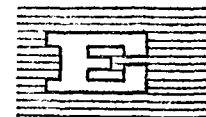


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COMMISSION ON HUMAN RIGHTS

Thirty-fifth session

SUMMARY RECORD (PARTIAL)^{**/} OF THE 1480TH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 14 February 1979, at 4.20 p.m.

Chairman:

Mr. BEAULNE

(Canada)

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Question of the violation of human rights in the occupied Arab territories,
including Palestine (agenda item 4)

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^{*/} No summary records were issued for the 1476th to 1479th meetings.

^{**/} No summary record was prepared for the rest of the meeting.

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one week of receiving the record in their working language.

Corrections to the records of the meetings of the Commission at this session
will be consolidated in a single corrigendum to be issued shortly after the end
of the session.

The meeting was called to order at 4.20 p.m.

The discussion covered in the summary record began at 4.25 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (E/CN.4/1307; E/CN.4/1308; E/CN.4/1309; E/CN.4/1339)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (E/CN.4/1313; E/CN.4/Sub.2/404, Vol.I, II, III; E/CN.4/Sub.2/405, Vol.I, II)

1. Mr. MAZAUD (Assistant Director, Division of Human Rights), introducing agenda items 4 and 9, said that the Commission had regularly given priority to those questions for a number of years past.
2. The question of the violation of human rights in the occupied Arab territories, including Palestine, had been on the Commission's agenda since 1969. In 1978, the Commission in its resolution 1 (XXXIV) had formulated a number of conclusions and recommendations on the matter, had addressed certain demands to Israel, and had prepared the ground for the consideration which it had decided to give the matter at its thirty-fifth session. Document E/CN.4/1308 gave details of the measures taken by the Secretary-General in pursuance of that resolution. The information which the Commission had requested concerning Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories had been provided by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories and by the Palestine Liberation Organization (document E/CN.4/1307). Document E/CN.4/1309 listed all the reports which the United Nations had published on the situation of civilians in the occupied Arab territories, including Palestine, since the Commission's thirty-fourth session. Document E/CN.4/1339 contained a letter to the Chairman of the Commission from the Minister for Foreign Affairs ad interim of the Arab Republic of Egypt drawing attention to the seriousness of the situation in the occupied Arab territories. Finally, additional information would be circulated at the request of the delegations of Iraq and the Syrian Arab Republic as soon as it was technically feasible to do so.
3. Particular mention might be made of the report of the Special Committee (A/33/556). In its resolution 33/113 C the General Assembly, after considering that report, had congratulated the Committee and extended its mandate. In pursuance of that mandate, the Committee had held an initial series of meetings at Geneva during the previous week. Its members had expressed interest in the efforts of the Commission which were being conducted along the same lines as those of the Committee itself; they had asked inter alia what action the Israeli Government had taken in response to the urgent demands addressed to it in Commission resolution 1 A (XXXIV). In particular, Israel had been called upon to report, through the Secretary-General, on the implementation of paragraphs 2, 7, 8 and 9 of that resolution; up to now, no communication had been received from Israel on that subject.

4. With regard to agenda item 9, it would be recalled that the Commission, in its resolution 2 (XXXIV), had requested the Secretary-General to make available to it the reports, studies and publications prepared by the Special Unit on Palestinian Rights which had been established by General Assembly resolution 32/40 B. The documents in question were listed in document E/CN.4/1313 and were available to members of the Commission, with the exception of the last two on the list, which had not yet been published. In its resolution 3 (XXXIV), the Commission had formulated a number of principles and positions which the General Assembly had to a great extent set forth in its resolution 32/14.

