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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Thirty-seventh session

PROVISIONAL SUMMARY RECORD OF THE 840th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 14 August 1989, at 3 p.m.

Chairman: Mr. LAMPTEY

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Organization of work

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The meeting was called to order at 3.25 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Ninth and tenth periodic reports of Mongolia (CERD/C/149/Add.23 and CERD/C/172/Add.10) (continued)

At the invitation of the Chairman, Mr. Bayart (Mongolia) resumed his seat at the Committee table.

Mr. SHAHI thanked the representative of Mongolia for his clear and lively introduction of his country's tenth periodic report, which contained particularly interesting information. He requested clarification of the number of nationalities, as the two reports gave different figures. He also inquired about the existence of Mongolian tribes and whether there were ethnic differences between them. He wished to know whether the various ethnic groups genuinely participated in public life and were adequately represented in the executive and legislative organs and the State administration.

Mr. SONG SHUHUA requested additional information on the present state of industry and the rural economy. Would the extensive rights to engage in self-employed activities granted to citizens under the current economic reform programme also apply to agricultural workers? He asked whether in accordance with the programme adopted in 1987, all children would have access to secondary education by the end of 1995 and he inquired as to the methods used to provide education for children in nomadic tribes. The last paragraph under article 6 on page 5 of the tenth report stated that, in view of the absence of racial discrimination, no case of that kind had come before the courts and he asked whether that was due to public unawareness of the various international treaties and conventions on racial discrimination.

Mr. BAYART (Mongolia) said that he would begin by answering the questions raised by Mrs. Sadiq Ali. The question of the number of nationalities had been mentioned by several Committee members since the reports referred to the existence of both 14 and 25 nationalities. He said that the reports drew a distinction between national and ethnic groups, which numbered 25 in total. The Kazakhs constituted the largest group and represented 5.4 per cent of the population, not 54 per cent as had been said by Mrs. Sadiq Ali, and they spoke their own language, Kazakh. Most of the other nationalities spoke Mongolian, although there were also local dialects.

There were around 10 additional, very small ethnic groups. Kazakh children attended primary and secondary school, where they received instruction in Kazakh as well as learning Mongolian.

With reference to Mrs. Sadiq Ali's second question as to whether Soyombo script was common to all the dialects, he said that Soyombo was a Mongolian alphabet which had been established in the seventeenth century and was still used, particularly in classical literature. It had been abandoned in the 1940s and replaced by the Cyrillic alphabet but Soyombo script, which involved vertical writing, had recently been reintroduced in schools. An eight-year general education was compulsory throughout the country and he confirmed that all adults were literate.

He explained that the alleged systematic expulsion of 6,000 to 7,000 Chinese in May 1983 had not been an arbitrary act. The Mongolian authorities had asked the Chinese nationals involved to accept employment in certain outlying areas where manpower was in short supply but they had refused to do so and had chosen to return home.

Mrs. Sadiq Ali had also asked whether foreign nationals, specifically Chinese, were permitted to visit Mongolia and he replied that there were no restrictions on such visits. The previous year, Mongolia had signed a Consular Convention with China and it had been reported in the Mongolian press that a Chinese Consulate-General was to be established in the capital of Inner Mongolia. Mongolia's historic links with China spanned many centuries and the two countries enjoyed excellent relations in all spheres.

In response to another question from Mrs. Sadiq Ali who had asked how many Soviet citizens were involved in mining industries he quoted from a decree adopted in 1988 by the Mongolian Council of Ministers. The decree in question regulated the activities of joint enterprises established by Mongolia and other socialist countries on the basis of agreements between their Governments. Such enterprises were managed by a Board on which each participant was equally represented and the articles of the enterprise laid down the Board's decision-making procedures.

The tenth report contained very detailed information on State enterprises. Mongolia had adopted a bill on State enterprises which introduced the concept of decisions on production, financing and income distribution in large enterprises being taken collectively or by the employees.

In reply to Mrs. Sadiq Ali's question as to whether perestroika was having any influence on the rural economy, he said that its impact was considerable. Mongolia had adopted a bill on co-operatives which were particularly prevalent in agriculture, a major sector of the national economy. Earlier in the year, an ILO expert had gone to Mongolia to assist in drafting the relevant legislation.

