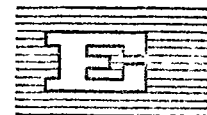


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COMMISSION ON HUMAN RIGHTS

Thirty-fifth session

SUMMARY RECORD OF THE 1483rd MEETING

held at the Palais des Nations, Geneva,  
on Friday, 16 February 1979, at 10 a.m.

<u>Chairman</u>	Mr. BEAULNE	(Canada)
later:	Mr. GARVALOV	(Bulgaria)

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Status of the International Covenants on Human Rights

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The meeting was called to order at 10.20 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (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 (agenda item 9) (continued) (E/CN.4/1313; E/CN.4/Sub.2/404; E/CN.4/Sub.2/405)

1. Mr. DANELIUS (Sweden) said that he would limit his comments on agenda item 4 to one particular point, namely, the allegations made on several occasions that the Israeli authorities practised different forms of torture on Arab detainees in those territories. Those allegations had caused his Government grave concern. Although the Government of Israel had denied in general terms that torture had occurred, his delegation did not consider that to be a sufficient answer to the accusations. When such serious allegations were made, a thorough and impartial investigation was needed. His delegation would expect the Government of Israel to see to it that such an investigation was carried out and to provide the Commission and world opinion with full information about any findings made. Indeed, it was his understanding that in Israel itself voices had been heard urging such an investigation.
2. The endeavours being made by the Commission to draw up a convention against torture bore witness to the serious view taken by the international community of such attacks on the integrity of the human person. In the view of his delegation, it was the Commission's duty not only to deal with the problem of torture in a general way, but also seriously to discuss any concrete allegations of torture brought to its attention.
3. Mr. LOPATKA (Poland) said that his Government's position concerning the situation in the Middle East had been stated by the Polish Minister for Foreign Affairs at the thirty-third session of the General Assembly. The Minister had emphasized, inter alia, that the Middle East conflict continued to threaten peace and security, that the road to peace in the region lay in comprehensive implementation of the relevant resolutions of the General Assembly and of the Security Council rather than in separate agreements, and that any solution should comprise the return of all Arab territories occupied by Israel, the exercise of the right to independent statehood by the Arab people of Palestine and the guaranteeing of the security of all States in the region. The Minister had gone on to state that only the resumption of the Geneva Conference on the Middle East, with the participation of all parties concerned, including the Palestine Liberation Organization as the sole representative of the Arab people of Palestine, could bring about a settlement of the conflict.
4. His delegation attached particular importance to the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/33/356) and to the studies in documents E/CN.4/Sub.2/404 and E/CN.4/Sub.2/405, the authors of which were to be commended for their conscientiousness, impartiality and thoroughness. The situation in the Arab territories occupied by Israel was also correctly stated in the note by the Secretary-General (E/CN.4/1309).

5. His delegation shared the view that no significant change had occurred in the human rights situation of the civilian population of the occupied territories since the Commission's previous session, and it fully endorsed the views expressed the previous day by the former Chairman of the Commission, Mr. M'Baye. Israeli governmental leaders were still making public statements that indicated Israel's determination to pursue and consolidate its expansionist and annexationist policies. His delegation further endorsed the view expressed in the report of the Special Committee that the Government of Israel was consciously following a policy that violated the Fourth Geneva Convention, in particular articles 47 and 49.
6. The situation in the occupied Arab territories was being aggravated by continued Israeli occupation and aggression. Human rights were violated by annexationist measures, the establishment of settlers' colonies, mass destruction of homes, torture and ill-treatment of detainees, expropriation and the imposition of economic and fiscal measures aimed at dispossessing and exploiting the population. There was increasing recourse to arbitrary detention and cruel treatment of Arab detainees and prisoners and to collective punishment, particularly the blowing up of Arab houses. Archaeological and cultural property was being pillaged, religious freedoms and practices as well as family rights and customs were being interfered with, and the natural resources and population of the territories were being illegally exploited.
7. His delegation fully supported the view that the Palestinian people had been prevented by force from exercising their inalienable right to self-determination without outside interference and to the establishment of an independent and sovereign State in Palestine. They had the right to return to their homes and property, and also to recover their rights by all available means, in accordance with the purposes and principles of the Charter of the United Nations. His delegation would support any resolution aimed at terminating Israeli occupation of the Arab territories and any decision aimed at improving the situation of Arab people in the occupied territories.
8. Mr. ERMACORA (Austria) said that the two agenda items under consideration raised three important questions.
9. Firstly, a study of relevant reports showed that the Commission had made constant but fruitless appeals for due observance of the Fourth Geneva Convention and relevant human rights instruments. In that connexion, he wondered to what extent human rights considerations were affected, in the territories under consideration, by direct political negotiations among the Powers concerned - a matter not dealt with in the Special Committee's report (A/33/356). In his view, political and human rights issues could not be separated.
10. Secondly, it was clear that political questions would remain unresolved until the basic right to self-determination could be exercised by peoples in the territories concerned. It was evident, however, from the various relevant General Assembly resolutions referred to in the Special Committee's report, that the meaning of self-determination had changed. In that connexion, self-determination was described in General Assembly resolution 2625 (XXV) as the

right of peoples freely to determine, without external interference, their political status. However, the various studies and reports on the situation in the Middle East had failed to specify what was meant by self-determination. It would assist the Commission greatly, therefore, if the various speakers on that topic clarified their interpretation of the term.

