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COMMISSION ON HUMAN RIGHTS

Eighth Session

7 MAY 1952

SUMMARY RECORD OF THE TWO HUNDRED AND FIFTY-SECOND MEETING

Held at Headquarters, New York,  
on Monday, 14 April 1952, at 11.55 a.m.

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- Question of the representation of China (E/CN.4/L.20)
- Election of officers
- Adoption of the agenda (E/CN.4/642)
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<u>Chairman:</u>	Mr. MALIK	(Lebanon)
<u>Rapporteur:</u>	Mr. WHITLAM	Australia
<u>Members:</u>	Mr. NISOT	Belgium
	Mr. SANTA CRUZ	Chile
	Mr. CHENG PAONAN	China
	AZMI Bey	Egypt
	Mr. CASSIN	France

Members:  
(Cont'd)

Mr. KIROU	Greece
Mrs. JEMEA	India
Mr. ANKOU	Lebanon
Mr. WAHERD	Pakistan
Mr. BIRECKI	Poland
Mrs. ROSSEL	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. BRAGGO	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Representatives of specialized agencies:

Mr. DOYLE	Office of the High Commissioner for Refugees
Mr. MORELLET	International Labour Organisation (ILO)
Mr. HILL	World Health Organization (WHO)
Mr. ANNALDO	United Nations Educational, Scientific and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:Category A:

Miss JENDER	International Confederation of Free Trade Unions (ICFTU)
Mr. THORMANN	International Federation of Christian Trade Unions (IFCTU)
Miss KAIN	World Federation of Trade Unions (WFTU)

/Category B

Category B and  
Registers:

Mr. LEWIN	Agudas Israel World Organization
Mrs. VERCARA	Catholic International Union for Social Service
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. BERNSTEIN	Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council
Mr. MANUILA	} International Association of Penal Law
Mr. ULAVIANOS	
Mr. ULAVIANOS	} International Bureau for the Unification of Penal Law
Mr. AVRAM	
Mrs. FARSONS	} International Council of Women
Mrs. CARTER	
Mrs. ROBB	International Federation of University Women
Mr. BEER	International League for the Rights of Man
Miss SCHAEFER	International Union of Catholic Women's Leagues
Mrs. CARTER	Liaison Committee of Women's International Organizations
Mr. JACOB	World Jewish Congress
Mr. RONALDS	} World Organization for Progressive Judaism
Mrs. POLSTEIN	
Mrs. FARBER	
Mr. PENCE	World Alliance of Young Men's Christian Associations

Secretariat:

Mr. GEORGES-PIGOT	Assistant Secretary-General in charge of the Department of Social Affairs
Mr. HUMPHREY	Director of the Division of Human Rights
Mr. DAS	} Secretaries of the Commission
Miss KITCHEN	

QUESTION OF THE REPRESENTATION OF CHINA (E/CN.4/L.20)

Mr. MOROZOV (Union of Soviet Socialist Republics), speaking on a point of order, pointed out that the Central People's Government of the People's Republic of China had stated that it could not recognize the representative of the Kuomintang group as representing China. He associated himself with that point of view and submitted a draft resolution (E/CN.4/L.20) to exclude the representative of the Kuomintang and invite the Central People's Government of the People's Republic of China to send a representative to the Commission.

The CHAIRMAN ruled that the USSR draft resolution was not receivable inasmuch as the Commission was not competent to take a decision concerning the representation of a State in the United Nations.

Mr. MOROZOV (Union of Soviet Socialist Republics) challenged the Chairman's ruling.

The CHAIRMAN put his ruling to the vote in accordance with rule 44 of the rules of procedure of the functional Commissions of the Economic and Social Council.

The Chairman's ruling was upheld by 9 votes to 4, with 5 abstentions.

Mr. SANTA CRUZ (Chile) said that he had supported the Chairman's ruling because he considered it to be fair and in accordance with the rules of procedure. Under rule 12, the appointment of members of the functional Commissions must be confirmed by the Economic and Social Council, and no member so confirmed could be excluded later.

Mr. MOROZOV (Union of Soviet Socialist Republics) maintained that it was unjust and illegal to decide that the Central People's Government of the People's Republic of China should not be represented on the Commission on Human Rights.

Mr. CHENG FANGNAN (China) observed that the Economic and Social Council at its thirteenth session had recognized the part his Government had played by re-electing it to all the functional Commissions of which it had previously been a member. As the Chilean representative had said, to reopen a subject on which  
/the Council

the Council had taken a decision would be contrary to rule 12 of the rules of procedure. Furthermore, the members of the Commission could not tolerate the presence in their midst of the representative of a regime which openly flouted human rights.