5. For its consideration of that matter, the Commission was assisted by two parallel and complementary studies, one by Mr. Gros Espiell on the implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination (E/CN.4/Sub.2/405) and the other by Mr. Cristescu on the historical and current development of the right to self-determination (E/CN.4/Sub.2/404). The Sub-Commission on Prevention of Discrimination and Protection of Minorities had considered a revised version of Mr. Gros Espiell's study and had decided to transmit it to the Commission at its thirty-fifth session, with a recommendation that the study should be printed and given wide distribution; the Sub-Commission had also requested the Commission to entrust Mr. Gros Espiell with the preparation of a preliminary draft international instrument in which all matters relevant to the right of peoples under colonial and alien domination to self-determination that had so far been dealt with in resolutions of a general nature would be systematized, codified and updated with a view to their progressive development. With regard to Mr. Cristescu's study, the Sub-Commission had considered the final version and decided to transmit it to the Commission at its current session. In response to the Commission's invitation to introduce his study and participate in the discussion on it, Mr. Cristescu had indicated that he would be at the disposal of the Commission from the morning of 15 February. The Sub-Commission had recommended that the study concerned should be submitted to the General Assembly and should also be given wide distribution.

6. Mr. ALLANA (Pakistan), speaking on a point of order relating to item 4, drew attention to the numerous resolutions and decisions which had been adopted urging the Government of Israel to desist from its violation of the rights of the Palestinian people in the occupied territories. The reports which had been circulated by the Secretary-General on that item and the introductory statement by the Assistant Director of the Division of Human Rights reinforced the basis for the deep concern felt by the international community on that question. He had no doubt that the Commission would take an appropriate decision on that item of its agenda. In the meantime, however, as repeated reports of torture, arbitrary arrest and detention, destruction of houses and so on were being received from various sources, his delegation proposed that the Commission should make strong representations to the Israeli occupation authorities, expressing its deep concern about the persistent violations of the rights of the Palestinian people and calling upon them to halt those violations forthwith. His delegation therefore proposed that the Commission should immediately send the following telegram to the Israeli occupation authorities:

"The Commission on Human Rights, at its thirty-fifth session, expresses once more its deep concern about the systematic torture practised by Israel

against Palestinian detainees, as reflected once again in recent international reports. The Commission expresses also its grave concern about the policies of repression and collective punishment pursued by the Israeli occupation forces against the Palestinian people in Palestine and in the occupied Arab territories, and in particular the bulldozing and blowing up of houses or such recent methods as the bricking up of these houses so as to render them uninhabitable, thus aggravating the sufferings of the Palestinian people. The Commission calls on the Israeli Government to cease forthwith with the above practices which are in violation of the Geneva Convention of 1949 and to inform the Commission urgently on this matter."

7. The CHAIRMAN said that the text of the telegram submitted by the representative of Pakistan would be translated and distributed.

8. Mr. EL-FATTAL (Syrian Arab Republic) said he thought that the text should be adopted immediately; the simultaneous interpretation which had been given should be sufficient to enable delegations to vote on it.

9. The CHAIRMAN said that the Commission could in fact vote immediately on the text, provided that delegations did not request that it should be translated and distributed.

10. Mrs. RAADI-AZARKHCHI (Iran) called on the Commission to support the Pakistan delegation's text in order to preserve its image as a vigilant guardian of moral and humanitarian values, and to avoid remaining silent in the face of flagrant violations of human rights.

11. Mr. M'BAYE (Senegal) said that he also supported the Pakistan proposal. The situation was both serious and urgent, and justified the action proposed; that conclusion clearly emerged from the reports submitted under agenda item 4. He drew particular attention to the serious facts mentioned in the letter from the Minister for Foreign Affairs of Egypt circulated under the symbol E/CN.4/1339. The text of the proposed telegram could be read out again slowly in order that the Commission could acquaint itself with the contents and take a decision immediately.

12. Mr. EL-SHAFEI (Egypt) said that an unofficial text of the telegram proposed by Pakistan had been circulated; that text could, if necessary, be read out again slowly and an immediate decision could be taken on it.

13. Mr. MEZVINSKY (United States of America) considered that, out of respect both for the Member State to which the telegram was addressed and for the Commission's procedures, it would be preferable to wait until a text in writing had been circulated officially to all delegations.