11. Thirdly, referring to paragraph 134 of the Special Committee's report, he welcomed the proposal that an independent and impartial international body should be appointed to safeguard the human rights of the population of the territories currently occupied by Israel. That was a constructive proposal which the Commission should take up promptly, despite the inevitable political problems involved.

12. Mr. GARVALOV (Bulgaria) said it was clear, from the work of the General Assembly at its thirty-third session, that the rights of the Palestinian people lay at the core of the Middle East problem and that until they were fully exercised, as called for in numerous General Assembly and Security Council resolutions, the crisis created by Israeli aggression in that region would remain unsettled and there would be no just and lasting peace there.

13. The Bulgarian people saw the issue not simply as a matter of humanitarianism, as some wished to view it, but as a massive and flagrant violation not only of the Palestinian people's basic human rights and fundamental freedoms but also of their right to self-determination.

14. The ill-treatment, deprivation, impoverishment and harassment of the Palestinian people, and the ill-treatment and torture of detainees, had been known to the world and the United Nations for many years; only two days previously the Commission had seen fit to send a telegram to the Israeli authorities on account of the continued malpractices. It was clear that Israel, in disregard of specific United Nations decisions, intended never to return the occupied territories to the Arab States or to allow the Palestinians their inalienable right to self-determination. It was ironic, too, that Nazi terrorist methods which had led to the extermination of 6 million Jews should now form part of Israeli state policy. Israel's disregard of the Palestinians' right to self-determination and sovereignty not only violated a fundamental right recognized by the Charter and the International Covenants on human rights but also reflected the doctrine of racial superiority.

15. There was a long list of decisions and resolutions by United Nations bodies concerning Israeli policies and practices. Israel had been indisputably guilty of mass and flagrant violations of human rights, equalled only by two other well-known Member States. However, the Palestinian people, led by the Palestine Liberation Organization, their sole and legitimate representative, was intensifying its just struggle for self-determination.

16. Unfortunately, there had recently been attempts to solve the Middle East conflict outside the framework of United Nations decisions, in a way which would compartmentalize peace and security in that region and disregard the Palestinian people's inalienable rights. No such separate agreements or partial measures could be a substitute for a comprehensive settlement of the regional conflict.

17. The world was aware of the true situation, and the international community called upon Israel to discontinue its violations of human rights, since Israel's actions were not simply of humanitarian concern but also constituted a threat to world peace and security.
18. The Bulgarian people and Government would continue to insist on prompt and full implementation of all United Nations resolutions on the matter. They cherished their bonds with all Arab countries and continued to support the Palestinian people and the Palestine Liberation Organization whole-heartedly in their struggle for self-determination and independence. Bulgaria's policy was made clear in the Declaration of the States Parties to the Warsaw Treaty, adopted at the meeting of the Political Consultative Committee held in Moscow on 23 November 1978, in which those States had reaffirmed their position of principle in favour of a just and lasting peace in the Middle East and a comprehensive settlement, including the withdrawal of Israeli troops from all occupied Arab territories, the exercise of the Palestinian people's inalienable right to self-determination and the safeguarding of the independent existence and security of all States of that region, including Israel.
19. In the Charter, in the Declaration on the Granting of Independence to Colonial Countries and Peoples and in the International Covenants on Human Rights, the United Nations had unequivocally declared the importance it attached to the right of colonial peoples and countries to self-determination, as a prerequisite to the enjoyment of other basic rights and fundamental freedoms. The exercise of the latter, on which the fate of millions of people depended, called for the speedy elimination of the last vestiges of colonialism, racism, racial discrimination and apartheid, which were, moreover, a threat to international peace and security. States Members and organs of the United Nations were well aware of continued imperialist attempts to delay and distort the process of decolonizing the last colonial possessions. They had also acknowledged the need to recognize the legitimacy of the national liberation movements, particularly in southern Africa, as the sole representatives of their peoples, and of their struggle to obtain self-determination by all the means at their disposal. Despite pleas by certain States for a peaceful settlement of colonial issues, the colonial and racist régimes in southern Africa remained unwilling to transfer power peacefully to the national liberation movements, whose ability to act in furtherance of their efforts towards self-determination and independence had recently been convincingly demonstrated.
20. Notwithstanding numerous United Nations resolutions and decisions, the régimes in southern Rhodesia and South Africa remained intransigent; but they themselves had no justification for continuing to exist, and did so only because of support from their protectors and allies. Those régimes, with massive assistance from transnational corporations, practised apartheid and aggression in order to suppress the colonial peoples' desire for independence and peace. Plans to grant fictitious self-determination to such peoples would never deceive the United Nations and the international community, however. Such plans contradicted the purposes and principles of the Charter of the United Nations and relevant international instruments. Attempts to impose such conditions on the peoples of Zimbabwe, Namibia and South Africa could increase the problems in the region and pose a serious

