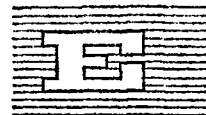


UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL
E/CN.4/1982/SR.17
15 February 1982
Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Thirty-eighth session

SUMMARY RECORD OF THE 17th MEETING

Held at the Palais des Nations, Geneva, on Thursday,
11 February 1982, at 4.30 p.m.

Chairman: Mr. GARVALOV (Bulgaria)

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The meeting was called to order at 4.40 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES,
INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1982/L.3, L.5 and L.6)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES
UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9)
(continued) (E/CN.4/1982/L.4)

1. The CHAIRMAN announced that Afghanistan had joined the sponsors of draft resolutions E/CN.4/1982/L.3, L.4 and L.6, and that Zaire had become a sponsor of draft resolution E/CN.4/1982/L.6. He invited members of the Commission to comment on the draft resolutions relating to the two items.
2. Mr. SOFFER (Observer for Israel) said it was curious that the Commission was now engaged in the rejection and condemnation of a peace treaty. Draft resolution E/CN.4/1982/L.4 rejected the only positive and constructive steps towards a resolution of the Arab-Israeli conflict, namely, the Camp David accords; its adoption would seriously impede the peace process in the Middle East, violate the Charter of the United Nations, and undermine international peace and security. The draft resolution reflected the attempts of States hostile to Israel to dictate their partisan approach to the Arab-Israeli conflict by seeking to apply selectively the principle of self-determination. The right of self-determination for the Palestinian Arabs was presumed to be more important than the Jewish people's right of self-determination. The Jewish people, who had throughout history been the victims of more racial persecution and aggression than any other people, was to be deprived of its legitimate rights. It was the draft resolution, and not constructive peace negotiations, that should be rejected.
3. Draft resolution E/CN.4/1982/L.3, based entirely on the biased and untenable report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, completely disregarded the actual situation prevailing in Israel and in the areas it administered. The overtly racist assertion that Israel envisaged a mono-religious Jewish State was not only completely false but a clear expression of Nazi ideology. Furthermore, the seminar proposed in paragraph 15 of the resolution would not advance the cause of peace but would merely squander valuable United Nations funds that could be allocated to useful and important projects. In connection with part B of the draft resolution, he wished to point out that, according to experts in international law, the Fourth Geneva Convention of 1949 was not legally applicable to the sui generis situation in the administered territories. The Convention was designed to protect the rights of the "legitimate sovereign" in its territory and did not, therefore, apply in respect of Jordan and Egypt because Judea, Samaria and Gaza had never been under the "legitimate sovereignty" of Jordan and Egypt. It should further be noted that since 1967 the civil and military organs of Israel had always abided by all the humanitarian provisions contained in the Fourth Geneva Convention as if they were binding and applicable. Contrary to the assertions inherent in the biased and warped resolutions before the Commission, Israel had far surpassed the Convention's requirements regarding the welfare of the inhabitants of the administered territories. He therefore appealed to all members of the Commission to reject the spurious resolution contained in document E/CN.4/1982/L.3.

4. Draft resolution E/CN.4/1982/L.6 should evoke the indignation of all who sought to alleviate human suffering. The Security Council and the General Assembly had dealt extensively with the highly politicized question of the Golan Heights, and the General Assembly, at its recent emergency Special session, had adopted an unwarranted and unbalanced resolution on the subject. The Commission, a subsidiary organ of the Economic and Social Council, could not adopt decisions on specific issues that had been acted upon by the Security Council and the General Assembly. The Commission was therefore wasting its valuable time and resources on a purely political question that was indisputably far beyond the scope of its mandate.

5. The application of Israeli law to the Golan Heights had been instituted for a number of legitimate and important reasons. The Golan Heights had played a crucial strategic role in the implacable hostility of Syria towards Israel since 1948 - hostility which had expressed itself in repeated wars and aggression, and in Syria's adamant refusal to conduct peace negotiations. Between 1949 and 1967, Syrian tanks and artillery on the Golan Heights had maintained a reign of blood and terror in northern Israel by exploiting the topographical advantage of the Golan Heights and mercilessly bombarding the Israeli civilian population. In the course of resisting the Syrian attack in the 1967 war, Israel had lawfully occupied the Golan Heights. According to international law, the occupant could remain in the territory until the other party negotiated the terms of a peace treaty. Israel had adhered to that procedure and immediately after the 1967 hostilities the Israeli Cabinet had announced its intention to return the Golan Heights to Syria in exchange for the demilitarization of the Heights and peace negotiations. However, Syria had unequivocally spurned the offer and had fully endorsed the Khartoum declaration of "no peace, no recognition, no negotiation with Israel".