14. Mr. FISCHER (Federal Republic of Germany) said that his delegation had had no previous knowledge of the proposed text which, in his opinion, should not be treated lightly. The allegations which it contained must be proved and the Commission must therefore study it carefully. His delegation was therefore not in a position to vote immediately.

15. Mr. NETTEL (Austria) said that, since he had known nothing of the proposal, he had not been able to prepare for it or to consult his Government about it. Rule 52 of the rules of procedure should therefore be applied.
16. The CHAIRMAN announced that the observer for Israel had asked to make a statement. He intended to give the floor to the observer for Israel under rule 69 of the rules of procedure.
17. Mr. EL-FATTAL (Syrian Arab Republic) wished to make it clear that it was his delegation which had requested that Israel should be represented, so that members of the Commission could hear what it had to say about the accusations of systematic torture inflicted on Palestinian prisoners.
18. Mr. BARROMI (Observer for Israel) observed that some members were again trying to lead the Commission into a doubtful procedure which augured ill for the deliberations of the thirty-fifth session. There was a danger that the automatic majority might take control of the Commission for a purpose which had nothing to do with human rights. The question raised by the representative of Pakistan was not an urgent one, unlike the problems which at present existed in that representative's country.
19. He stressed that Israel should have the right to state its case and to refute accusations that were completely unfounded. The Commission would be ill-advised to take a decision without holding a debate on such a serious question. Such an attempt to make the Commission subservient to political interests should be rejected.
20. Mr. EL-SHAPEI (Egypt) reminded members that he had requested the Chairman to ask the representative of Pakistan to read out again slowly the text of the telegram in order that the other delegations could take note of it. In his opinion, the statement by the observer for Israel merely complicated the work of the Commission, which was endeavouring to solve a procedural problem.
21. Mr. ARMALIE (Observer for the Palestine Liberation Organization), speaking at the invitation of the Chairman under rule 70 of the rules of procedure, said that he refused to be drawn into polemics initiated by the representative of the Zionist entity. Everyone was now familiar with that representative's personal attacks against countries which dared to level accusations against Israel, with his references to the automatic majority and with the accusations which he made against the Commission.
22. The fact remained that, regardless of the reasons for the situation, human beings were at present imprisoned in Israeli gaols and there was no longer any doubt that they were being systematically tortured, since the most recent reports merely confirmed the earlier reports on that question, in particular those of the Special Committee appointed by the General Assembly, which contained damning evidence against the Zionist authorities. For example, at any time, the house of any suspect whatsoever could be blown up or razed to the ground by Israeli bulldozers; that was an odious practice prohibited by the fourth Geneva Convention of 1949. The extreme urgency of the situation was therefore undeniable.

23. Mr. AKRAM (Pakistan) read out again the proposed telegram. It was regrettable that the Commission had invited the observer for Israel to speak at the present stage of the deliberations since, instead of defending the measures taken by his Government, he had indulged in a diatribe against the members of the Commission which had espoused the legitimate cause of the Palestinian people and of the inhabitants of the occupied Arab territories.

24. He pointed out to the observer for Israel that Pakistan did not occupy any territory other than its own and had not violated the rights of any other people; and he hoped that in future the observer for Israel would confine himself to the question under discussion.

25. Mr. YOUSSEF (Iraq) supported the proposal by Pakistan and said that he shared the view of those delegations which had stressed the seriousness of the situation of the Palestinian prisoners.

26. On the question of procedure, he noted that the transmittal of the telegram proposed by the representative of Pakistan was both a substantive proposal and an emergency measure, and, in accordance with rule 52 of the rules of procedure, the Commission could decide to put that emergency measure to the vote immediately. Moreover, since the Syrian Arab Republic had requested a vote, rule 57 of the rules of procedure should be applied.