With reference to apartheid, it was clearly stated in the reports that the Mongolian People's Republic condemned that régime and gave unreserved moral and political support to national liberation movements in southern Africa.

Concerning the violation of national and racial equality, he said that the relevant article of the Constitution was not article 30, but article 70. That article stated that propaganda or agitation aimed at inciting racial enmity and direct or indirect limitation of the rights of citizens on grounds of nationality or race were punishable by sentences ranging from three years' imprisonment to banishment.

Mrs. Sadiq Ali had referred to the Great People's Khural, i.e. the Parliament, which met for three days a year, and had asked how it could examine all the country's problems in such a short time. He said that that body's working methods would be significantly altered as part of the process of perestroika and the changes would be described in the following report.

Replying to the question on land, he reminded the Committee that land was owned by the State and there had never been any cases of land appropriation at any time in the country's history. Since Mongolia was extensive and sparsely populated and some of its people were nomadic, no one owned land but everyone had the right to make use of it.

In response to the question on religion, he quoted article 86 of the Constitution, which stated that citizens of the Mongolian People's Republic enjoyed freedom of worship and that anti-religious propaganda was prohibited. During one of his visits to Mongolia, the Dalai Lama had received a warm and spontaneous welcome from the people and had said that Buddhism and socialism were obviously not incompatible.

The country's legislation guaranteed all citizens the right to work, although some young people chose to be temporarily unemployed, which did not affect the country's economic and social development.

As to housing, everyone in Mongolia was housed and the main task was therefore to improve housing conditions. He added that the Commission on Human Rights had adopted a resolution on the right to housing at the initiative of Mongolia.

Referring to the question on literature, he said that there was a language barrier but books by Western authors were available in all bookshops and the works of Balzac and Victor Hugo, for example had been translated into Mongolian. Hence the population had access to Western literature.

In reply to Mrs. Sadiq Ali's question on whether there were cases of citizens lodging an appeal against racial discrimination by State bodies, he reminded the Committee that he had said in his introductory statement that the Government condemned racial discrimination and there was no risk of discriminatory measures.

He hoped that he had provided satisfactory replies to Mrs. Sadiq Ali's questions but, if there were any outstanding points, he was ready to continue the dialogue.

With regard to Mr. Partsch's question on the new version of article 70 of the Penal Code, he said that the article corresponded exactly to the wording of article 53 in the previous version of the Code.

He believed that he had already answered Mr. Aboul-Nasr's question on the number of nationalities in his reply to Mrs. Sadiq Ali. He agreed with Mr. Aboul-Nasr that Governments should take a very cautious approach to the question of nationalities.

He explained to Mr. Sherifis that the paragraph on the implementation of article 2 in the tenth report which stated that "a variety of legislation has been adopted here prohibiting all forms of racial discrimination" referred to some provisions which had been included in legislation on the prevention and elimination of racial discrimination. Replying to another question from Mr. Sherifis, he said that citizens had the right to freedom of movement within Mongolian territory but there were some practical problems as the Government could not permit everyone to leave the capital simply to live in the countryside or in an area with a more temperate climate.

Mr. Sherifis had also asked whether the representatives of national minorities, who made up 25 per cent of members of Parliament, had the right to participate fully in the work of the Executive Branch. The answer was that

appointments were based exclusively on individual merit and no account was taken of origin. For example, almost half the staff of the mission of the Mongolian People's Republic in Geneva were members of national minorities.

The concept of perestroika was interpreted very broadly in Mongolia as covering all areas of economic, social and cultural life. The reform programme was intended to ensure the greatest possible economic independence for co-operatives and collectives, introduce democratic planning and management methods, eliminate bureaucracy and promote initiative. Although he did not have any figures available, he could tell Mr. Song that the new legislation on State enterprises and co-operatives had led to steady, overall economic growth as the planned reforms were implemented.

Some members of the Committee had expressed concern about the level of education available to children in nomadic tribes. He wished to reassure them that despite Mongolia's vast, sparsely populated territory, the authorities were able to provide eight years of general education for all school-age children.

