

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL
E/CH.4/SR.1431
15 February 1979
Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Thirty-fifth session

SUMMARY RECORD OF THE 1481st MEETING

held at the Palais des Nations, Geneva,
on Thursday, 15 February 1979, at 10 a.m.

Chairman: Mr. BEAULNE (Canada)

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The meeting was called to order at 10.15 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (continued) (E/CN.4/1307; E/CN.4/1308; E/CN.4/1309; E/CN.4/1339; E/CN.4/L.1419)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (continued) (E/CN.4/1313; E/CN.4/Sub.2/404; E/CN.4/Sub.2/405)

1. Mr. CALERO RODRIGUEZ (Brazil), speaking in explanation of vote, said that his delegation's vote in favour of sending the telegram which the Commission, at its previous meeting, had decided to address to the Minister for Foreign Affairs of Israel (E/CN.4/L.1419), had been intended to reflect Brazil's constant concern about all violations of human rights and threats to peace and security. However, he considered that the Commission should have spent more time examining the allegations concerned and should have adopted a more moderate wording for the telegram, since precipitate action by the Commission was likely to be met with intransigence, which would render its efforts less efficacious.
2. Mr. McKINNON (Canada) said that his delegation had voted against sending the telegram for two reasons. Firstly, the situation in question had existed for some time, and there had been no sudden emergency to warrant the exceptional procedure just adopted. Secondly, and more fundamentally, action as serious as that taken by the Commission surely called for the submission and careful examination of proof of the allegations concerned; to act on the latter in the absence of such proof would seriously undermine the Commission's credibility. The Canadian Government and delegation were always among the first to advocate speedy action when human rights were violated anywhere in the world - provided that the reports of such violations were authenticated.
3. Mr. BOTERO (Colombia) said that his delegation had abstained from voting because it had not had the opportunity to study the wording of the telegram.
4. Mr. SOYER (France), speaking in explanation of vote, said there were three reasons why his delegation had abstained from voting. Firstly, the Commission had acted hastily on a text which there had barely been time to consider and which had not been available in all the working languages - a regrettable procedural shortcoming to which some delegations had rightly drawn attention. Secondly, the use in communications of such expressions as "systematic torture" without reference to sources of information or to direct proof was a departure from established practice and could only damage the Commission's credibility. Thirdly, with regard to substance, the Commission had in any case already associated itself with the statements in General Assembly resolutions 3092 A (XXVIII) and 3240 B (XXIX) to the effect that Israel was not complying with the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949. The French delegation reserved the right to abstain from voting should matters of procedure and proof be so disregarded at any future time.

5. Mr. FISCHER (Federal Republic of Germany) conveyed his delegation's condolences to the United States delegation concerning the death of Mr. Adolph Dubs, United States Ambassador in Kabul.
6. The Commission's action in respect of the telegram to Israel, before the members of the Commission had had time to appraise the allegations concerned, constituted a breach of procedure which augured ill for the Commission's work and had compelled his delegation to abstain from voting.
7. Mr. EL-FATTAL (Syrian Arab Republic) said that his delegation had voted in favour of sending the telegram (E/CN.4/L.1419), since it was convinced, from the documentation before the Commission, that Israel was continuing to commit atrocities against Palestinian detainees. The urgency of the situation was emphasized by an account given in the Washington Post, reported in the International Herald Tribune of 6 February 1979, of incidents, mentioned in United States diplomatic cables, of ill-treatment meted out to Palestinians. However, the occupying force stubbornly persisted in denying such ill-treatment, despite the widespread alarm expressed. Failure by the Commission to take prompt action would have been interpreted as acquiescence in such malpractices, which had long been known to exist.
8. Referring to comments made at the previous meeting concerning United States assistance to Syria, he pointed out that all forms of collaboration between Syria and other countries were conducted on an equal footing and could not be regarded as imposing any conditions on Syria.
9. Mr. BARROMI (Observer for Israel), said it was regrettable that the Commission had adopted the text of the telegram in question without considering evidence or hearing Israel's side of the matter.
10. With regard to the legal situation in the Israeli-occupied territories, Israel had maintained Jordanian legislation in Judea and Samaria and Egyptian legislation in the Gaza Strip, as required by international law. The military courts established by the 1967 Security Order to try criminal offences related to security followed the rules of evidence of the English criminal courts; the onus of proof was on the prosecution, and no person could be convicted of a criminal offence on the basis of a pre-trial confession alone. Any person living in Israeli-administered areas could obtain a hearing by the High Court of Justice within 24 hours if he claimed infringement of his rights by an unlawful act of a Government authority, including the Military Government. The death penalty which the military courts were empowered to impose had never been applied, although the right of an Occupying Power to pronounce that penalty in cases of espionage and serious acts of sabotage was recognized in article 68 of the Fourth Geneva Convention. Complaints against officials were always thoroughly investigated and punished where appropriate. Under an agreement between Israel and the International Committee of the Red Cross, ICRC officials could visit security detainees without witnesses within 14 days of arrest,

