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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND SIXTIETH MEETING

Held at Headquarters, New York
on Monday, 21 April 1952, at 10.30 a.m.

CONTENTS:

Chairman:	Mr. CASSIN	(France)
Rapporteur:	Mr. WHITLAM	(Australia)
Members:	Mr. NISOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHENG PAONAN	China
	AZMI Bey	Egypt
	Mr. JUVIGNY	France
	Mr. KYROU	Greece
	Mrs. MEHTA	India

(13 p.)
52-5267

Members (continued):

Mr. AZKOUL	Lebanon
Mr. WAHEED	Pakistan
Mr. BORATYNSKI	Poland
Mrs. RÖSSEL	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. PICKFORD	International Labour Organisation (ILO)
Mr. ARNALDO	United Nations Educational, Scientific and Cultural Organization (UNESCO)
Dr. HILL	World Health Organization (WHO)

Representatives of non-governmental organizations:

Category A:

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

/Category B

Category B and on the Register:

Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. MANUILA	International Association of Penal Law
Miss SCHAEFER	World Union of Catholic Women's Organizations
Miss AIETA) Mrs. VERGARA)	Catholic International Union for Social Service
Mr. RONALDS) Miss FARBER)	World Union for Progressive Judaism
Mrs. WALSER	Women's International League for Peace and Freedom
Mrs. PARSONS) Mrs. CARTER)	International Council of Women

Secretariat:

Mr. RUMPHREY	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.106; A/2112; E/CN.4/657, E/CN.4/516, E/CN.4/649, E/CN.4/662; E/CN.4/L.22, E/CN.4/L.24, E/CN.4/L.26) (continued)

The CHAIRMAN recalled that the Commission had completed the vote on the two component paragraphs of the article on self-determination and should normally proceed to vote on the article as a whole. Before doing so, however, the Chilean representative might wish to explain whether he intended his proposal (E/CN.4/L.24) to constitute a third component paragraph or to stand as a separate article.

Mr. VALENZUELA (Chile) felt that the Commission should decide that point on the basis of its interpretation of the General Assembly's resolution 545 (VI). If it considered that the Assembly had instructed it specifically to draft a single article on self-determination, the Chilean proposal, if adopted, would be added to the two paragraphs already accepted.

/Mr. MOROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics), invoking rule 58 of the Commission's rules of procedure, noted that the voting on the article had begun and could not be interrupted at that stage by consideration of any other proposals. Upon completion of the vote on the article as a whole, the Commission was free to discuss the Chilean proposal and the USSR delegation was prepared at that time to support it.

Mr. AZKOUL (Lebanon) strongly supported the view that the Commission should first complete the vote on the article as a whole. It should then normally proceed to examine those proposals which were neither covered nor excluded by the provisions already adopted. Both the Chilean (E/CN.4/L.24) and the Yugoslav (E/CN.4/L.22) draft resolutions would then be open for discussion. If adopted, the Commission would have to decide whether they should be incorporated in a single article or arranged in some other form.

AZMI Bey (Egypt), Mr. JEVREMOVIC (Yugoslavia) and Mrs. ROOSEVELT (United States of America) favoured that procedure.

The CHAIRMAN called for a vote on the article as a whole.

The article as a whole was adopted by 13 votes to 4, with 1 abstention.

Mr. NISOT (Belgium) said that he had voted against the article because it failed to deal concretely with basic questions which must be solved if the right of peoples to self-determination was to be effectively realized. In his statement on 14 April, he had stressed the need for solving them. The Belgian delegation felt that, since the General Assembly had decided that there should be an article on the right of self-determination in the covenant on human rights, that article must be effective; but the article as adopted merely reiterated the statement of principle, without clarifying it.

Mrs. ROOSEVELT (United States of America) had voted in favour of the article because the United States Government supported its inclusion in the covenant, but she reserved the right to propose changes or additions when it came up for discussion in the General Assembly.

Mr. HOARE (United Kingdom) had voted against it because it was inappropriate in a covenant on human rights and because it did not attempt to define the essential terms "peoples" and "self-determination" although many members who were in favour of an article had admitted that such definition was indispensable. The article would do nothing to solve the real problems of self-determination which arose not merely in Non-Self-Governing Territories but in many States throughout the world.

Mr. WHITLAM (Australia) had also found the article unacceptable. Its language was obscure where it should have been explicit and it was not clear to what degree it would affect the Charter provisions on Trust and Non-Self-Governing Territories.

Mr. AZKOUL (Lebanon) had voted for the article because, while it was far from perfect, it was the best text submitted.