Some Committee members had also asked whether the fact that the Mongolian authorities were not aware of any instances of violation of the Convention might be due to public ignorance of the existence of international human rights instruments. He could also reassure them on that point, although he stressed that the absence of cases of violation of the Convention in the past did not mean that such violations would never occur.

Mr. SHAHI observed that there were 25 different national and ethnic groups in Mongolia of variable and sometimes slight numerical size, but those minorities were nevertheless represented in Parliament by 22 per cent of the deputies, which was a large proportion. Did all those minorities each have their own language? He would also welcome an assurance that freedom of worship and expression was indeed acknowledged for all religious groups.

Mr. BAYART (Mongolia) said that Mongol was spoken by the vast majority of the population, over 90 per cent including the ethnic minorities, but those minorities also freely used their dialect or employed in Mongol some terms which were their own. In religious matters, Lamaism, which was the Mongol religion, had always been treated on an equal footing with all the other religions.

Mr. RESHETOV noted that the representative of Mongolia had taken pains to reply to all the questions that had been asked, which was rare enough to merit emphasis. He very much hoped that the next report of Mongolia would

give an account of the changes in progress that had been mentioned. He stressed once again that the Committee was in a much better position to understand the situation of a country whose report it was considering when a representative of that country could reply to its questions immediately.

The CHAIRMAN said that the Committee had concluded its consideration of the ninth and tenth periodic reports of Mongolia.

Mr. Bayart (Mongolia) withdrew.

ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-THIRD SESSION:

- (a) ANNUAL REPORT SUBMITTED BY THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION UNDER ARTICLE 9, PARAGRAPH 2, OF THE CONVENTION;
- (b) REPORTING OBLIGATIONS OF STATES PARTIES TO UNITED NATIONS CONVENTIONS ON HUMAN RIGHTS (GENERAL ASSEMBLY RESOLUTION 42/105) (agenda item 2)

Mrs. SADIQ ALI introduced the item. With regard first to the annual report of CERD (A/43/18), it had, as was customary, been examined by the Third Committee, and had given rise to a discussion in which 44 of 83 delegations had participated, most of them rather cursorily (A/C.3/43/SR.4-17 and 23). In introducing the report, the Under-Secretary-General for Human Rights had announced that the number of States parties to the Convention was now 125, which was a record high figure for adherents to an international human rights instrument. On the other hand, only 12 States parties had made the declaration under article 14 of the Convention to recognize the competence of CERD to consider communications from individuals or groups of individuals. Yet, in the Under-Secretary-General's words, "Individual recourse to an international authority [was] the best defence against the possibility of national abuse or ignorance."

The Under-Secretary-General had also not failed to point out that for the third consecutive year, the work of the Committee had been impaired by financial difficulties arising from non-payment by several States parties of their assessed contributions under the Convention. As the Secretary-General's report (A/43/607) indicated, the contributions outstanding from States parties as at 1 September 1988 had still totalled over \$US 149,000. Since that date, Barbados had paid its contribution for 1988. At the end of its thirty-sixth session, which had had to be curtailed, the Committee had still had 48 reports awaiting consideration, an unprecedented situation. The Under-Secretary-General had therefore invited the Third Committee to look closely at that critical situation and had drawn its attention to CERD decision I (XXXVI) aimed at financing the expenses of members under the regular budget of the Organization.

The delegations of different regional groups, before reflecting on the financial crisis with which CERD was having to contend, had often prefaced their observations on that subject by a positive assessment of its activities. That was particularly true of Jamaica, Denmark speaking on behalf of the Nordic countries, Senegal, Poland, Czechoslovakia, India, Iraq, Pakistan, Greece on behalf of the European Economic Community, Canada, the Congo, Ghana, the Bahamas, Nicaragua, China, Bulgaria, Tunisia, Cuba, Cyprus, Brazil and the Libyan Arab Jamahiriya. Praises had even come at times from States that were not parties to the Convention, such as Singapore and Saudi Arabia.

Those praises had sometimes also been accompanied by criticisms regarding the inadequacy of the Committee's action so far, and in particular regarding the persistence of discrimination in the world, in its violent as in its more subtle forms, and the necessity of educating the younger generation to respect human rights and fundamental freedoms for all, without discrimination. Comments in that regard had been made by Nicaragua, Austria, the Congo, the Philippines, India, the Bahamas, Costa Rica, Greece on behalf of the 12 members of the European Economic Community, and the Soviet Union.