even if interrogation had not ended, and within seven days in exceptional cases - a provision which went beyond the requirements of article 76 of the Fourth Geneva Convention. Of 665 detainees visited by ICRC in 1978, 40 cases had been investigated further and the findings had been transmitted to ICRC.

11. Mr. EL-FATTAL (Syrian Arab Republic), speaking on a point of order, said that if the observer for Israel used ICRC reports, the Syrian delegation too could refer to such sources, although, as a contracting party to the Fourth Geneva Convention, it had agreed not to divulge the details of ICRC reports.

12. Mr. BARROMI (Observer for Israel) said that the expression "recent international reports" which appeared in the text of the telegram adopted at the previous meeting apparently referred to the latest report of Amnesty International and to the recent United States State Department report on human rights and an article published in that connexion by the Washington Post. The only concrete reference to torture in the report of Amnesty International was based on an article in the Sunday Times of 19 June 1977, which had given credence to certain statements without checking them with the Israeli authorities. During the period reviewed by the report - 1 July 1977 to 30 June 1978 - Amnesty International had found not a single case of torture or ill-treatment. A letter published in The New York Times in May 1978 had detailed the conclusions of two United States lawyers present at the trial of a United States citizen, Sami Ismail, who had allegedly been ill-treated. According to their account, the trial had revealed no evidence of ill-treatment or bad conditions of imprisonment. A visit by the United States consul had likewise revealed no evidence to support such charges, which had clearly been prompted by a desire to slander the Israeli authorities.

13. Turning to the State Department's report on human rights and the allegations of the Washington Post, he said that the latter had withdrawn its charges and recognized the lack of credibility of its sources in an editorial published on 8 February 1979. Israel had taken strong exception to various statements in the report of the State Department, particularly the paragraph dealing with alleged instances of mistreatment. However, there was nothing in that report to justify the allegations made in the Commission. It was true that, under the constant threat of enemy onslaught and terrorist outrages, certain legal guarantees had been suspended in the occupied territories for security reasons, recognized as legitimate by the Fourth Geneva Convention.

14. In January 1978, a team of French jurists had studied the question of the effective defence of human rights in a situation in which security was threatened. The mission had consulted Mr. Wasfi el Masri, an Arab lawyer who had defended large numbers of Arabs accused of crimes against Israeli security. The mission reported Mr. el Masri as having stated that many of his clients had complained of ill-treatment during interrogation, but that, while some of those complaints had been justified, others had been lodged in the hope of obtaining an acquittal.

Mr. el Masri had expressed the view that torture was not used systematically and that conditions of interrogation and detention had improved considerably in the past two years, although, isolated cases of ill-treatment might sometimes arise. The French jurists had concluded that the judicial system in force in Israel and the occupied territories offered the accused satisfactory protection and guarantees, the proof being that when abuses or irregularities had been discovered, the accused had been acquitted. Many complaints of torture, ill-treatment and forced confession were unfounded, and the mission had emphatically dismissed the charge of an Israeli policy of ill-treatment or torture.