Mr. JUVIGNY (France) conceded that the article adopted represented a substantial accomplishment. His delegation remained convinced, however, that it did not belong in a covenant implementing the Declaration of Human Rights; one of the reasons why he had voted against that article was that the Commission had rejected the United States amendment which guaranteed the rights of other States.

Mr. JEVREMOVIC (Yugoslavia) had voted for the article because it embodied almost all the basic ideas of the Yugoslav proposal (E/CN.4/L.22). It failed, however, to relate the right of self-determination specifically to individuals. The Yugoslav draft resolution corrected that omission.

Mr. KYROU (Greece), by his affirmative vote, had expressed his satisfaction regarding the progress achieved by the Commission in setting down a comprehensive statement of the right of self-determination of peoples. It remained for the Assembly and the Economic and Social Council to attempt to improve further on the text adopted.

AZMI Bey (Egypt) had voted for the article because it most successfully met the Assembly's instructions to the Commission. He was gratified to note the spirit of co-operation in which the various

/suggestions

suggestions and amendments had been harmonized to arrive at an agreed text. The definition of terms, which did not appear to be fully resolved in the text adopted, would become clear in the light of the San Francisco deliberations.

The CHAIRMAN, recalling the procedure suggested by the Lebanese representative, asked the Chilean representative to elucidate his draft resolution (E/CN.4/L.24).

Mr. VALENZUELA (Chile) found it highly significant that, while some delegations had rejected his proposal out of hand, no delegation had tried to amend it. Whenever a proposal was submitted couched in broad general terms, there was an immediate rush to amend it, but when a delegation submitted a proposal which might be interpreted as a practical way of giving moral support to a country's democratic struggle for the control of its own means of subsistence, its opponents refused to take any interest in it.

The first sentence was self-explanatory and could not, in his opinion, be open to any objection. The second had proved more controversial. It had been argued that its adoption would deter private foreign investment at a time when the under-developed countries were crying out for it. It was in fact designed to end the existing paradoxical situation in which the under-developed countries had to appeal desperately to the more advanced countries for hard currency while private investors from the latter were draining the under-developed countries' natural resources. The draft covenant ought to include an article to the effect that international private and public investments should be respected unless they had been made in such a way as to jeopardize the economic existence of the countries in which they had been placed. His proposal's aim was eminently practical: to enable the peoples to remain masters of their own natural wealth and resources; it was not an attempt to suggest that international obligations should not be respected nor to deprive any investor of his investment nor to justify expropriation, provided that the contracts had been fair ones. The whole superstructure of mutual respect among peoples could not be valid if a country was economically dependent upon any other.

/Mr. HOARE

Mr. SCAGE (United Kingdom) did not want to give the impression that those who opposed the Chilean proposal as a whole had not been able to find objections to it in detail. In the first sentence a most unusual meaning had been given to the word "sovereignty"; it was not generally used to connote control over natural resources, and "permanent sovereignty" was a concept that could not be tolerated, because every international treaty involved a deliberate derogation of sovereignty. Similarly, in the case of concessions, whether fairly or unfairly drafted, the State, under that proposal, would still maintain permanent sovereignty, with the result that the concession would in fact be invalid. The Chilean proposal in reality dealt with the relations under international law of States with other States or with the nationals of other States and thus had no place in a covenant dealing with human rights. The Commission on Human Rights was neither qualified nor competent to deal with the rights and duties of States. Furthermore, the word "peoples" was used in the Chilean draft resolution in a sense quite different from that in which it had been used in the draft article just adopted, where it meant a group which, although an entity, had not yet acquired sovereignty. Hence, that group would be given sovereignty over natural resources situated in territory in which it lived even if those resources were being exploited domestically by its own government. The phrase "means of subsistence", moreover, was not appropriate in all cases to cover the exploitation of natural resources, which, in turn, were not always the sole means of subsistence. Those objections apart, however, the principle involved in the Chilean draft resolution was bad enough to justify its exclusion from the draft covenant.

Mrs. ROOSEVELT (United States of America) said that the United States Government appreciated the Chilean representative's view of the situation, but must oppose his proposal. The correct way to remedy the problem would be to include in all contracts and concessions a provision for their renegotiation within a certain period or if certain conditions were or were not fulfilled. The Chilean proposal ignored existing contracts and international law, which provided a remedy in expropriation, provided that adequate, effective and prompt compensation was paid.