On the solution envisaged by CERD to resolve its financial difficulties, which consisted in requesting the Secretary-General to charge the expenses of members to the regular budget of the Organization (decision I (XXXVI)), the Third Committee had been divided. Greece, speaking on behalf of the 12 members of the European Economic Community, had pointed out that with a few unfortunate exceptions, "those arrears [were] very small and should cause no problems to the States concerned. The Twelve [would then be] ready to work for a solution that enabled CERD to fulfil its mandate". Australia, Austria, Denmark on behalf of the Nordic countries, France, Canada, the Congo, the Libyan Arab Jamahiriya and Venezuela had recalled that the provisions of article 8, paragraph 6 of the Convention were quite clear and argued for the adoption of a solution, temporary or otherwise, that would give CERD the financial resources it needed. Bulgaria, one of whose experts was Vice-Chairman of CERD, had made a point of informing the Third Committee of the concern of the members of CERD and expressed the hope that the General Assembly would approve its draft decision or any other solution along the same lines. Bulgaria had been followed by Iraq, the USSR, Egypt, the Byelorussian SSR, China, Cuba, the Bahamas, Jamaica, Trinidad and Tobago, Ghana and Uganda. In addition, seven States, Australia, New Zealand,

Nicaragua, Brazil, Bangladesh, Algeria and Hungary, had supported the idea that the Secretary-General should launch an appeal to States parties to pay their arrears. Seven other States, Pakistan, India, Cyprus, Poland, Bangladesh, Philippines and Ethiopia, had appealed directly to the States that had not met their financial obligations to CERD.

With regard to the reporting obligations of States parties, Tunisia, Senegal, Trinidad and Tobago, Bulgaria and New Zealand, had said that they approved the measures adopted by CERD on the periodicity of reports and the streamlining of the consideration of periodic reports by States parties. Egypt, Uruguay, the Ukrainian SSR, Austria, France, Denmark, Iraq, Ethiopia, the Libyan Arab Jamahiriya and Algeria had stressed the importance of the obligation of States parties to submit reports and to present those reports when they were due, some of them seeing a correlation between the non-payment of contributions and the non-submission of reports.

Uruguay had indicated that it had ratified the Convention as long ago as 1968 and had been the first State party to make the declaration provided for in article 14 of the Convention. Supported by Ecuador, Uruguay had appealed to all States to do the same.

Concerning the status of the International Convention on the Elimination of All Forms of Racial Discrimination, the Belgian delegation had submitted a draft resolution, later amended by the Uruguayan delegation, which stressed the necessity of obtaining universal ratification of the Convention and called upon States parties to consider the possibility of making the declaration provided for in article 14 of the Convention. That draft had become General Assembly resolution 43/95.

With regard to CERD's report, the Third Committee had adopted by consensus a draft resolution submitted by the Yugoslav delegation (General Assembly resolution 43/96), of which paragraphs 8, 9 and 10 were devoted to the sessions of CERD and its financial situation. She read out those paragraphs. The Netherlands delegation had regretted that the paragraphs relating to financial problems had not been more explicit, since a distinction needed to be drawn between the failure of a certain number of States parties to the Convention to meet their financial obligations and the special responsibility of the United Nations in the implementation of instruments for the defence of human rights adopted under its auspices. That delegation had put forward the idea that the next meeting of States parties to the Convention might consider suspending voting rights at its meetings for

States in financial arrears, and that disputes concerning the application of the Convention might be referred to the International Court of Justice: the United Nations must go beyond expressing regret that certain States were failing to meet their financial obligations and also reflect on possible long-term and short-term solutions. The delegation of Denmark had stressed that the application of human rights instruments was hampered by the financial difficulties and had regretted that no solution had been proposed in the draft resolution. It had considered that the General Assembly could authorize the Secretary-General to assist in financing the Committee's work out of the regular budget of the United Nations until a solution was found.

Mr. SHERIFIS observed that the Third Committee had given lengthy consideration to CERD's difficulties without suggesting a solution that would enable it to meet regularly; the spring session had not in fact taken place.