15. Israel was a free country governed by the rules of law and open to criticism and scrutiny by fair-minded observers. Justice was administered impartially, capital punishment was never applied and the disappearances so frequent elsewhere did not occur. Despite its unparalleled ordeals, Israel had never neglected its dedication to humanity, unlike the States which had provoked the present debate. It was not surprising that they had refrained from expressly mentioning the Amnesty International report, which referred to mass or wanton executions, secret trials, sadistic tortures and oppression of minorities in Syria and Iraq.

16. He bore no grudge against Pakistan, since in the past its representatives had shown deep compassion towards Israel. For instance, Mr. Bhutto had spoken of the painful and fearful memory of the ghettos of Poland and the extermination of the Jews in Germany at the 1247th meeting of the Security Council.

17. In conclusion, he maintained that the charges levelled against his country in the telegram were malicious and false and were made not to preserve human rights but to serve extraneous interests. The decision adopted had been an unabashed political move, made for purposes of propaganda warfare.

18. Mr. EL-FATTAL (Syrian Arab Republic), replying to the observer for Israel, pointed out that on at least three occasions, namely the assassination of Count Bernadotte and the massacres of Kafr Qasen and Deir Yassin, Israeli terrorist acts, far from being punished, had been rewarded with decorations.

19. He said that 1978 had been a grim year for the Middle East, and particularly for the Arabs who were now entering their twelfth year under Zionist occupation. Their conditions had seriously deteriorated during the past year, due to conspiratorial policies which had led the aggressor to believe that the final liquidation of the people of Palestine was imminent. The Camp David conspiracy had sought to alter the status of Palestinians under occupation from that of a people to that of individuals whose future was to be determined by an aggressor and had provided a juridical framework to trample upon the inalienable rights of the people of Palestine, whose right to self-determination was essential for peace in the Middle East. As a result of that conspiracy which, inter alia, was aimed at legitimizing the acquisition of territory by force, zionism had become the dominant imperialist force which could

impose its will on the region as a whole. The most flagrant Israeli violation of human rights was the deprivation of the Palestinians' right to return to their homes and their property. The United Nations had upheld that right since 1948 and had done so yet again at the Commission's thirty-fourth session. However, the Arab world had rejected the Camp David plan and reiterated its support for the Palestine Liberation Organization as the sole legitimate representative of the Palestinian people inside and outside the occupied homeland.

20. His delegation was confident that the Commission would rise to meet the challenge of the Zionist-United States alliance, whose concept of autonomy was similar to Bantustanization. At its previous session, the Commission had succeeded in placing the problems of the occupied territories in their true perspective and had clearly identified the areas of denials and gross violations of human rights. It had unanimously affirmed the solemn obligation of States Parties to the Geneva Convention, "not only to respect but also to ensure respect for the Conventions in all circumstances". More specifically, the Commission had taken a comprehensive approach to human rights issues in the occupied Arab territories by adopting resolution 2 (XXXIV). Furthermore, by adopting part B of resolution 1 (XXXIV) without a vote, the Commission had rebutted the Zionist claim concerning the "Jewish people's right to settle in all parts of the Land of Israel" and had exposed that racist vision, which was redolent of the Lebensraum theory. Indeed the Geneva Conventions, particularly the fourth, were surely a codification of the international revulsion against any repetition of Adolf Hitler's territorial claims.

21. In reaffirming the inalienable right of the Arab people of Palestine to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine under the leadership of the Palestine Liberation Organization, the Commission had dealt a blow to the mystical Zionist concept of the Jewish people's inalienable right to an Israel extending from the Nile to the Euphrates. One of the aims of the Fourth Geneva Convention was to prevent countries from transferring portions of their own population to occupied territories in order to colonize them.