27. Mr. SKALLI (Morocco) said that the Commission could not be indifferent to the situation of the prisoners in Israel, which was deteriorating day by day. The international press, which was not in fact particularly sympathetic to the Palestinian cause, contained reports of torture and inhuman conduct by Israelis. His delegation understood to a certain extent the concern of certain members of the Commission who wished to study the text of the telegram before adopting it; but it requested them in turn to understand the concern of countries which considered that swift action must be taken.

28. Mr. ZORIN (Union of Soviet Socialist Republics) pointed out that the situation which had led the Pakistan delegation to propose sending the telegram was both urgent and exceptionally serious. It involved a subject people which had been suffering from an unlawful occupation for more than ten years. The Commission should not accept Israel's view that the situation was not serious or urgent. His country therefore supported the Pakistan proposal.

29. The CHAIRMAN suggested that the Commission should hear the observer for Israel, who had asked for the floor under rule 69 of the rules of procedure.

30. Mr. EL-FATTAL (Syrian Arab Republic) said he was not unwilling to hear the observer of any country, especially when the authorities of the country in question had engaged in systematic violations of human rights; but the present case involved a question of procedure. When the telegram had been sent, Israel could make a statement or a reply concerning the acts of torture which had been committed against Palestinian prisoners (freezing, hanging by the hands, etc.). However, the accused party should first hear the charges which were brought against it.

31. Mr. FISCHER (Federal Republic of Germany) pointed out that one of the elementary requirements in any legal argument was that all points of view must be heard. The most normal procedure, therefore, would be to give the floor to the observer for Israel.
32. Mr. DAVIS (Australia) thought that the Commission should try to be fair and reasonable in dealing with all those questions. Governments certainly needed 24 hours before taking a decision about the contents of a telegram based on "international reports". They needed that time to compare those reports with information they had received from their own authorities. However, it was being suggested that the application of rule 52 of the rules of procedure should be waived without even putting to a vote the decision to that effect.
33. Mr. MEZVINSKY (United States of America) thought that the length of the debate clearly showed that, quite apart from the question of the telegram, what was at issue was the Commission's sense of justice and fair play. How could one forbid a country to speak, even if it were on a question of procedure? Every member of the Commission, and the Chairman in particular, should realize that such a decision would cause people to wonder whether it was a responsible body. He again urged that the text of the telegram should be circulated in writing before any decision was taken on it.
34. Mr. ERMACORA (Austria) recalled that a similar case had arisen during the Commission's thirty-third session, when a telegram had been sent to the Israeli Government - a telegram had still not been answered when the report on that session had been published. In his view rule 69 of the rules of procedure should be applied and the observer for Israel should be given the floor to answer the charges levelled against his country and possibly to explain the silence which had followed the previous telegram.
35. Mr. EL-FATTAL (Syrian Arab Republic) pointed out that his delegation had been the first to request that the observer from Tel-Aviv should be invited to attend the debate and to answer the accusations made.
36. He was surprised that the United States representative should talk about fair play and justice since, in its daily Bulletin of 11 February, the United States Mission had referred to the third annual reports of the Senate Foreign Affairs Committee and the House Foreign Affairs Committee concerning respect for human rights in 115 countries which were receiving, or might receive, economic assistance. The Syrian Arab Republic was not receiving any economic assistance from the United States and never would. How, in those circumstances, could the United States publish any information about a country without its authorization? Was that its sense of justice, when it was defending an aggressor and when many pressure groups in Congress were defending Zionist interests?
37. The CHAIRMAN said it was his understanding that he could ask the observer for Israel to take the floor, but he requested him to be as brief as possible.

38. Mr. BARROMI (Observer for Israel) warned the Commission that the question under consideration and the charges brought against his country were so serious that his delegation would have to make a lengthy reply.

39. The CHAIRMAN said it was for the Commission to decide whether it wished to disregard the urgent nature of the question and hear the observer for Israel or whether, as the representative of Iraq had proposed, it should take a vote on the question of waiving rule 52 of the rules of procedure.