6. A disengagement agreement between Israel and Syria had finally been concluded on 31 May 1974 and Israel had withdrawn from all the territory it had captured during its defensive operations in response to Syria's aggression in the 1973 war and from areas on the Heights that it had controlled since 1967. Israel had agreed to that and other unilateral concessions in the hope that Syria would respond in a positive and constructive manner. Unfortunately, Syria had reacted to Israeli flexibility by refusing to go beyond the cease-fire and military disengagement agreements, and by refusing to participate in the 1974 Geneva Conference. Furthermore, Syria had emphatically rejected all appeals by Israel since 1948 for unconditional negotiations on all outstanding issues. Syria continued on its path of hatred, confrontation and aggression, and persistently denied Israel's right to live in peace, inter alia by initiating the formation of the Arab "rejection front" dedicated to Israel's extirpation.

7. There had in recent months been an intensification of Syrian threats against Israel and calls for its elimination. The President of Syria had on numerous occasions reiterated Syria's vow to wage war against Israel, if necessary for many more generations. It was therefore evident that Syria persevered in seeking the annihilation of Israel, a sovereign country and a State Member of the United Nations, and that Israel had both the right and the duty to ensure that the Golan Heights were never again used as a Syrian base for aggression.

8. It also had an obligation to normalize the status of the Golan's inhabitants, and since June 1967 it had substantially improved the facilities and living standards of the entire Golan population through the introduction of employment opportunities, government assistance programmes, economic diversification, modern technology, extensive electrical and water supply systems, compulsory schooling until the age of 16, and vocational training courses. Israeli salary scales, social welfare and national insurance, including medical insurance and old age pensions, had also been extended to the region. The implementation of a courts system functioning in accordance with Israeli law had ensured the rights of due process and legal protection for all Golan inhabitants. Complete freedom of worship had replaced the

Syrian practice of interference and restrictions on religious activities, and the Druze population could now conduct their affairs in accordance with their traditions.

9. It was a matter of grave concern to his delegation that the Commission took up issues that were of no relevance to its mandate but failed to address itself to the extreme Syrian repression, cruelty and atrocities in Syria itself and in the Lebanese territories it illegally occupied. The section of Amnesty International's 1981 report pertaining to Syria testified to grave human rights violations by Syria.

10. Mr. DAUDY (Syrian Arab Republic), speaking on a point of order, said that the observer for Israel was not complying with the Chairman's request that delegations comment only on the draft resolutions. The observer for Israel had digressed at great length in an attempt to convince the Commission of the alleged benefits of Israeli occupation of Syrian territories, and he had now launched into an attack on Syria. He requested the Chairman to remind the observer of Israel that he should confine his remarks to the draft resolutions before the Commission.

11. The CHAIRMAN requested the observer for Israel to confine his remarks to the draft resolution before the Commission.

12. Mr. SOFFER (Observer for Israel) said that by ignoring the horrific human rights violations he had mentioned, the Commission failed to fulfil its duties and instead focused attention on a question that exceeded the scope of its mandate. The resolutions now before the Commission must be rejected as they had been introduced only for reasons of political expediency and would, if adopted, seriously impair the quest for peace in the Middle East. It was imperative that all organs of the United Nations should avoid being overtly exploited by hostile States that sought only to spread enmity and hypocrisy. The Organization should rather serve as an instrument for the promotion of international peace and security.