22. The Commission could no longer delay the study of Zionist ideology, and the basic laws of Israel would constitute a valid basis for such an analysis. It was essential to establish whether zionism, like nazism, subverted elementary human values and erected a wall of hatred between people. Many Jews had questioned the sanity of zionism, as opposed to the humanistic values of Judaism. The Nazi leaders of the past had been branded as insane for their superiority complex and their racist mythology. Those same comments could be made of the Zionists. He wondered whether the Jews in Israel were aware that their leaders had forced or lured them to emigrate by making them as uncomfortable as possible in the United States of America. The slogan describing Palestine as a land without people for a people without land was a cheap propaganda device which had appeared before the European holocaust, as had the Constitution of the Jewish Agency which resembled Hitler's programmes for the Aryanization of greater Germany. The moral to be drawn from those facts was that the Jews were being lured to Palestine while the situation of the Arabs was being totally ignored. The editor of a leading Israeli weekly interpreted the racist theory of the

Judaization of the land in the following manner: Hebrew labour meant no Arab labour; redemption of the land often meant redeeming it from the Arabs, to which end bloodshed, if necessary, was justified. With its acute sense of superiority, division, partition and exclusivism, the Zionist mentality reflected a destructive psychosis which negated the existence of others, the right to property and work, and it could well bring the world to the brink of disaster.

23. The Commission should focus attention first and foremost on the racism and violence inherent in the Zionist doctrine for, if it were not condemned by the international community, zionism would continue to take shelter behind Judaism, whose spiritual values had no connexion with the bulldozer technology of the Zionist State. History afforded ample evidence of leaders such as Hitler and Mussolini whose lunatic visions had brought death and destruction. Could not the Commission deduce from the Zionist creed, as well as its practical manifestations, a pattern of behaviour that might ultimately destroy the very foundations of human rights and world peace and security? If and when the Commission reached the conclusion that zionism was inherently inhuman - a conclusion which was inevitable if Israeli practices were judged in the light of the Zionist historical role and creed - the world would be spared a disaster much greater than that of the Second World War.

24. It was essential to differentiate between Judaism and zionism, for otherwise the cause of many Jews would be harmed. Indeed, the rejection of zionism by Jews had been born at the same time as zionism itself, in the nineteenth century. One school of thought, which viewed zionism as a natural product of the capitalist bourgeois European system, argued that most of the founders and supporters of the Zionist movement were individuals who had promised to serve imperial interests through the establishment and financing of an outpost in Palestine to function as an imperial military base. On the other hand, the writers and intellectuals who emphasized the functional role of Israel in the service of colonialism and imperialism contended, inter alia, that zionism was an unnatural and unscientific ideology, that the Israelis were not independent agents, and that the State of Israel had been established on Palestinian land as a result of the European-United States expansionist movement in the early twentieth century aimed at creating colonial settlements to exploit the peoples of the third world both politically and economically. More recently, a group of Israelis who had begun to criticise zionism from a socialist perspective had reached the conclusion, based on scientific studies, that zionism was a racist, colonialist movement which fanned anti-Semitism for its own benefit. The most distinguished representative of another school of thought, Albert Einstein, had written that he would much rather see a reasonable agreement with the Arabs, based on the concept of peaceful co-existence, than the creation of a Jewish State. A third school of thought, based on the humanist tradition, was represented today by a number of young United States Jewish writers who described Israel as a racist State established by denying the Palestinian Arabs their natural civil and human rights.

25. Those were only a few examples of Jewish intellectuals and religious thinkers who were not only anti-Israeli but active anti-Zionists. Consequently, the Zionist claim was a dictatorial one which was imposed upon Jews both inside and outside Israel, and which invited them to become colonialists, oppressors and accomplices to crimes committed against the Arabs.

26. Zionist ideology, a doctrine notorious for its irrationality, constituted the fourth dimension of the Palestinian drama, and it was the Commission's duty to explore it. Nobody could accuse the Commission of anti-Semitism for, to borrow another's words, the characteristic peril of Zionism was that it was the natural and abiding ally of anti-Semitism and its most powerful justification.

27. The report of the Special Committee to Investigate Israeli Practices affecting the Human Rights of the Population of the Occupied Territories (A/33/356) deserved careful consideration. It should be noted that the conclusions set out in paragraph 123 of the report were based on information drawn exclusively from Israeli sources. A warm tribute should be paid to the Special Committee which, since its establishment, had shown courage and objectivity in unmasking and challenging Zionism at work and had discharged its task in all conscience, justice and respect for the law of nations. At the same time, thanks were due to the Nobel Peace Prize Committee for having awarded the Peace Prize to a terrorist, thus strengthening the resolve of others to restore justice by all available means.