Mr. BRACCO (Uruguay) observed that any casual listener would surely be amazed to hear that there could be any opposition to the general principle stated in the Chilean draft resolution that the peoples should be the sole masters of their own resources. The drafting might, however, be improved.

/Mr. MOROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) was surprised at the United States representative's statement that the Chilean draft resolution ignored the existing body of international law. All that the draft resolution implied was that peoples could not be deprived of their natural resources, the very basis of their existence, which in turn was the basis of their possibility of exercising the right to self-determination. No reputable international lawyer would dream of sanctioning the looting of a people's natural resources by another State nor would he deny the elementary right of peoples to retain their basic right to independence. Nothing in the Chilean draft resolution infringed existing international law, of which the concept of sovereignty was an abiding principle. The Chilean interpretation of the word sovereignty was, in his opinion, the correct one, despite the United Kingdom representative's formalistic criticisms. The exercise of the rights to sovereignty and self-determination depended upon the adoption of that proposal, because political sovereignty would be worthless if the people enjoying it were deprived of their economic sovereignty; and a people deprived of its natural resources was a people deprived of its economic sovereignty. Unless that was clearly stated, international law would still be governed by the outworn legalistic arguments which were always adduced whenever a dispute about economic rights arose. The Chilean draft resolution was merely a development of the principle just adopted by the Commission that all peoples and all nations should have the right freely to determine their economic, as well as their political, social and cultural, status. It did not in any way conflict with international law nor with contracts or trade agreements, provided that they were not unfair nor obsolete, imposed often by force of arms in the course of colonialization. The statement of the right freely to determine economic status was a modern method of redressing ancient wrongs with which millions had grown impatient. He had not been convinced by the arguments of the United States and United Kingdom representatives and so he would support the Chilean draft resolution.

Mrs. ROOSEVELT (United States of America) said that the USSR representative had misunderstood her argument. No one would contend that all existing contracts were fair, but the correct remedy existed in international law, namely expropriation with due compensation. No one would say that fairer contracts should not be negotiated, with every possible safeguard; but to give the right

/to ignore

to ignore the fact that a contract existed would be questionable procedure both from the ethical point of view and even of that of self-interest.

Mr. KYROU (Greece) wondered whether the gist of the Chilean draft resolution had not already been incorporated in the second paragraph of the draft article just adopted and whether the misgivings to which the second sentence had given rise might not, if it was adopted, jeopardize the effectiveness of the draft article. He agreed with the USSR representative that the two were very similar, but felt that to state the right to the free determination of economic status in too great detail might be dangerous.

Mr. JUVIGNY (France) felt that the Chilean proposal was related to the rights and duties of States rather than to human rights and that it would therefore be out of place in the draft covenant on human rights. Furthermore the text already adopted by the Commission mentioned the right of peoples freely to determine their economic status. Consequently it might not be wise to enter into more specific details in a very general text.

His delegation was fully aware of the regrettable aspects of the struggle for raw materials. It could not however accept a conception of sovereignty which would legalize the autarchic practices of certain States which had a virtual monopoly of the raw materials indispensable to the international community. The object was the rational exploitation of natural resources; to do that some sovereignty would have to be surrendered to international organizations, such as the Schuman Plan. The Chilean proposal might if the concept of sovereignty were adopted, impede international solutions and the execution of international treaties

His delegation was therefore unable to support the Chilean draft resolution.

Mr. BORATYNSKI (Poland) announced that the Polish delegation would support the Chilean draft resolution because it believed that political rights could not be implemented without proper regard for economic rights.

/He shared

He shared the Chilean representative's disappointment that certain delegations who had paid lip service to and voted for the right of peoples to determine their own economic status were apparently opposed to the more concrete expression of that right contained in the Chilean proposal.

Mr. AZKOUL (Lebanon) considered that the Chilean proposal was a necessary corollary, adding to and explaining the article already adopted by the Commission.

He disagreed with the United Kingdom representative's restrictive interpretation of the words "permanent sovereignty". The Lebanese delegation understood the French equivalent, "droit permanent de souveraineté", to mean that States could agree, with the consent of their peoples, to a contractual limitation of their sovereignty -- thus leaving the door open to the limited sovereignty referred to by the French representative.

He recognized the validity of many of the objections raised to the second sentence. It was a mistake to attempt to define the relation between a people's means of subsistence and the rights of other States, particularly without defining the words "means of subsistence". He therefore asked that a separate vote should be taken on the two sentences and said that he would vote in favour of the first sentence and against the second sentence.