40. Mr. ORTIZ (Cuba) pointed out that the lives of human beings were at stake. Since the Commission had an obligation to act promptly to relieve the situation of the people concerned it should take a decision at once concerning the transmittal of the telegram proposed by the representative of Pakistan, and it should discuss the substance of the matter later.

41. Mr. M'BAYE (Senegal) observed that the Commission was not faced with the dilemma of deciding whether it should listen to the observer for Israel at length or take a decision without doing so. On the one hand, the situation was a serious and disturbing one, and therefore called for immediate action by the Commission. On the other hand, however, Israel should be able to make its own comments. The Commission would therefore be quite justified in dispatching the telegram immediately and then hearing the observer for Israel on the substance of the question, for as long as would be necessary.

42. Mr. FISCHER (Federal Republic of Germany) thought that, if the Commission sent off the telegram at once, it would be prejudging the issue of the debate before discussing it. He was not in favour of the Iraqi proposal, and personally suggested that the discussion should be deferred to the following meeting, and that the observer for Israel should be given an opportunity to describe his Government's position. Only then would the Commission be able to take a well-considered decision, whether it might be to send a telegram or to adopt some other course. That was, after all, the procedure usually followed in the United Nations.

43. The CHAIRMAN said that he regarded the Senegalese proposal as reasonable. It would be unjust not to allow the observer for Israel to express his views, but there was not sufficient time for him to do so at the present meeting.

44. The representative of Iraq had suggested one way of getting out of the impasse, but for his own part he suggested that the Commission should vote on the question whether rule 52 of the rules of procedure should be applied. If it decided that that rule should be applied it would vote on the Pakistan proposal in 24 hours time; and if not, it would vote immediately.

45. Mr. AKRAM (Pakistan) proposed that the Commission should vote on the question whether the provisions of rule 52 of the rules of procedure should be disregarded.

46. The CHAIRMAN acknowledged that that proposal was an improvement on his own and he accepted it.

47. Mr. GHAREKHAN (India) said it was his understanding that the waiving of rule 52 of the rules of procedure would apply only to the Pakistan proposal.
48. Mr. ZORIN (Union of Soviet Socialist Republics) said he did not understand why the Commission should have to take a decision on that point, since rule 52 stated that "Unless the commission decides otherwise, proposals and substantive amendments shall be discussed or put to the vote no earlier than twenty-four hours after copies have been circulated to all members".
49. Mr. MEZVINSKY (United States of America) noted that there was a proposal to waive the 24-hour rule; but what about the rule which stated that proposals and substantive amendments should normally be submitted in writing?
50. The Commission decided by 16 votes to 9, with 2 abstentions, to waive the application of the provisions of rule 52 of the rules of procedure with respect to the Pakistan proposal.
51. The CHAIRMAN invited the Commission to vote on the question of the transmittal of the telegram proposed by the representative of Pakistan.
52. Mr. CHAVEZ-GODOY (Peru), supported by Mr. BOTERO (Colombia), regretted that no written text of the telegram was available.
53. Mr. MEZVINSKY (United States of America) asked whether the text of the telegram had been circulated in one of the Commission's languages.
54. Mr. PACE (Secretary of the Commission) replied that it would be circulated in all the Commission's languages in time for the next meeting.
55. At the request of the representative of Iraq, a vote was taken by roll-call on the Pakistan proposal.
56. Iraq, having been drawn by lot by the Chairman, was called upon to vote first.
57. In favour: Brazil, Bulgaria, Burundi, Cuba, Cyprus, Egypt, India, Iran, Iraq, Morocco, Nigeria, Pakistan, Peru, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia.
58. Against: Australia, Canada, United States of America.
59. Abstaining: Austria, Colombia, France, Germany, Federal Republic of, Ivory Coast, Portugal, Sweden, Uruguay.
60. The Commission decided by 19 votes to 3, with 8 abstentions, to send to Israel the telegram proposed by the representative of Pakistan.

The meeting rose at 6.25 p.m.