threat to international peace and security. A similar threat was posed by the colonial Powers' maintenance of military installations in so-called small territories, the populations of which were being denied their right to self-determination.

21. In his delegation's view, the Commission must express firm and unequivocal support for the right to self-determination of colonial peoples and countries. Moreover, it was high time that the United Nations, and the Commission in particular, envisaged effective measures to defend that basic human right of colonial peoples. South Africa was violating the right to self-determination on such a scale that the continued prevention by its allies of the adoption of the relevant measures envisaged in Chapter VII of the Charter was inexplicable.

22. Bulgaria had on a number of occasions reaffirmed its solidarity with the colonial peoples' struggle against imperialism, colonialism and neo-colonialism and against any form of domination and oppression; it would continue to support the national liberation movements in southern Africa and the peoples of the newly-liberated countries in their endeavours to uphold their independence and freedom, to choose their path of social development and to safeguard their territorial integrity and sovereignty.

23. Mr. YOUSSEF (Iraq) said that his delegation had studied carefully the report of the Special Committee (A/33/356), and congratulated its members on their work in revealing the shocking truth about the systematic and flagrant violations of human rights being perpetrated by the Zionist authorities in Palestine. That question should be viewed in connexion with the basic tenets and aims of Zionism. Statements by leading Zionist representatives, such as Ben Gurion and Weizmann, made it clear that Zionism was characterized by colonialism and by denial of the rights, culture and existence of the Arabs. Zionist doctrine had from the outset envisaged a Jewish state in Palestine as a part of Europe's rampart against Asia; and the Balfour Declaration of 2 November 1917 had been described as a document in which one nation solemnly promised a second nation the land of a third nation. The Zionists had always sought alliance with a foreign Power whose interests were contrary to those of the Arab people and of all peoples struggling against colonialism - particularly with the United States, the representative of the major imperialist Powers. Moreover, the Zionists flouted United Nations resolutions concerning embargoes on the racist régimes, particularly South Africa. Those practices had been solemnly condemned in paragraph 18 of the Declaration and Programme of Action of the World Conference to Combat Racism and Racial Discrimination - a conference boycotted by the Zionists and their United States allies. The international community's opinion on the racist and aggressive character of Zionism was clearly expressed in General Assembly resolutions 3379(XXX) and 33/71A. His delegation felt sure that the international community would soon be able to implement the latter resolution fully, despite the Zionists' alliance with the United States.

24. The same colonialist and racist spirit was also evident in the Zionists' internal policy, where human rights were violated by discriminatory practices, arbitrary arrest and systematic torture, and the policy of settlements.

25. A typical example of discriminatory practices was the Israeli Supreme Court's refusal to grant authorization for Mohammed Burkan to buy an apartment in the Jewish quarter of the old town of Jerusalem, from which he and his family had been expelled several years previously.

26. Arbitrary arrest and inhuman and degrading treatment of detainees was becoming a constant and systematic practice. The Special Committee, in paragraph 127 in its report (A/33/356), had noted no significant changes in the human rights situation of the population of the occupied territories in relation to previous years. The authorities imposed emergency laws of the very type they themselves had protested against under the British Mandate, such laws being used as a legal pretext for arrests. The Special Committee, in paragraph 94 of its report, referred to its earlier conclusion that there were very strong indications that cases of torture had occurred and continued to occur, that the international community could not connive at a continuation of such an abhorrent practice, and that there was a need for a total revision of existing procedures and for new and more effective arrangements. It also referred, in paragraph 105 of the report, to a statement by the Commissioner of Prisons that the rapid increase in the number of prisoners in Israel and the failure to build new prisons had led to shocking conditions due to overcrowding. In paragraph 107 of its report, the Special Committee quite rightly emphasized the existence of racial discrimination, even in prisons.

