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C O N T E N T S

	Page
Agenda item 26:	
Report of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (<i>continued</i>)	97

Chairman: Mr. Carlet R. AUGUSTE (Haiti).

AGENDA ITEM 26

Report of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (A/4478; A/SPC/L.61/Rev.1, A/SPC/L.62) (*continued*)

1. Mr. PLIMPTON (United States of America) pointed out that the question under discussion was entitled "Report of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East". That report (A/4478) should therefore be the focus of the Committee's consideration and action. The Committee did not need to adopt a resolution unless something in the report made it necessary. And in point of fact, no such action was needed; resolution 1456 (XIV) extending the Agency's mandate, made any such further decision by the Assembly unnecessary until the sixteenth session, when the mandate would be reviewed. Nevertheless, over a period of several months, representatives of some of the Agency's major contributors and from the Arab countries had been negotiating to work out an agreed draft resolution. The talks, in which the United States had participated, had taken place in an atmosphere of goodwill and frankness but had not led to complete agreement. Contrary to the opinion of the United States delegation, the representatives from the Arab countries had urged strongly that a draft resolution be adopted. In deference to their views, the United States delegation had expressed its willingness to support a draft if the terms were essentially non-controversial and did not go beyond the terms of previous resolutions. The United States delegation had taken that position because the General Assembly would, in any event, review the Agency's mandate in five months time, with all the far-reaching considerations that might be raised.

2. The representatives of the Arab countries had felt that a draft resolution breaking entirely new ground was necessary and accordingly five Powers had submitted the draft resolution (A/SPC/L.61/Rev.1) now before the Committee. The United States delegation could support most of that draft resolution and hoped to be able to vote for it, subject to certain amendments which it proposed in document A/SPC/L.62. Two of those amendments were purely routine and seemed to evoke no objections from the representatives of the Arab countries. Those were points 1 and 3 in the United States draft amendment.

3. With regard to operative paragraph 1 of the draft resolution, which referred to the United Nations Conciliation Commission for Palestine, he stressed that the primary responsibility for solving all outstanding problems lay with the parties themselves. The Commission obviously had rights of initiative, but it could not hope to be successful without constructive efforts by the parties. The United States delegation had no doubt, moreover, that the Commission always stood ready to assist the parties in finding a solution.

4. There were, however, more important issues on which there seemed to be disagreement. In presenting the draft resolution, the Indonesian representative had himself said (246th meeting) that it contained the first reference to the "property rights" of Palestine Arab refugees. Operative paragraph 2 of that draft recommended to the General Assembly the "establishment of appropriate and effective machinery for safeguarding the property rights of the Arab refugees in Palestine" at the sixteenth session. It dealt with only one aspect of the Arab refugee problem. But if a recommendation were to be made to the sixteenth session, it should be along the lines of suggesting the consideration of all matters relating to the review of the Agency's mandate which was to be made at that session by the General Assembly. Operative paragraph 2 would wrongly suggest that "property rights" must be the central issue at the sixteenth session. Furthermore, the rights of Arab refugees in that matter were the subject of bitter dispute between the parties concerned and difficult to define with precision. Any attempt to concentrate attention on such a thorny problem would lead to extended and acrimonious dispute at the current session. His delegation certainly did not oppose airing the issue thoroughly in all its elements, but it believed that such a debate should only take place at the sixteenth session. It would be unwise now, at the final stage of the Committee's proceedings, to try to resolve that issue as an isolated aspect of the whole refugee problem without reference to compensation or repatriation. The United States delegation accordingly proposed, in point 2 of its amendments, that the last preambular paragraph of the draft resolution should be replaced by the following: "*Recognizing* that the sixteenth General Assembly is to review the whole problem of the refugees,". It also proposed, in point 4 of its amendments, that operative paragraph 2 should be changed to read: "*Recommends* to the General Assembly that at its sixteenth session primary consideration be given to the future welfare of the refugees themselves;". He urged the Committee to accept those amendments in a spirit of compromise.

5. Mr. SHUKAIRY (Saudi Arabia) expressed regret at the arguments advanced by the United States representative in proposing that draft resolution A/SPC/L.61/Rev.1 should be amended in a manner that would demolish its very structure. Already on the preceding day in the Security Council (949th meeting), the

United States delegation had presented amendments¹ to a draft resolution in order to ease the ugly position in which Israel found itself in consequence of having violated the Armistice Agreements. It might seem that the amendments proposed in document A/SPC/L.62 were similarly designed to lighten the burden of Israel in regard to its violations of the Charter and of the Universal Declaration of Human Rights.