28. He had dwelt upon the nature of Zionism and its territorial embodiment in Palestine in order to dispel the casuistry of a settler-colonial movement in complete collusion with imperialism. The Zionist State was but a colonial venture and, as such, it was destined to be defeated by the Arab nation. Arab setbacks should not be considered in isolation from Arab history, which was the record of a nation whose contribution to world civilization had been fundamental for the progress of mankind. Today, a new institutionalized Arab solidarity was being established, the nucleus of which was to be found in the Iraqi-Syrian charter for joint national action dated 26 October 1978 and aimed primarily at an effective struggle to confront the many dangers besetting the destiny and sovereignty of both the Arab and other nations.

29. Mr. DURHAM (International Indian Treaty Council) said that the Commission was to be commended for its decision to give high priority to the right to self-determination, which was the most fundamental of human rights issues. The Indians in the United States of America had the right to self-determination. The United States had agreed to that right through solemn treaties which it had concluded with Indian nations and the validity of which had been upheld by the United States Supreme Court. Furthermore, the Constitution of the United States declared that treaties, including Indian treaties, were part of the "supreme law of the land" and, as such, could not be changed by law or congressional acts.

30. Clearly, then, the United States was fully conscious that American Indians had the right to self-determination; as recently as 1978, the Bureau of Indian Affairs had publicly admitted that it had no legal right to exercise trusteeship over Indian land or the lives of Indians. Yet the abject poverty, continued loss of land, repression and human suffering of the Indians in the United States were the direct results of that country's aggression. The United States continued to deny the right of self-determination to American Indians, and the situation was assuming critical proportions under the Carter administration. Repression, including such acts as the attempted assassination of the Indian leader Russell Means in 1978 while he had been in prison and his continued imprisonment, had become a daily fact of life

for the Indians. Leonard Peltier was currently serving two consecutive life sentences in a prison where he was being tortured by the use of drugs and dangerous chemicals, although the United States had admitted that the evidence which had convicted him was false and had been obtained through terrorist tactics. American Indian religion and religious beliefs were repressed in more and more ways under President Carter's administration. Two recently promulgated acts designed, respectively, to guarantee respect for American Indian religion and to protect Indian families from the removal of their children had been violated by the granting of a special exemption to the Mormon church, which took away and alienated from their people and religion more Indian children than any other single agency. In most cases, Indian prisoners were not allowed to receive visits from ministers of their religion or to practise their religious beliefs. Areas of land considered sacred by Indians were being illegally violated and destroyed far more frequently than under previous administrations. Unemployment had risen on Indian reservations in the past year, but nothing was being done to alleviate the situation; on the contrary, welfare benefits for Indians were being lowered.

31. Far more serious, however, was the theft of American Indian natural resources such as coal, petroleum, uranium and water, under a plan which President Carter had called "the moral equivalent of war". In flagrant violation of the right to self-determination, the President had sold an entire river, the Upper Missouri, which belonged to American Indians by virtue of a treaty signed in 1868 between the United States and the Sioux nation. The rate at which the water was being sold would so seriously deplete the resources of the river that it would effectively no longer exist for its rightful owners. Furthermore, the water was being sold to the multinational corporations that were destroying Indian land. The United States Government did not claim to own the river. The contention of the Carter administration was that the United States, as the "trustee" of Indian property, had the right to sell it. Protests against that theft and aggression lodged with officials of the United States Government had been to no avail, and the United States army was now supervising the sale of the river.

32. Clearly, the Sioux Indians would find neither the relief they so badly needed nor justice by appealing to the United States itself. His organization, which believed that the Commission was the most appropriate body to consider the violation of the human rights and the right to self-determination of the Sioux people, urged that immediate action on the matter should be initiated at the current session. The International Indian Treaty Council was ready to provide all possible assistance, and the leaders of the Sioux people were ready to co-operate in every way. The United States Government could not easily contend that an internal affair was involved, since it claimed to be only the "trustee" of an Indian nation with which it had a treaty relationship.

The meeting rose at 12.05 p.m.