27. Finally, the Zionist entity was violating human rights by founding and building settler colonies, thus flouting world opinion which was unanimous in regarding the process as inconsistent with the Geneva Conventions. Paragraph 46 of the Special Committee's report was particularly illuminating concerning the influence of Zionist movements on settlement policy. The Israeli settlement programme was proceeding apace on the West Bank, where it was planned to create 84 townships to accommodate 27,000 families over the next five years. Substantial credits had been made available for the extension of existing colonies on the West Bank, in Gaza and on the Golan Heights, and a new town was to be built between Jerusalem and Jericho. New lands had been seized recently on the West Bank, and large-scale plans had been drawn up to extend the Jewish districts built since 1967 in the Arab section of Jerusalem. The settler colonies in Palestine were an even more serious matter than the Bantustans in South Africa, for their purpose was to confiscate Arab land, oblige the Arabs to leave their country and create ghettos reserved exclusively for the Zionists.

28. His delegation had carefully considered the studies prepared by the Committee on the Exercise of the Inalienable Rights of the Palestinian People concerning the origins and evolution of the Palestine problem. The right of the Palestinian people to self-determination had long been affirmed by United Nations organs and had recently been reiterated in paragraph 19 of the Declaration and Programme of Action adopted by the World Conference to Combat Racism and Racial Discrimination (A/33/262).

29. In order to demonstrate the seriousness of Israel's refusal to implement United Nations resolutions concerning the self-determination of the Palestinian people, he wished to explain the international legal implications of that right and of its violation. United Nations studies and resolutions had reaffirmed the contemporary tendency to consider the right of self-determination as an imperative norm of international law. Paragraph 80 of document E/CN.4/Sub.2/405 (volume I) reaffirmed that view, as did paragraph 29 of the Declaration and Programme of Action of the World Conference to Combat Racism and Racial Discrimination. The international

legal effects deriving from the jus cogens character of the right to self-determination could be considered on two levels: the international legal qualification of the denial and violation of resolutions concerning the right of peoples to self-determination, and the international legal effects of jus cogens on international agreements and treaties which affected and violated that right. On the first point, paragraph 101 of document E/CN.4/Sub.2/405 (volume I) described the violation of the right to self-determination as an international crime. Israel was guilty of such a crime, since it disregarded the right of the Palestinian people to self-determination, as well as practising discrimination and occupying the territory of another people by force. Those Zionist acts constituted a challenge and an affront to the international community, which should take urgent steps to remedy the situation, in accordance with chapter VII of the Charter of the United Nations and General Assembly resolution 33/71A. On the second point, article 53 of the Vienna Convention on the Law of Treaties, stipulated that a treaty which conflicted with a peremptory norm of general international law, such as the right of peoples to self-determination, was void. Thus, any treaty, such as the Camp David agreements, which violated the right of the people of Palestine to self-determination was politically and legally void. At the ninth Arab Summit Conference held in Baghdad from 2 to 5 November 1976, the Arab countries had been unanimous in their condemnation of attempts to reach agreements which adversely affected the rights of the Palestinian people. His country had taken preventive measures to safeguard the inalienable rights of Arabs from Zionist threats against the Arab people, including the signing of a joint charter for national action with the Syrian Arab Republic.

30. His delegation believed that the Commission would adopt resolutions designed to put an end to the violations of human rights in the occupied Arab territories, including Palestine, and would reaffirm the inalienable rights of the Palestinian people.

31. Mr. Garvalov (Bulgaria) took the Chair.

32. Mrs. LAKSHMI PANDIT (India) said that it was regrettable that the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories had noted no significant changes in the human rights situation of the civilian population of those territories. The direct cause of the continuing turmoil and daily violence in those areas was the fact of their occupation. The restitution of the right to self-determination was contingent upon the end of military occupation, and it was obvious that a lasting peace was dependent on removal of the root cause of the conflict.

33. However, far from working towards that end, Israel deliberately continued to perpetuate its occupation of those territories and was intensifying its annexation policy through the expansion of existing settlements and the creation of new ones. It had consciously followed a policy that violated the Fourth Geneva Convention, particularly article 47, prohibiting annexation of territory under military occupation, and article 49, prohibiting the transfer of citizens into occupied territories. Such policies led to the violations of the human rights of the Palestinian people which were amply substantiated in the report of the Special Committee (A/33/356).



34. The inalienable rights of the Palestinian people could only be restored when a comprehensive peace settlement based on the following principles had been reached: there must be total respect for the principle of non-acquisition of territory by force; territories occupied by conquest should be vacated by both military and civilian aliens; the right of refugees to return voluntarily to their own lands and homes must be honoured; the right of the Palestinian Arabs to national self-determination should be realized; boundaries should be settled through negotiations and not by force; and the right of all States, including an Arab Palestine State, to exist within secure and recognized boundaries should be accepted.

35. Mr. Beaulne (Canada) resumed the Chair.

36. Mr. BARROMI (Observer for Israel) said that he would not answer all the contentions of previous speakers, some of which had been irrelevant. However, since reference had been made to Einstein, he wished to make it clear that Einstein had been a Zionist throughout his life and had been offered the Presidency of the State of Israel in 1951.