6. The United States representative had contended that the Committee must keep strictly to the report of the Director of the Agency (A/4478). But the report explicitly spoke of the material and moral sufferings of the Arab refugees from Palestine, and they did own property of great value in their homeland. In raising the question of their property rights, therefore, the draft resolution went to the very heart of the problem, since the objective was to relieve the plight of those unfortunates.

7. The United States representative had also contended that the draft resolution was unnecessary. Why, then, had the question been placed on the General Assembly's agenda, discussed at length and held over till the resumed fifteenth session? Why did not the United States also ask the General Assembly to refrain from adopting a resolution on the question of, say, Korea, Hungary, Tibet or disarmament? A question which affected the future of a million human beings and which had been the subject of countless resolutions over the past fifteen years could surely not be considered insignificant.

8. The United States representative had further argued that any resolution on the subject should be non-controversial and should not represent the views of only one party. But would a controversy concerning the property of the refugees in Palestine put the Arab States and the Arab refugees in opposition to the United States of America? If the United States considered itself a party to the controversy, the amendments were understandable, but in that case let it give its reasons frankly. If there was a party to the dispute, other than the people of Palestine, it would be Israel. Was the United States representative there as the advocate of Israel? In any event, most matters submitted to the United Nations were in a general way controversial, and to rule out a debate on such a pretext would require revision of the United Nations Charter. The property rights of the Palestine refugees was a very simple question of human rights and as such could hardly give rise to any objections. Moreover, the draft resolution was sponsored by delegations of countries which were not parties to the dispute. If property rights were to be regarded as such a thorny question, then the philosophy of the United States and of the whole Western world, which championed private property and private enterprise, was based on a confused and inconsistent concept.

9. It would have been understandable if the United States delegation had proposed deleting certain specific points from the draft resolution, and wording it in more general terms, or had proposed the inclusion of other ideas. Such a view would merit consideration, but amendments which would destroy the draft resolution were unacceptable.

10. The term "property" normally referred primarily to individuals. Even where the rights of individuals, in some cases several individuals, were concerned, the

United Nations had intervened on several occasions to protect those rights when international relations were involved, and the United States had not opposed such action.

11. In the present case, the United Nations was called upon to protect the incalculable wealth of an entire nation of a million people who were subsisting on seven cents daily *per caput* through the charity of the international community. The refugees now living in United Nations tents were, in fact, the owners of entire towns, innumerable villages, vast lands and more than 10,000 commercial and industrial undertakings. Arab property in Palestine included twenty towns and 841 villages, some 288,000 acres of fruit-growing land, 8,000 acres of irrigable land, 1,135,000 acres of cultivable land and 1,203,000 acres of uncultivable land. By their work and by the toil of their forefathers who had tilled the soil of the country since the days of the Romans, the Arabs in Palestine had produced 80 per cent of the cereal crops, 98 per cent of the olives and 75 per cent of the citrus fruits, the export of which earned millions of dollars. In the Jerusalem International Zone alone, three towns and seventeen villages belonged to the Arabs.

12. It had been estimated by the mandatory Power that the Jews, on the other hand, owned only 5 per cent of the total area of Palestine. Even today, under the partition plan, they owned only 9 per cent of the so-called State of Israel. Only one town in the State could be considered entirely Jewish, and the territory in Palestine occupied by that State was 21 per cent in excess of the area allotted to it under the partition plan. Statistics prepared by the United Nations Commission showed that the proportion of Jewish property in the remaining towns ranged from nil (Nablus) to 38 per cent (Tiberias). In the Negev, which constituted a little more than half the total area of Palestine, the proportion was one half of 1 per cent. In the Jerusalem Zone it was only 7 per cent and in the new city of Jerusalem 26 per cent.

13. Those figures showed the whole extent of the rights, if that term could be used, of the other party to the controversy which the United States representative maintained would be raised by the draft resolution. How could people who had a title to ownership of only a minute part of a country be considered to have such tremendous power as to paralyse the United Nations in any controversy in which it became involved? It would be unthinkable that, in order to safeguard the interests of that party, the rights of the owners of by far the greater part of the land and property in the country should be disregarded.

14. The tragic plight of the Palestine refugees was well known, and the director of UNRWA had depicted their distress in moving words. Those unfortunate people were living on international charity because Israel had seized their property and was living on income which belonged to them.

15. It would be too long a story to tell in detail how Israel had disposed of Arab property. It could be said that that property had been stolen or, to put it less strongly, seized by Israel. In his report² to the General Assembly in 1948 Count Bernadotte, the Mediator appointed by the General Assembly, had stated: "There have been numerous reports from reliable sources of large-scale looting, pillaging and plundering, and of

¹ See *Official Records of the Security Council, Sixteenth Year, Supplement for April, May and June 1961*, document S/4785.

