been fully considered by the Third Committee at the sixth session of the General Assembly. He suggested that the Commission should forthwith draft the article on the self-determination of peoples. The first paragraph of the article had been supplied by the General Assembly, so only the following paragraphs remained to be drafted. The various draft resolutions to be submitted would assist the Commission in its work. It could then take up the matter of recommendations, which, as the French representative had stressed, was a long-term undertaking which would require outside assistance.

The CHAIRMAN requested the Egyptian representative to present his suggestions in the form of a draft resolution.

AZMI Bey (Egypt) agreed to do so.

Mr. WHITLAM (Australia) was surprised that the Egyptian representative thought that the Commission could easily complete the work assigned to it by the General Assembly. He recalled that, at its seventh session, the Commission had been unable to comply with the request addressed to it by the General Assembly in resolution 421 D (V). The General Assembly had therefore repeated its request in resolution 545 (VI). The Commission's assignment was particularly difficult and it could probably only start it during the current session. He did not therefore think that the Commission was at the moment in a position to draft an article or to make recommendations.

/Mr. MOROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) reserved the right to submit his delegation's draft resolution (E/CN.4/L.21) at the afternoon meeting. He noted that the question was apparently so difficult that no member of the Commission ventured to take up the substantive aspect. It was in fact very complicated and it would be quite premature to close the general discussion forthwith. He hoped that, in response to the Chairman's request, the members of the Commission would follow the USSR delegation's example and submit draft resolutions.

Mr. NISOT (Belgium) shared the view of the Australian and USSR representatives. To draft an article forthwith would lead to the repetition of a catch-phrase and the Commission would be evading its real responsibilities.

AZMI Bey (Egypt), in reply to the Australian and Belgian representatives, felt that, since the declarations of President Wilson on the self-determination of peoples, much thought had been given to the matter and no one could claim to be unaware of it. He recognized, however, that the problem had never been thoroughly studied. He denied that he had wanted to make the Commission neglect the second part of the work assigned to it under resolution 421 D (V) of the General Assembly, namely the study of ways and means of guaranteeing the self-determination of peoples. On the other hand, he thought that the article on that question could be drafted much more quickly.

Mr. NISOT (Belgium) pressed for a definition of the concept of the self-determination of peoples in order to avoid the arbitrary element.

The meeting rose at 12.55 p.m.