Mrs. MEHTA (India) explained that she had abstained from voting on the Chairman's ruling because she had not wished to challenge it. Nevertheless, the Indian delegation earnestly hoped that the General Assembly would settle the question of the representation of China once and for all. Countries which had recognized the Central People's Government of the People's Republic of China found it difficult to agree that China should not be represented on the various organs of the United Nations.

Mr. BIRECKI (Poland) said that he had voted against the Chairman's ruling because it prevented China from being represented on the Commission. It was particularly incongruous that a representative of the Kuomintang group should take part in the work of the Commission on Human Rights.

#### ELECTION OF OFFICERS

Mrs. ROOSEVELT (United States of America) nominated Mr. Malik (Lebanon) as Chairman of the Commission.

AZMI Bey (Egypt) proposed that all the officers of the Commission should be re-elected -- Mr. Malik (Lebanon) as Chairman, Mr. Cassin (France) as First Vice-Chairman, Mrs. Mehta (India) as Second Vice-Chairman and Mr. Whitlam (Australia) as Rapporteur.

Mr. SANTA CRUZ (Chile), Mr. MOROZOV (Union of Soviet Socialist Republics), Mr. NISOT (Belgium) and Mr. KYRCU (Greece) supported the Egyptian representative's proposal.

The Egyptian representative's proposal was adopted unanimously.

The CHAIRMAN thanked the members of the Commission, in the name of all its officers, for the fresh mark of confidence it had shown them. He welcomed the representatives of the new members of the Commission, Belgium and Poland.

/The peoples

The peoples of the world were pinning their hopes on the Commission's work. Although its terms of reference were limited, it should try not to betray those hopes.

ADOPTION OF THE AGENDA (E/CN.4/642)

AMRI Bey (Egypt) proposed that, in view of its importance, item 19 of the agenda should be placed fifth. If that were done, the Commission would be able to submit observations on the subject to the fourteenth session of the Economic and Social Council.

The CHAIRMAN asked the Commission first to decide on the items on the agenda, irrespective of their order.

The agenda was adopted unanimously.

Mr. CASSEN (France) stressed the importance of item 10 (Annual reports on human rights) and item 18 (Yearbook on Human Rights), which the Commission had not been able to examine at its seventh session. He proposed that they should be placed sixth and seventh on the agenda.

Mr. KYROU (Greece) would not oppose the suggestions of the Egyptian and French representatives, but asked that the Commission should begin by examining item 3 (Recommendations concerning international respect for the self-determination of peoples) and item 4 (Draft international covenants on human rights and measures of implementation).

The Greek representative's proposal was adopted unanimously.

RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT FOR THE SELF-DETERMINATION OF PEOPLES (A/L.100, A/L.101, I/I.102, I/I.103, A/L.104, A/I.105, A/L.106; A/2112, E/CN.4/657, E/CN.4/516, E/CN.4/642).

The CHAIRMAN invited the Commission to consider item 3 of the agenda.

/Mr. NISOT

Mr. NISOT (Belgium) declared that in proclaiming the right of peoples to self-determination, the Charter had established a principle which was of benefit to all peoples and binding on all States without exception. The Commission on Human Rights would be failing in its task if it merely kept on repeating, in one way or another, that peoples had the right to self-determination, and did not study those problems which, once elucidated, should make it possible to transfer the whole problem from the theoretical stage to that of practical application. For it was a fact that unless it were defined, the principle would remain a dead letter, and States would continue to interpret it to suit their own purposes without fear of reproach because of the absence of established criteria.

The first thing to be settled was the meaning of the word "peoples". Clearly, only one definition could be accepted, and no distinction should be permitted on account of the Power having sovereignty over peoples, the continent where they lived, or whether they were in dependent territories or within the territory of a State. Therefore, peoples could not be excluded on the mere ground that, while not belonging to the ruling race, they had been incorporated in a State. Many human communities which today were States would never have known independence if they had not been able legitimately to free themselves from the bonds uniting them to a State within which they had constituted a minority. Common sense indicated, however, that not every group regardless of its nature could be taken into consideration in determining the extent to which the principle of the right of peoples to self-determination was applicable. Practical criteria must, therefore, be found. They should, however, be uniform; the Charter applied equally to all peoples, whether they came from Europe, Asia, Africa, America or Oceania.

The second question was at what stage of its development should a people's right to free self-determination be recognized. All peoples had not reached the same stage of development. For example, peoples, in particular the indigenous peoples of Asia and America, which had been in contact with civilization for several centuries were on the whole considerably more advanced than the black populations of Africa. While there was general agreement that

the degree of development was the main factor to be taken into consideration, opinions were divided on the elements which were to be used in determining a people's ability to manage its own affairs. The Commission must put an end to the arbitrary decisions which were all too frequent in that connexion, by defining those elements.