37. Referring to the statement of the Swedish delegation, he pointed out that he had not refuted the allegations made against Israel in general terms only but had in fact referred to specific cases.

38. His delegation could not accept Justice M'Baye's suggestion that there were two or three focal points of human rights problems in the world. In the Middle East alone, the tragedy of Lebanon's loss of independence and civil strife could not be overlooked, any more than could Iraq's dungeons and gallows. However, he was grateful for the fact that Justice M'Baye had spoken of the film "Holocaust", which presented a challenge to the human conscience and showed the dangers threatening all minorities as well as the specific Jewish condition. The historical answer of his people to the injustice and deprivation they had suffered had been zionism, a Jewish renaissance in their own ancient land.

39. The documentation before the Commission should be seen in the light of the automatic majority within the United Nations that was always at the disposal of the Arab States and the political machinery that transformed any anti-Israeli allegation into a United Nations resolution. General Assembly resolution 2443 (XXIII), establishing the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories had been remarkable in that it handed down the verdict while demanding a trial. The constitution of the Special Committee had followed the same lines, since the credentials for membership were a country's record of animosity towards Israel and the Committee was currently formed by representatives of countries which had no diplomatic relations with Israel. In the past decade, nearly 30 resolutions of increasing virulence had been adopted by the General Assembly and by the Commission on Human Rights. Obviously the automatic majority was not restrained by considerations of equity, a sense of proportion or intellectual integrity. The allegations made against Israel in recent years were the more hypocritical if the horrors taking place in so many parts of the world were taken into account.

40. There were signs that the members of the Special Committee were beginning to realize the absurdity and moral implications of their task. The Committee's most recent report (A/33/356) showed greater verbal restraint than previous reports and included a special chapter on the problem of analysing evidence. However, the Committee remained the victim of its allegiances and preconceptions. The main contention of the report, as illustrated by its paragraph 130, was that the military government's activity was arbitrary and vindictive and was designed to demoralize the civilian population, inter alia through the demolition of houses. It had been repeatedly claimed that the demolition of houses was contrary to article 53 of the Fourth Geneva Convention. However, according to the commentary to the Convention by the International Committee of the Red Cross, such action could be taken when military requirements so demanded, provided that the occupying authorities kept a sense of proportion. He assured the Commission that the Israeli authorities acted with the utmost self-restraint in that regard and that houses were demolished only for imperative security reasons, to save human lives threatened by terrorism.

41. He had already referred in his earlier statement to the complaints regarding conditions of detention, ill-treatment and torture. He pointed out that similar complaints were heard under every judicial system and should be viewed with caution. Regrettably, the Special Committee had given unqualified credence to witnesses such as Fatma Barnawi and Sabri el Assali, who might well have been politically motivated to make false statements.

42. The report also mentioned the question of administrative detention. He stressed that that practice was admitted under articles 42 and 78 of the Fourth Geneva Convention. It was applied in connexion with grave security problems. There were now only 19 administrative detainees and their cases were reviewed every six months by a committee presided over by a judge. Access to the High Court of Justice was open to them, and new legislation to be introduced shortly would provide them with additional guarantees, including the right of appeal to the Supreme Court.

43. The Special Committee had supported its findings with reports from the Israeli press. However, it did not seem to be fully aware of the role of the press in a democratic country where every opinion was admitted. In Israel, both the Jewish and Arab press enjoyed complete freedom, the only legal limitation being military censorship, and then only on security grounds. The Special Committee, however, was not interested in the overall picture and had selected only items which would suit its preconceived scheme, omitting to mention such positive features as economic progress, the new medical insurance and the rising rate of school attendance. Using the Committee's method, anything could be proved with respect to any country endowed with a free press. Such an exercise in selective quotation did no credit to the authors.

44. A striking feature of the report was the list of 319 incidents described as being directly attributable to the military occupation. The list was intended to prove a pattern of resistance and included, together with minor disturbances, a number of grave terrorist attacks against the civilian population. However, the

toll of human lives and suffering was nowhere mentioned. His delegation considered that an inadmissible attitude and rejected the attempt to whitewash terrorism. Those responsible for such terrorist crimes would not be left unpunished and Israel should not be left alone in that struggle. The Commission should remember that no country was forever immune to the threat of terrorism and that it was high time to make the struggle against international terrorism a joint international concern.