13. Mr. ADJOYI (Togo), referring to draft resolution E/CN.4/1982/L.4, said that while his Government had always supported Israel's right to a homeland, the Palestinian people, under the leadership of their sole legitimate representative, the Palestine Liberation Organization (PLO), had the same right. The unilateral decision taken by the Israeli Parliament in December 1981 to impose Israeli legislation, jurisdiction and administration in the Golan Heights had accordingly been condemned by his Government as amounting to annexation pure and simple and a fragrant violation of the principles of the Charter, human rights and the relevant Security Council resolutions, in particular resolutions 242 (1967) and 338 (1973). The Israeli Parliament's action also constituted an infringement of article 47 of the Fourth Geneva Convention of 1949 and a violation of the inalienable rights of the Palestinian people. That action could only exacerbate tension in the region, and jeopardize efforts now under way to work out a negotiated settlement of the Israeli-Arab conflict and to establish a just, lasting and comprehensive peace in the region. The Camp David accords formed part of those efforts and while not wishing to defend those accords his Government did not wish to attack them either. His delegation would therefore abstain on paragraph 6 of the resolution if the paragraph was put to a separate vote. His delegation's position in no way represented a change in its support for the Palestinian cause. His delegation maintained the view that the Palestinian people must be allowed to exercise its right to self-determination through the PLO, and would therefore support draft resolution E/CN.4/1982/L.4 as a whole.

14. Mr. HABİYAKARE (Rwanda) requested that his delegation should be permitted to state its position on the draft resolutions under consideration at a later date.

E/CN.4/1982/L.3

15. Mr. NYAMEKYE (Deputy Director, Division of Human Rights) drew attention to document E/CN.4/1982/L.5, which set forth the administrative and financial implications of the draft resolution, part A, operative paragraph 15, concerning a seminar on "Violations of human rights in the Palestinian and other Arab territories occupied by Israel".

16. At the request of the representative of Cuba, a separate vote was taken by roll-call on part A of the draft resolution.

17. Brazil, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Argentina, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, China, Costa Rica, Cuba, Cyprus, Ethiopia, Fiji, Gambia, Ghana, Greece, India, Jordan, Mexico, Pakistan, Panama, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Togo, Uganda, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: Australia, Canada, United States of America.

Abstaining: Denmark, France, Germany, Federal Republic of, Italy, Japan, Netherlands, United Kingdom of Great Britain and Northern Ireland.

18. Part A of draft resolution E/CN.4/1982/L.3 was adopted by 32 votes to 3, with 7 abstentions.

19. At the request of the representative of Cuba, a separate vote was taken by roll-call on part B of the draft resolution.

20. The Syrian Arab Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Argentina, Australia, Brazil, Bulgaria, Byelorussian SSR, Canada, China, Costa Rica, Cuba, Cyprus, Denmark, Ethiopia, Fiji, France, Gambia, Germany, Federal Republic of, Ghana, Greece, India, Italy, Japan, Jordan, Mexico, Netherlands, Pakistan, Panama, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Togo, Uganda, Union of Soviet Socialist Republics, United Kingdom, Uruguay, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: United States of America.

Abstaining: None

21. Part B of draft resolution E/CN.4/1982/L.3 was adopted by 41 votes to 1.

22. At the request of the representative of Cuba, a vote was taken by roll-call on the draft resolution as a whole.
23. Brazil, having been drawn by lot by the Chairman, was called upon to vote first.
- In favour: Algeria, Argentina, Brazil, Bulgaria, Byelorussian SSR, China, Costa Rica, Cuba, Cyprus, Ethiopia, Fiji, Gambia, Ghana, Greece, India, Jordan, Mexico, Pakistan, Panama, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Togo, Uganda, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Zaire, Zambia, Zimbabwe.
- Against: United States of America.
- Abstaining: Australia, Canada, Denmark, France, Germany, Federal Republic of, Italy, Japan, Netherlands, United Kingdom.
24. The draft resolution as a whole was adopted by 32 votes to 1, with 9 abstentions.