A third question concerned the attributes of the right of self-determination, by which was meant the action that peoples might legitimately take to achieve their independence. That highly complex problem implied what had been called the right of secession, and it was essential to decide whether the right of secession was justified and, if so, in what circumstances it could be exercised. It must also be stated clearly whether it included the right to revolt<sup>or</sup> to rebel against an established constitutional order. That point called for careful study; clear distinctions had to be drawn, and there, too, the necessary criteria had to be established.

The fourth question which arose was what attitude could or should be taken by a State towards a group in its territory which claimed to exercise the right of self-determination, and whether such a State, to an extent and in ways to be determined, might possibly oppose such demands. Its freedom, as well as its ability to evaluate the conditions to be met by the claimant group might be affected by contractual obligations; hence, its ability to evaluate and, consequently, the risk of arbitrary action would be proportionately reduced if the provisions of the covenant on human rights regarding the right to self-determination, and the machinery for its implementation, were as complete and detailed as possible. Such provisions should also include measures designed to avoid the loss of human life and chaos which too often accompanied a people's struggle for independence.

Still another question requiring study was that of the attitude to be adopted by other States in case of a conflict between a State and a people under its jurisdiction over the latter's right to self-determination. The point was, whether those States were justified in rendering assistance to the dissidents or insurgents, in what circumstances they could do so, on what conditions and at

/what stage



what stage they could recognize the independence of the people which wished to be free and whether they must wait until the insurgents had completely succeeded in securing the success of their cause through the use of force. It should also be made clear how the position of the other States was affected by the general obligation of non-intervention under international law, and whether the principle of the right of peoples to self-determination could overcome that obligation, and to what extent.

Those questions would become particularly acute in the case of a people which, according to criteria set by mutual agreement, met the conditions justifying its desire for independence.

In conclusion, Mr. Nisot noted that while those were not the only problems which had to be settled, they were the most important. The Commission on Human Rights would cruelly disappoint the expectations of peoples if it allowed their right to self-determination to remain inoperative by failing to define its scope and effects and the conditions in which that right could be exercised.

Mr. KYROU (Greece) thanked the Belgian representative for his clear, concise statement. He might be obliged to make reservations with regard to some of the questions raised, but he considered that the Belgian statement constituted a valuable contribution to the Commission's work. He hoped that the Secretary of the Commission would make the full text available to the members of the Commission.

The CHAIRMAN announced that steps had already been taken to ensure that the statement was published as a Press release.

He reminded the Commission that two definite responsibilities had been laid on it by General Assembly resolution 545 (VI). First, the Commission was to include an article on the right of peoples to self-determination in the covenant or covenants on human rights. Secondly, it was to prepare recommendations concerning international respect for that right.

Mr. MCROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) asked whether the Commission would draft the text of the article on the right of self-determination to be included in the covenants in connexion with item 3 of the agenda, and whether delegations could submit concrete proposals in that connexion before item 4 was discussed. That would be the best procedure, since it would make it easier for the Commission to make recommendations on international respect for the right.

The CHAIRMAN considered that it was open to members of the Commission to submit concrete proposals on the article immediately. The Commission might, however, decide not to adopt a final text until it considered the international covenants on human rights article by article.

AZMI Bey (Egypt) pointed out that in resolution 545 (VI) the General Assembly had already decided that the article should be drafted in the following terms: "All peoples shall have the right of self-determination". The Commission, therefore, was merely called upon to include that article in the covenant as it stood. Only recommendations on the international respect of the right of self-determination could be submitted, discussed and voted.

Mr. MOROZOV (Union of Soviet Socialist Republics) felt that the Commission must decide at once what procedure it intended to follow. He agreed that the General Assembly had instructed the Commission to insert the text adopted in the covenants, but that text should be supplemented and it was for the Commission to supplement it. He would therefore like to know whether delegations could properly submit proposals concerning that text when item 3 of the agenda was considered.

The CHAIRMAN said that he did not think that the Commission need take an immediate decision on the point. It had a General Assembly decision before it and it must respect the spirit as well as the letter of that decision.

Mrs. MEHTA (India) proposed that the Commission should adjourn until the next day, 15 April, at 10.30 a.m., in order to enable members to study the documentation on the right of peoples to self-determination.

The Indian representative's proposal was adopted by 11 votes to 1, with 5 abstentions.

/The CHAIRMAN,

The CHAIRMAN, having consulted the members of the Commission and there being no objection, announced that, as a general rule, the Commission would meet from 10.30 a.m. to 1.00 p.m. and from 3.00 p.m. to 6.00 p.m.

In order to be able to give his entire attention to the conduct of business he would ask Mr. Azkoul to act as Lebanese representative.

The meeting rose at 1.10 p.m.