² See *Official Records of the General Assembly, Third Session, Supplement No. 11, part one, chap. V, para 7.*

instances of destruction of villages without apparent military necessity. The liability of . . . Israel to restore private property to its Arab owners and to indemnify those owners for property wantonly destroyed is clear . . .". That had been the verdict of the Mediator on that point.

16. The revenue from Arab property amounted to £47.5 million a year. To seize those properties, Israel had had to resort to all sorts of legal devices. Among other things, it had been decided that the property should be considered abandoned and therefore subject to confiscation under various laws such as the Abandoned Areas Ordinance of 1948 or the Land Acquisition (Confirmation of Past Actions of Compensation) Law of 1953. He quoted the titles of several other laws on the subject enacted in Israel in 1948, 1949 and 1950. The glaring injustice of Israel legislation on the question was increased by the fact that the laws were not confined to Arabs who had been forced by war to flee their country, but was extended to those who had moved to another quarter of the city in which they lived. Some 300,000 acres of land had been confiscated from Arabs who were still living in the territory occupied by Israel and could therefore not be regarded as absentees.

17. In those circumstances, there were certain vital questions to be considered—for instance, whether the private property of the individual should not be respected and protected, and whether the Palestine refugees were not entitled to receive their income, so that they might live in a dignified way rather than on charity. Perhaps the United States representative could answer those questions and explain how far the amendments submitted by his delegation would contribute to a solution of the problem.

18. Fifteen General Assembly resolutions and fourteen years of efforts by the United Nations Conciliation Commission for Palestine had not made it possible for a single refugee to return home, to recover his property or to obtain compensation. All efforts to make Israel see reason had failed, but that could not justify a statement, after so many years, that the question under discussion was too thorny and too delicate to be dealt with. The Conciliation Commission would be a poor organ indeed of the United Nations if such was to be the only outcome of its efforts.

19. The Governments whose contributions covered the expenses of UNRWA were becoming uneasy over their continuing commitments; but the funds they were providing were not so much a grant to ensure the survival of the refugees as the price of Israel's defiance and the cost of a policy adopted in 1947 which had caused the tragic situation in the Holy Land. His delegation thought it natural, just and only human to protect the property of the refugees and to take the measures proposed in the draft resolution to that end. Those proposals did not impose any new financial burden on the United Nations and would, in fact, lead to a lightening of the present burden. He was empowered to inform the Committee that the refugees were quite prepared to provide, out of the revenues which they would receive, the amounts required to cover the working expenses of the machinery to be set up to administer their property.

20. The establishment of such machinery would be entirely in keeping with the principle of respect for human rights and human dignity proclaimed in the Preamble and Article 1 of the United Nations Charter.

If the United Nations wished to apply such principles faithfully, there was no more immediate or more urgent task than that proposed in the draft resolution.

21. As early as 1948, Count Bernadotte, the United Nations Mediator, had declared that the Palestine refugees were not citizens of the Arab States, but citizens of Palestine, a sacred trust placed by the League of Nations upon the United Nations.³ The United Nations was the last hope of the refugees, and if it could not assist them, they would be justified in asking what was the use of the United Nations. Indeed, of what value was the United Nations to the whole world if it took no steps to protect individual property, especially property belonging to refugees?

22. There could be only one objection to the draft resolution—on the question of the sovereignty of Israel. He had already expressed his views on the matter and they remained unchanged. He would like, however, to answer that objection from the standpoint of United Nations jurisprudence. First, the question should be seen in the light of the Universal Declaration of Human Rights, article 17 of which stated: "No one shall be arbitrarily deprived of his property." Furthermore, Israel's sovereignty was the work of the United Nations itself. Israel was not a Member which had joined the United Nations as the rest of the Member States had done and its sovereignty was not to be likened to that of the other Member States. By resolution 181 (II), a document bearing all the attributes of legislation, the General Assembly had in fact created Israel, demarcated its borders, drafted its constitution and placed on it a set of limitations and obligations. Israel's sovereignty was therefore unique and limited in character; hence no one could claim that the United Nations could not interfere with the exercise of that sovereignty and consequently intervene in the question of the property of Arab refugees. In the matter under discussion, Israel should stand without the attributes of sovereignty.

23. Where, then, did sovereignty lie with regard to that matter? The answer was simple: it lay in the United Nations. The powers of the League of Nations in respect to Palestine had passed to the United Nations; under General Assembly resolution 181 (II) the United Nations had assumed jurisdiction over the Arabs within the Jewish State and there was every reason why those powers should be maintained today. There was thus no question of taking sides in a controversy, and the draft resolution was based solely on legal concepts.