E/CN.4/1982/L.4

25. The CHAIRMAN announced that separate votes had been requested on operative paragraphs 5 and 6 of draft resolution E/CN.4/1982/L.4.
26. Operative paragraph 5 was adopted by 22 votes to 8, with 11 abstentions.
27. At the request of the representative of the United States of America, a vote was taken by roll-call on operative paragraph 6.
28. Uganda, having been drawn by lot by the Chairman, was called upon to vote first.
- In favour: Algeria, Bulgaria, Byelorussian SSR, Cuba, Cyprus, Ethiopia, Ghana, Greece, India, Jordan, Pakistan, Poland, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zimbabwe.
- Against: Australia, Canada, Costa Rica, Denmark, France, Germany, Federal Republic of, Italy, Japan, Netherlands, United Kingdom, United States of America, Zaire.
- Abstaining: Argentina, Brazil, Fiji, Gambia, Mexico, Panama, Peru, Philippines, Senegal, Togo, Uruguay, Zambia.
29. Operative paragraph 6 was adopted by 17 votes to 12, with 12 abstentions.
30. At the request of the representative of the United States of America, a vote was taken by roll-call on draft resolution E/CN.4/1982/L.4 as a whole.
31. Italy, having been drawn by lot by the Chairman, was called upon to vote first.
- In favour: Algeria, Argentina, Bulgaria, Byelorussian SSR, China, Cuba, Cyprus, Ethiopia, Gambia, Ghana, Greece, India, Jordan, Pakistan, Peru, Poland, Senegal, Syrian Arab Republic, Togo, Uganda, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Zimbabwe.
- Against: Australia, Canada, Denmark, Germany, Federal Republic of, Italy, Netherlands, United Kingdom, United States of America.
- Abstaining: Brazil, Costa Rica, Fiji, France, Italy, Mexico, Panama, Philippines, Zaire, Zambia.
32. The draft resolution was adopted by 24 votes to 8, with 10 abstentions.

E/CN.4/1982/L.6

33. Mr. ALVAREZ VITA (Peru) said that his delegation would not participate in the vote on draft resolution E/CN.4/1982/L.6 because the text dealt with a matter which had already been the subject of an emergency special session of the General Assembly and because the substance of the draft resolution was outside the political and legal competence of the Commission. The issues raised should in fact be considered by the highest organ of the United Nations.

34. Peru had voted in favour of the resolution adopted at the emergency special session of the General Assembly, thus reaffirming its respect for international law and the rules governing friendly relations and co-operation among States. It considered inadmissible in international relations the use of force and recognition of territorial conquests or unilateral decisions which disregarded the accepted international legal order. It had expressed that view on a number of other occasions in various international forums.

35. Peru's position with regard to the human rights situation in the occupied Arab territories had already been expressed when the Commission had discussed resolutions E/CN.4/1982/L.3 and L.4.

36. Mr. LIGAIRI (Fiji), speaking in explanation of vote before the vote on draft resolution E/CN.4/1982/L.6, said that his Government had long held the view that a comprehensive, just and lasting peace in the Middle East could be brought about only through Israel's withdrawal from all the territories occupied since the 1967 war, the restoration of the Golan Heights to Syria, the acknowledgement of the Palestinian people's right to a homeland, and recognition by others of Israel's right to live in peace within secure and recognized boundaries. His delegation fully endorsed Security Council resolution 497 (1981), but felt obliged to vote against the draft resolution now before the Commission. Such a vote was consistent with Fiji's position as recently explained in New York. Fiji believed in the sovereign right of any State to acquire arms for its defence, so long as such acquisitions were commensurate with that State's genuine security needs. However, it categorically rejected the assertion that annexation of foreign or neighbouring territories of another State was legitimate on the grounds of those same security needs. The severance of relations with another State remained, in his delegation's view, the ultimate concern and prerogative of the individual State. The usurpation of that prerogative was altogether contrary to one of the fundamental principles of the Charter, namely, the principle which recognized the sovereign and inalienable right of a State freely to determine and develop its international relations. The duties and obligations of Member States under the Charter were many and varied, and States had never completely fulfilled them in most cases. The over-all tenor of the draft resolution before the Commission ran counter to the universality of membership of the United Nations, as defined in the Charter, whereas the Organization prided itself on both universality of membership and the equality of its Member States vis-à-vis the Organization. The adoption of the draft resolution would contribute little either to the work of the United Nations or to the efforts of individual Member States to achieve world peace through dialogue and negotiation.

37. At the request of the representative of the United States of America, a vote was taken by roll-call on draft resolution E/CN.4/1982/L.6.

38. Senegal, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Bulgaria, Byelorussian SSR, China, Cuba, Cyprus, Ethiopia, Gambia, Ghana, Greece, India, Jordan, Pakistan, Poland, Senegal, Syrian Arab Republic, Togo, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zambia, Zimbabwe.

Against: Australia, Canada, Denmark, Fiji, France, Germany, Federal Republic of, Italy, Japan, Netherlands, United Kingdom, United States of America.

Abstaining: Argentina, Brazil, Costa Rica, Mexico, Panama, Uruguay, Zaire.

39. The draft resolution was adopted by 22 votes to 11, with 7 abstentions.

The meeting rose at 6 p.m.