He asked the representative of the Secretary-General whether he could assess the present financial situation, since the accounts available stopped at the month of August 1988.

Mr. GARVALOV confirmed that the States' representatives to the Third Committee had discussed the situation of CERD at length and that some had made real efforts to find a solution. However, no way out was in sight. In his opinion, the solution was in the hands of the States parties to the Convention. It was obvious that the General Assembly was reluctant to make a clear-cut request that the costs of CERD's sessions should be met, even temporarily, from the regular budget, and all the indications were that such a decision would not be taken.

It was important to stress that the delegations present in the Third Committee had welcomed the efforts made by CERD to streamline its work; the new procedure of designating rapporteurs entrusted with preparing the consideration of periodic reports by States parties would not fail to capture their attention at the forty-fourth session.

Mr. YUTZIS noted that the representatives of States were unanimous in stressing the importance of CERD's work and of the Convention and in hoping that a solution could be found, but that all those statements of intent were belied by the facts, since it was clear that the political will to contribute the necessary funds was lacking in a large number of States parties. The financial situation of the Committee had been discussed in all the

United Nations human rights bodies, but to no avail. There were three possible ways of financing the Committee's work - payment by States parties of their contributions, recourse to the United Nations regular budget or the use of contributions from other organizations. As none of those methods of financing was materializing, it was difficult to see how the situation could improve.

Replying to a question by Mr. FERRERO COSTA, the CHAIRMAN explained that members were invited to discuss the measures taken by the General Assembly concerning the Committee and to convey any suggestions regarding the financial problems, but that no decision would be taken at the current meeting. The question of States parties reporting obligations would be considered later.

The CHAIRMAN, speaking in his personal capacity, said that in his view the only solution would be to have CERD financed from the regular budget of the United Nations. Mr. Garvalov had said that the solution depended on States parties. They had indeed created the problem, but the solution did not lie with them. They could simply say that they would comply with their obligations. At the meeting of Chairpersons of human rights treaty bodies, he had done his utmost to secure agreement to the option of financing from the regular budget. It was known that some States supported that idea, and he referred in particular to a letter from the Minister for Foreign Affairs of the Netherlands to the Secretary-General the text of which had been circulated to the Committee; in that letter it was stated that financing from the regular budget would represent but a light burden, whereas the activities thus financed constituted concrete aspects of the United Nations work. The Nordic countries had expressed similar views. As was known, however, the General Assembly had not adopted a resolution along those lines. The explanation for that was that, since the Third Committee had not transmitted a resolution to that effect to the General Assembly, the latter had made no decision. In fact, the Third Committee had not itself had before it any draft concerning financing from the regular budget, even though the meeting of Chairpersons of human rights treaty bodies had made a recommendation along those lines. That was disappointing, because such a draft would probably have been adopted. Even the countries which did not have the political will to pay their contributions would have been reluctant to stand in the way of what seemed to be the only possible solution.

As to the future, the Commission on Human Rights would be taking the question up again at its next session. It was also to be hoped that a good draft would be submitted by one or more delegations at the next session of the General Assembly. All that was needed was for such a draft to reach the General Assembly for a solution to be finally found. In that case it would no longer be necessary for the members of CERD to go to the extreme of resigning jointly, as Mr. Yutzis had contemplated the previous year.

Mr. GARVALOV said that the reason why no draft concerning the financing of CERD from the regular budget had been submitted to the Third Committee of the General Assembly was that for some years the Third Committee had been in the habit of adopting resolutions on the report of CERD by consensus or without a vote. He had himself been in a position to observe that situation in the Third Committee as representative of Bulgaria and Vice-Chairman of CERD. Many delegations had stressed the need for consensus, which had been emphasized even by the traditional sponsors of the draft resolutions on the Committee's report. The consequence, as always when consensus was required, had been to limit the scope for action.

The CHAIRMAN objected that the consensus principle should not act as an impediment. When important international legal instruments like the Convention on the Law of Treaties had been drafted, consensus had been reached after serious clashes. When the International Convention on the Elimination of All Forms of Racial Discrimination had been formulated, the text of some articles had also given rise to major political difficulties, and there had been tense moments. It had taken some courage to arrive at the final text of the Convention.