45. Another central theme of the report was the question of Israeli settlements in the occupied territories. However, the existence of a historical link between the Jews and the land of Israel, also called Judea and later Palestine, should come as no surprise to the Special Committee or to the Commission. That link had been confirmed in the Mandate on Palestine established by the Council of the League of Nations in 1922. It was a well-known fact that the Jews had always lived in Palestine and had inhabited towns and villages in Judea, Samaria and Gaza until driven out in 1948 by the Jordanian and Egyptian invasion. The Jordanian rule had introduced the notion that a Jew should be excluded from the area because he was a Jew. Moreover, it had been provided that no Jew could become a Jordanian subject and that the sale of land to a Jew was a crime punishable by death. That was blatant anti-Semitism and a flagrant violation of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Many of the Jewish settlements had been established on Jewish-owned or barren land; in only a few cases had private land been involved, and then full compensation had been offered. The report claimed that the settlements had had an adverse effect on the region's water reserves. However, water management in the territories had been thoughtful and efficient and the agricultural production of the Arab population had increased greatly since 1967.

46. In any case, it should be borne in mind that the Jewish population in Judea and Samaria amounted to 7,000, as compared with three quarters of a million Arabs. The current epoch was marked by large, often catastrophic, population movements. The international community had ignored the displacement of Christians in Lebanon and had done little to alleviate the suffering of Vietnamese refugees. However, when a few thousand Jews decided to live among a predominantly Arab population to keep watch along the borders and reinforce Israel's guard against sudden military onslaughts or terrorist incursions, excitement rose to a climax. It was hard to understand why the United Nations should be involved in a question which was, to a large extent, a problem of security and strategic defence, particularly in view of Israel's statement to the effect that the settlements would not be an obstacle to peace and would not decide the final borders between Israel and its neighbours.

47. In his view, the Special Committee had exceeded its terms of reference. For instance, by recommending that the General Assembly should put an end to Israeli occupation of the territories, it had arrogated to itself a policy-making function which belonged essentially to the Security Council. The inclusion of so many political elements in the report relegated the items concerning human rights to a position of secondary importance. There was reason to doubt whether the Special Committee's interest in human rights in the territories was genuine or whether it was ancillary to political aims.

48. The Commission was now faced with a dilemma. The easy solution would be to repeat in more extreme terms its resolution of the previous year, without taking the content into account - unfortunately a common practice in the United Nations. Alternatively, it could refuse to give in to extraneous considerations and interests. If the Commission wished to be faithful to its mandate, its primary concern should be the quality of life of ordinary people in the area. Was the vast silent majority really suffering under Israeli administration, had their conditions improved or deteriorated and were their rights adequately protected? The answers to those questions were available to anyone who honestly wished to know them.

49. Israel took the Fourth Geneva Convention as its standard, although, in many fields, the population of the occupied territories enjoyed greater rights than those provided for in the Convention - for example, the holding of free municipal elections and freedom of travel to and trade with neighbouring countries that were in a state of war with Israel. The Israeli Government had also made special arrangements to enable thousands of pilgrims from the territories to make their journey to Mecca. Moreover, the territories were experiencing an unprecedented economic boom and enjoyed vastly increased education and health budgets. Yet the Special Committee tried to create the impression that they were in a state of incipient revolt. That was utterly removed from reality; any visitor was impressed by the absence of Israeli troops or police. The civil police were locally recruited, civil and criminal judges were Arabs. There were 16,000 Arab officials in the administration and only 600 Israelis.

50. In 1978, the Commission had adopted resolution 2 (XXXIV) on the establishment of a Palestinian State, a prescription for conflict and violence that should never have been countenanced by a body dedicated to human rights. However, that resolution had been superseded by the Camp David agreements, which provided for a five-year period of self-rule during which the question of sovereignty would be left in abeyance, followed by negotiations with Palestinian participation for a final peace treaty. Strangely, the Special Committee had not made the slightest mention of those agreements in its report. However, the world had taken notice and the Israeli and Egyptian leaders had been awarded the Nobel Peace Prize. The Israeli/Egyptian peace negotiations must now transform the principles into a treaty and both parties were aware of the serious responsibilities involved. Despite all the difficulties, Israel and Egypt were preparing the ground for a broad settlement of the 30-year war which would change the face of the Middle East for a long time to come. Peace was in the offing, and soon the United Nations would be called to choose between supporting the forces of disruption and destruction or the efforts for a free, stable and prosperous Middle East. It would be a grievous mistake to sacrifice the cause of peace to fleeting expediency.

51. Those were the questions on which the members of the Commission should reflect. He hoped that they would rise to their responsibility. If they did, they would have taken the first step to bringing the United Nations back to its true role, making it once again relevant to the expectations of mankind.

52. Mr. EL-FATTAL (Syrian Arab Republic), speaking in exercise of his right of reply, said that the observer for Israel had ignored the reference by the representative of Austria to the proposal made in paragraph 134 of the Special Committee's report. Israel was applying laws which had been in force in the territories before their occupation, but his delegation contended that those laws were superseded by international law, namely the Fourth Geneva Convention.