Mr. CHENG PAONAN (China) drew attention to the fact that the language of the Chilean proposal was somewhat similar to the language of article 2 of the draft declaration on the rights and duties of States (General Assembly resolution 375 (IV)).

If the Commission decided that any articles it adopted at that juncture were to be included in both draft covenants on human rights, he would be obliged to abstain from voting on the Chilean proposal as he felt that it should be included only in the draft covenant on economic, social and cultural rights. If, however, the Chilean proposal were re-introduced, under item 4 o the agenda, for inclusion in the latter draft covenant only and if certain drafting amendments were introduced, he would be prepared to vote in favour of it.

/ Mr. WAHEED

Mr. WAHEED (Pakistan) agreed that the Chilean proposal merely elaborated further the principle of a people's right to determine its economic status. The Commission had already recogniz that political enslavement often followed economic domination and it would be inconsistent if it failed to include the Chilean proposal in the article on self-determination. His delegation would therefore vote for that proposal.

Mr. VALENZUELA (Chile) felt that many of the objections to his draft resolution arose from the difference of outlook of highly developed countries and less developed countries and from the different legal terminology employed by the representatives of the various legal systems present in the Commission.

The term "economic sovereignty" was incomprehensible in industrial countries to such an extent was it an accepted part of their life, but under Latin American law sovereignty was fundamentally linked to economic conditions since the Latin American countries were fighting for political as well as economic sovereignty. Furthermore, in countries which were still developing, such as those in Africa and Latin America, human rights were so intermingled with the rights and duties of States that it was almost impossible to distinguish between them.

In reply to the French representative's reference to the struggle for raw materials, Mr. Valenzuela said that if all the developing countries were masters of their own raw materials the industrial countries would obtain all the raw materials they required at very good prices.

He had no objection to a vote on the two sentences of his draft resolution separately, but requested that roll-call votes be taken.

AZMI Bey (Egypt) said that he had originally felt that it was open to question whether the Chilean proposal should be included in the recommendations concerning international respect for the self-determination of peoples rather than in the covenant itself. In the light of the discussion, however, he agreed with the Lebanese representative that the Chilean proposal was a natural corollary to the article already adopted. He would therefore vote in favour of both parts of that proposal.

/He felt

He felt that the United Kingdom representative had confused the concepts of permanent sovereignty and complete sovereignty -- the one an unlimited concept in time and the other a concept of scope which could be limited by the United Nations or by international treaties. In his opinion, there could be no valid objection to the term "permanent sovereignty."

Similarly, the term "deprived of its own means of subsistence" in the second sentence did not imply totally deprived. It left the door open for commercial concessions, so long as such concessions were reasonable and just.

Mr. WHITLAM (Australia) recalled that the Chilean representative himself had drawn attention to the difficulty of determining where the rights of the individual ended and those of States began. Furthermore, the Chinese representative had pointed out the similarity of language between the Chilean proposal and the declaration on the rights and duties of States. While the Chilean proposal was acceptable in a broad abstract sense, he felt it was not within the terms of reference of the Commission on Human Rights and he would therefore be obliged to vote against both sentences.

Mr. NISOT (Belgium) said that he would vote against the Chilean proposal, in spite of his delegation's sympathy for the considerations underlying that proposal. He would do so for reasons of principle relating to the foundations of international law. It would be contrary to the very nature of a State to question its full right to dispose legally of its natural or other resources or to enact legislation under which concessions of those resources could be made. To limit the State in such a manner would mean to deny its sovereignty and to treat it as a minor or an incompetent.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that, as a lawyer, he could see no legal reason why the Chilean text should not be included in the article on self-determination. The poor arguments adduced by some delegations were merely a shield for their desire to maintain their colonial domination and to perpetuate their economic exploitation of the territories under their control. To prove his point, he cited a number of

/figures from

figures from documents A/1720 and A/1824 regarding the low wages paid to indigenous workers in such territories as the Belgian Congo, Madagascar, Tunisia and American Samoa and the predominating role of foreign capital in the development of those territories.

Those countries which supported the Chilean draft resolution would be promoting that economic independence which was a necessary prerequisite for political sovereignty and helping the United Nations to advance towards the goals set forth in the Charter.

In response to a suggestion by AZMI Bey (Egypt), Mr. VALENZUELA (Chile) agreed to replace the words "the following article" by the words "the following provision."

In reply to a question by the CHAIRMAN, Mr. JEVREMOVIC (Yugoslavia) said that he had no objection to the Chilean draft resolution being put to the vote before the Yugoslav draft resolution although the latter had been submitted first in point of time.

The meeting rose at 1.05 p.m.