The recommendation to finance the Committee's activities from the United Nations regular budget came, as he had said, from the meeting of Chairpersons of human rights treaty bodies. Now that that recommendation had been made, it should be possible for the General Assembly to take a favourable decision. If he was in New York at the time when the question was being considered, he would certainly see to it that that was done. He reminded the Committee that the Human Rights Committee no longer had any problems and was no longer in any danger of having its sessions cancelled.

Mr. YUTZIS also stressed the fact that many General Assembly resolutions had been adopted with difficulty and that consensus had only been reached after some time. Consensus was not a spontaneous phenomenon; one must

be prepared to fight for it. In order to resolve the difficulties preventing CERD from functioning, it was necessary to embark on a political battle, especially as far as the Third Committee was concerned.

Mr. FERRERO COSTA agreed with the Chairman that, of the three options described by Mr. Yutzis, financing from the regular budget was the only realistic one. It was not possible to compel States parties to pay their overdue contributions. As a request for the financing of the Committee's work from the regular budget had been addressed to the Secretary-General the previous year, the Committee must now insist on that.

A crucial question was which State would take up the challenge of submitting a draft to that effect to the Third Committee for transmittal to the General Assembly. He suggested that the members of CERD should ask the countries of which they were nationals to play that role. It could no longer continue to function on the basis of year-by-year arrangements, but needed permanent arrangements. Like Mr. Yutzis, he wished the Committee strongly to reiterate its request to the Third Committee and the General Assembly.

Mr. BESHIR said that he recognized the need for consensus, and that the Committee had to admit that its demands over the past two or three years had not been met. CERD must persevere, however, and do its utmost to win the Third Committee and the General Assembly over to its views. The only solution was financing from the regular budget. The States parties that did not pay their contributions would continue not to do so because they were not sufficiently interested. It would nevertheless be useful to have precise information on the States which did not pay.

Mr. HOUSHMAND (Representative of the Secretary-General) said in reply to Mr. Sherifis and Mr. Beshir that, with regard to the payment of contributions, the situation had not improved since the previous year. The Under-Secretary-General for Human Rights had informed the Committee that the situation remained uncertain. Information from the Comptroller would be conveyed to the Committee within a few days. Data previously provided by the Comptroller on 11 May 1989 - when the latter had made it known that there were sufficient resources to enable CERD to hold a four-week summer session - had shown assessed unpaid contributions as amounting to \$US 184,435.

Mr. YUTZIS said that no such situation had been contemplated when the text of the Convention had been drafted. In retrospect, there was no reason to think that a strategy had been devised by some at the time to hamper

the implementation of the Convention. Rather, the present situation had arisen out of the financial crisis. In other words, there had been no conscious intention at the beginning to impede the functioning of the Committee.

The CHAIRMAN said that at the time of the drafting of the Convention many States had been afraid of the role that an international mechanism on racial discrimination might play. Since then, CERD had allayed those fears and many States had become parties to the Convention on account of the judicious work carried out by the Committee. Paradoxically, when the Convention had been drafted, it had been thought that financing by States parties would be a guarantee of the Committee's independence. No one seemed to have foreseen at the time that States parties would not honour their commitments. However, it should have been borne in mind that, although member States were bound by the Charter to pay their contributions to the United Nations regular budget under pain of sanctions, the same did not apply to contributions paid in respect of treaty bodies, where there were no sanctions.

Mr. FERRERO COSTA said that he wondered what political intention there might be behind non-payment of contributions. It could be seen that all but one of the States in arrears were developing States. It would be interesting to know what other contributions from those States were overdue. In any event, the only solution to enable CERD to continue to function was to have its work financed from the regular budget.

The CHAIRMAN said that the discussion on item 2 would be resumed on 16 August.

ORGANIZATION OF WORK

The CHAIRMAN proposed the establishment of a working group to submit preliminary views on the Committee's functions under article 14 of the Convention. The working group would be composed of Mr. Garvalov, convener, Mr. Aboul-Nasr, Mr. Partsch, Mr. Sherifis and Mr. Yutzis.

It was so decided.

The meeting rose at 6 p.m.