The occupier of a foreign territory had no choice but to respect that Convention. He did not understand how Einstein, who was a relativist and a Swiss national, could have been considered for the post of President of Israel, an absolutist State. With regard to oppression, he drew attention to an article published in the Osservatore Romano, the official organ of the Vatican City, on 9 January 1979, entitled, "Les Chrétiens et la Terre Sainte". He asked that the article should be circulated as an official document of the Commission, since the information it contained about the desperate plight of Christians in the Holy Land was irrefutable. The Special Committee had not been represented at the current meeting and could not therefore reply to the Israeli allegations concerning its report. In future, if the observer for Israel was to be permitted to participate in the debate, the Chairman of the Special Committee should also be invited.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS (agenda item 8) (E/CN.4/1271; E/CN.4/1329; E/CN.4/1334).  
STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 21) (E/CN.4/1329; A/33/40)

53. Mr. van BOVEN (Director, Division of Human Rights) introducing agenda item 8, noted that the Economic and Social Council, by decision 229 (LXII), had endorsed the recommendation made by the Commission in paragraph 4 of its resolution 4 (XXXIII), namely that the Secretary-General, in co-operation with UNESCO and the other competent specialized agencies, should be invited to undertake a study of "the international dimensions of the right to development as a human right in relation with other human rights based on international co-operation, including the right to peace, taking into account the requirements of the New International Economic Order and fundamental human needs", and to make the study available to the Commission at its thirty-fifth session.

54. In preparing the study (E/CN.4/1334), which was now before the Commission, the Secretary-General had taken into account the views of the competent specialized agencies of the United Nations and of the papers presented to the UNESCO Experts Meeting on Human Rights, Human Needs and the Establishment of a New International Economic Order held in Paris in June 1978. In addition, informal consultations had taken place in Geneva with persons competent in relevant fields. Note had also been taken of a joint statement submitted by a number of non-governmental organizations in consultative status (E/CN.4/NGO/214 and Corr.1).

55. The study, which covered new ground, had been a challenge to the Secretariat. It was certainly not the last word on the subject. The Secretariat was aware that human rights needed to be considered also as a global issue interrelated with other international issues such as the maintenance of peace and security and economic and social development. The study also reflected new approaches in terms of solidarity; in that connexion, UNESCO had referred to the "third generation" of human rights, such as the right to peace, to development and to a sound and livable environment.

56. The Commission would also have before it a report submitted by UNESCO (E/CN.4/1340), together with three annexes, namely, a report on the June 1978 Experts Meeting, a paper by Mr. K. M'Baye and a paper by Mr. H. Gros Espiell. The representative of UNESCO would no doubt address the Commission on his organization's views and work in that sphere.

57. As he had stated at the opening of the current session, the link between development and human rights was fundamental. In the study before the Commission, the concept of development was defined as encompassing the realization of the potentialities of the human person in harmony with the community. The human person was seen as the subject rather than a mere object of the development process, and development was interpreted as requiring the satisfaction of both material and non-material needs. While the study focused on the "international" dimensions of the right to development, it also noted that it was not always possible to draw a workable distinction between the "national" and the "international" dimensions of development and human rights-related issues (E/CN.4/1334, para. 37).

58. The report noted that there was a range of ethical arguments to support the existence of the right to development, and also submitted that there was a very substantial body of principles based on international instruments which demonstrated the existence of a human right to development in international law. In particular, reference was made to Articles 1, 55 and 56 of the Charter of the United Nations and to some fundamental provisions of the Universal Declaration of Human Rights, such as articles 22 and 28. Article 1 of both the International Covenants on Human Rights was of major significance, and mention could also be made of articles 2 (1) and 11. Article 3 of the Universal Declaration and article 6 of the International Covenant on Civil and Political Rights were also relevant. The study examined the questions of who were the subjects and beneficiaries of the right to development and what were the duties flowing from that right. It indicated that the issue of whether the right to development was an individual, a collective or both an individual and a collective right, which had been raised at the Commission's thirty-third session, did not need to be posed as one involving the choice of mutually exclusive alternatives. Therefore, it was necessary to seek to strike a careful balance between the interests of the collectivity and those of the individual, and full participation in decision-making might provide the key to achieving such a balance. The subjects and beneficiaries of the right to development could include States, peoples, minorities and individuals, while the related duties might be considered to fall upon the international community, international organizations, States, regional and subregional State groupings, other transnational entities including corporations, and individuals. The precise content of the right could only be determined by a thorough analysis of the sources upon which it was based. Consequently, it was suggested that further analysis might be directed towards identifying and elaborating some of the specific rights and duties to be attributed to all relevant entities.