24. Under resolution 181 (II) the constitution of Israel had to include specific provisions regarding, *inter alia*, human rights, freedom from arbitrary seizure of personal property, and protection of the rights and interests of minorities. Chapter 2, article 8 of the declaration appended to that resolution contained an injunction—an injunction by the United Nations to Israel—against "expropriation of land owned by an Arab in the Jewish State . . .". Nothing could be clearer, nor could the matter be in any way controversial. It had been settled once and for all by resolution 181 (II). With regard to property that might be required for public purposes, the same resolution went on to say: "In all cases of expropriation full compensation as fixed by the Supreme Court shall be paid previous to dis-possession" (chapter 2, article 8). That was another injunction by the United Nations to Israel. Thus, under

³ *Ibid.*, part three, chap. II, para. 2.

the very resolution which had given it birth, Israel had no sovereignty over the property of refugees.

25. The United States representative, referring to a remark made by the Indonesian representative, had suggested that the question had come up for the first time. That was an attractive argument, but it was contrary to the facts. At its third session, the General Assembly, in resolution 194 (III), had entrusted the Conciliation Commission with matters of compensation for the property of the refugees. Then, at its fifth session, the General Assembly in resolution 394 (V), had directed the Conciliation Commission to establish an office under its direction to work out "measures for the protection of the rights, property and interests of the refugees" (operative paragraph 2 (c)). At the time, the United States delegation had supported that text. There was nothing more in the draft resolution now before the Committee than there had been in the resolution of 1950. The General Assembly had already decided the question in 1950. For one reason or another, the Conciliation Commission had been unable to establish the office mentioned in resolution 394 (V), and the draft under discussion merely wished to bridge the gap by recommending the establishment of machinery which—depending upon what the General Assembly at its forthcoming session decided—might be an office, an administering agency, a custodian or any other appropriate body. In that regard, the United States representative's argument that at each session the General Assembly was master of its agenda was quite correct, and no one denied it. The recommendation contained in the draft resolution in no way challenged the competence of the General Assembly; but it was the duty of the Assembly at any session to protect private property and preserve human rights.

26. It might be asked what recourse there was against Israel legislation. That was a legitimate question and the plea of sovereignty carried great weight in a gathering of States jealous of their own sovereignty. But the issue was clear; in addition to the fact that no State which persecuted its citizens was worthy of sovereignty, especially when they had lived in the territory before the State even existed, Israel's sovereignty was restricted by the very instrument which had established it. The declaration in General Assembly resolution 181 C (II) contained the following paragraph, drafted by the United States delegation itself: "The stipulations contained in the declaration are recognized as fundamental laws of the State and no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail

over them." That meant that no Israel law could prevail over the property or other rights of the Arabs in Israel, and that any measure contrary to the above-mentioned provision should be considered invalid. The problem was thus quite simple; all the Israel legislation regarding Arab property was invalid and unconstitutional. It was a unique situation, no doubt, for the United Nations to interfere in the laws of a Member State, but the whole question of Palestine was unique, the establishment of Israel was unique, and the drafting of a constitution for a Member State was unique too. Not one State had had its constitution framed by the United Nations; but that had been done in the case of Israel, and with Israel's consent.

27. Turning to the question of revenue from Arab property, he referred to the *Jewish Agency Digest*, the official Israel organ dealing with matters pertaining to the property of Arab refugees. It was stated in the issue of 25 May 1951 of that publication that 40 per cent of the revenue from the rental of the property went for various repairs, 25 per cent for taxes, 13 per cent for administrative expenses and 12 per cent for the development of various areas, making a total of almost 100 per cent. The net revenue from that property, according to official Israel calculations, was almost down to zero. He appealed, not to the United States delegation, but to the United States Government itself, to consider the great injustice involved.

28. In view of that injustice, he wondered whether it would be honourable for an amendment—any amendment, not only the United States amendment—to be introduced to draft resolution A/SPC/L.61/Rev.1, which was perfectly honest and had no political implications of any kind, its only aim being to ensure respect for human rights.

29. In conclusion, he recalled that, when the United Nations had assumed jurisdiction with regard to Palestine, it had acted unjustly. It must now assume the same functions in order to do at least a slight measure of justice, for the draft resolution did not ask that justice should be done on the whole problem of Palestine. It sought merely to protect the property rights of refugees who for fourteen years had been starving in exile. Those who wished to vote against the draft resolution could do so, but the day would come when the consequences of the Palestine tragedy would take their full course. Regrets would then be of no avail and it would be too late.

The meeting rose at 12.50 p.m.