59. The international dimensions of the right to development were considered in relation to four specific concepts, namely, other human rights, the right to peace, the requirements of the new international economic order and fundamental human needs. With regard to the first concept, the study emphasized that a development strategy based on political repression and the denial of human rights might contribute to the realization of some economic objectives

but could never lead to full and genuine development. As to the second concept, it was stressed that disarmament and the cessation of the arms race was a prerequisite for realization of both the right to peace and right to development. Regarding the relationship between the right to development and the requirements of the new international economic order, attention was drawn to General Assembly resolution 32/130 which stated that realization of that order was an essential element for the effective promotion of human rights and fundamental freedoms and should thus be accorded priority. The study also mentioned the need for a new international power structure and for the progressive realization of the right to development within States. Achievement of the new international economic order should not be considered as an end in itself but as the means to secure more justice and greater enjoyment of human rights by peoples and individuals; consequently, it would need to be supplemented by a new social and human order at both the international and domestic levels. Finally, with regard to fundamental human needs, the report analysed the relationship between needs and rights, examined the "basic needs" strategy adopted by the 1976 World Employment Conference and concluded that there had to date been insufficient analysis of issues relating to the promotion of civil and political rights in the context of that strategy. In that connexion, it should be borne in mind that the human rights concept could not be reduced to a question of fundamental human needs, important as such needs might be.

60. The study also examined several specific issues relevant to the international dimensions of the right to development, including the right of peoples to self-determination, the need for disarmament, the achievement of a new international economic order and the promotion of respect for all human rights, and the crucial importance of participation at all levels in order to promote the right to development. The study noted that there was considerable international interest in forging closer links between the promotion of human rights and international development co-operation, and indicated the scope for more detailed study of the relevant issues. The question of human rights and development co-operation or assistance was extremely complicated, and the inter-relationship between the two required further study.

61. In considering the role of transnational corporations in the promotion of the right to development, the study noted that although the potentially beneficial impact of their activities was substantial, certain aspects of their operations had given rise to serious concern. It concluded that, despite current endeavours within the United Nations system to elaborate a code of conduct for such corporations, much remained to be done to clarify their human rights-related obligations both in general terms and in particular situations.

62. The study emphasized that promotion of respect for human rights should be prominent among the objectives of the new international development strategy (paragraph 314). The issues of major importance to be considered in that context included the ways in which human rights could be given more specific consideration in reports relating to all aspects of development, the need for improved co-ordination of United Nations human rights-related activities, the feasibility of undertaking a periodic general review or survey by the Secretary-General of trends concerning the implementation of the concept of development as a human right, and the practicability of requiring a "human rights impact statement" prior to the commencement of specific development projects or in connexion with the preparation of an over-all development plan or programme.

63. The study concluded by noting the dynamic character of the human right to development and suggesting that the continuing evolution of the concept and its translation into practical notions would depend significantly on the course of action adopted by the Commission. He expressed the hope that the study would give the Commission an opportunity to examine the fundamental issue of the functioning and dynamics of human rights in both international society and national societies. Finally, he recalled that in its resolution 10 (XXXIV) the Commission had decided to consider at the current session, in the light of the study now before it, the question of updating the study entitled The Realization of Economic, Social and Cultural Rights: Problems, Policies, Progress, which had been the subject of a report submitted by the Secretary-General to the thirty-fourth session (E/CN.4/1271).

64. Introducing agenda item 21, he drew attention to the report by the Secretary-General on the status of the International Covenants on Human Rights (E/CN.4/1329), and said it was gratifying to note that in 1978 a number of States had become parties to the Covenants and to the Optional Protocol to the International Covenant on Civil and Political Rights. In that connexion, New Zealand should be added to the list of countries having ratified both Covenants. The requirements set out in article 41, paragraph 2, of the International Covenant on Civil and Political Rights had now been met, and the provisions of that article would come into force in March 1979.

65. The sessional Working Group on the implementation of the International Covenant on Economic, Social and Cultural Rights established by the Economic and Social Council at its first regular session, 1978, had not yet started its substantive work but was expected to do so at its next session. The Human Rights Committee had held three sessions in 1978 and had scheduled three further sessions for 1979.

66. At its thirty-third session, the General Assembly had requested the Secretary-General to keep the Human Rights Committee informed of the activities of the Commission, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Committee on the Elimination of Racial Discrimination, and also to transmit the annual reports of the Human Rights Committee to those bodies. In compliance with that request, the latest annual report of the Human Rights Committee (A/33/40) would be made available to members of the Commission. Although the Commission's tasks and responsibilities were distinct from those of the Human Rights Committee, it could derive benefit from information about the work of the Committee, which had not only adopted an interesting approach in its consideration of reports from Member States on national legislation, but was also developing case law in connexion with its examination of communications submitted in accordance with the provisions of the Optional Protocol to the International Covenant on Civil and Political Rights.

The meeting rose at 1.20 p.m.