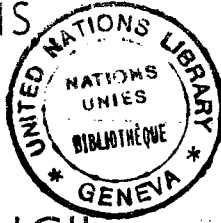


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COMMISSION ON HUMAN RIGHTS

Thirty-fifth session

SUMMARY RECORD OF THE 1487TH MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 20 February 1979, at 10.30 a.m.

Chairman:

Mr. BEAULNE

(Canada)

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The meeting was called to order at 10.55 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, L.1420 and L.1421; E/CN.4/NGO/238; E/CN.4/NGO/241)

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 and Add.1; E/CN.4/Sub.2/405; E/CN.4/L.1422 and L.1423)

1. Mr. OSMAN (Observer for Somalia) said that the torture inflicted by Israel on the peoples of the occupied territories was even more odious than the treatment of the Jews by the Nazis. Israel's policy towards the Palestinian people constituted not only an infringement of human rights and dignity but also an affront to the entire international community and a violation of United Nations principles. Israel's policy of conquest and occupation was encouraged by the two super-Powers, one of which provided it with arms and the other with men. The international community must condemn that policy and force Israel to withdraw its troops and to recognize the right of the Palestinians to self-determination, because without that recognition there could be no peace in the Middle East.
2. Somalia supported the efforts of all peoples to achieve self-determination, including the particularly heroic struggle of the peoples of southern Africa. In that connexion, he drew special attention to the struggle for self-determination in Eritrea and Ogaden and observed that, now that the European colonial Powers had left Africa, Ethiopia was the only such Power left. Colonialism, however, had no colour. Ethiopia was engaged in the most inhuman practices in Eritrea and Ogaden in an attempt to dominate the area and violate the human rights of the peoples living there. It carried out indiscriminate massacres with the aid of a great super-Power and a formally non-aligned Power, namely Cuba. The Cuban mercenaries were engaged in wholesale massacres and destruction in the name of socialism and revolution, claiming that their presence in the area was at the invitation of a legitimate Government. He wondered what legitimate Government had sanctioned their presence and the slaughter of Africans under the demagogic pretext of defending human rights. The United Nations must condemn that policy and demand Cuban withdrawal and the immediate end to the violations of human rights which threatened the peace of the area and of the world. No Power could stop a people determined to achieve its self-determination.
3. Mr. TERRETT (Observer for Ethiopia) said that his delegation fully supported the views expressed in paragraphs 172 to 174 and 179 and 181 of the study on self-determination in document E/CN.4/Sub.2/404, which could help Member States to clarify their concept of self-determination - especially Somalia, which confused self-determination and irredentism. Somalia had embarked upon the mass slaughter of innocent people in Ethiopia in the recent war. It was responsible for the wholesale destruction of the infrastructure and facilities of the area, and for the disruption of United Nations development projects. The

United Nations High Commissioner for Refugees and the UNESCO liaison officer had both confirmed extensive destruction of schools, hospitals, buildings, equipment, vehicles and so forth. Other evidence was also available to refute the comments of the observer for Somalia.

4. Ethiopia always supported self-determination everywhere, including the Israeli-occupied territories and Namibia, and opposed expansionism and neo-colonialism, which negated the purposes and principles of the United Nations. The statement made by the observer for Somalia was a clear manifestation of that country's dangerous dreams of expansionism, leading to wanton destruction. Ethiopia fully respected the principle of self-determination. In Ethiopia itself, no nationality dominated another. All were engaged in a common struggle against feudalism, imperialism and expansionism and were united in a spirit of brotherhood and mutual respect.

5. Miss FLOREZ FRIDA (Cuba) said that Somalia's disastrous expansionist venture directed against Ethiopia constituted a violation of the Charters of the United Nations and the Organization of African Unity and of the most fundamental principles of international law. Somalia had a régime marked by chauvinism and delusions of grandeur and it attempted to confuse the issue of Cuban assistance, which had been expressly requested by an independent Ethiopian State in exercise of its sovereignty. Somalia stood branded as guilty of chauvinistic aggression against Ethiopia.

6. Mr. MEZVINSKY (United States of America) said that, since the question of the American Indian and self-determination had been raised in the Commission, he wished to explain that situation by reference to the 1975 Act entitled "The Indian Self-Determination and Education Assistance Act", which determined the present and future relationship between the United States Government and the American Indian. It was important to note that the Act included a statement of findings in which the Congress had concluded that the prolonged Federal domination of Indian service programmes had served to retard rather than enhance the progress of the Indian people by depriving them of the full opportunity to develop leadership skills and denying them an effective voice in the planning and implementation of programmes for their benefit, and that the Indian people would never surrender their desire to control their relationships among themselves and with non-Indian Governments, organizations and persons. That Act also contained a basic declaration of policy by which the Congress had recognized the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities; had declared its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy which would permit an orderly transition from Federal domination of programmes for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct and administration of those programmes and services; and had declared that a major national goal of the United States was to provide the quantity and quality of educational services and opportunities which would permit Indian children to compete and excel in the life areas of their choice and to achieve the measure of self-determination essential to their social and economic well-being.

7. Those ambitious goals would not be achieved all at once and complaints were still being heard. There were numerous organized groups in the United States, in addition to the one that had addressed the Commission, which persistently and effectively voiced the just demands of the Indian people. Moreover, the United States Commission on Civil Rights had been extremely effective in monitoring the situation of the American Indians and obtaining recognition of their wrongs.

8. Every American Indian born within the territorial limits of the United States was a citizen of the United States and possessed the full rights of citizens. He enjoyed the full protection of the Constitution and the United States was wholly committed to the implementation of those rights. The Indian Self-Determination and Education Assistance Act was designed to provide the Indian citizens with a legal framework for full exercise of those rights and to encourage further development of specific means for placing control of their destiny into their own hands.

9. The specific allegations made in the Commission had been carefully recorded and had been brought to the attention of the appropriate Government officials. He noted in that connexion that Economic and Social Council resolution 1503 (XLVIII) authorized a procedure by which allegations could be submitted to the United Nations and formally referred to the Government concerned for a careful reply. He hoped that that procedure would be followed so as to ensure all parties maximum opportunity to set forth their views and to allow his Government carefully to investigate any charges and to prepare a reply.

10. Mr. GARVALOV (Bulgaria) said that both the principle and the exercise of the right to self-determination were emphasized once again in the three draft resolutions before the Commission (E/CN.4/L.1421-L.1423), which concerned the fate of the Arab people of Palestine, the peoples of Zimbabwe, Namibia and South Africa, and the populations of a number of colonial territories. All three were based on the Charter of the United Nations and relevant resolutions, beginning with General Assembly resolution 1514 (XV). In particular, the fifth preambular paragraph of draft resolution E/CN.4/L.1423 stressed the importance of the effective realization of the right of peoples to self-determination, national sovereignty and territorial integrity.

11. It had emerged very clearly from the Commission's discussion that the right to self-determination continued to be abused and violated by aggression, foreign occupation and alien domination; such methods and practices constituted mass and flagrant violations of human rights and fundamental freedoms. In the case of draft resolution E/CN.4/L.1423, it was hardly possible to disregard the implications for the right to self-determination of aggression against sovereign African States such as Angola, Ethiopia, Botswana, Mozambique and Zambia. Neither was it possible in the same context, to disregard the Chinese aggression against Viet Nam. As had been stated by his Government on 18 February 1979, China's aggressive war against Viet Nam constituted a flagrant violation of the most fundamental principles of international law and of the Charter of the United Nations, and a challenge to peoples which cherished peace and justice. When an aggressive war of that type violated the territorial integrity and sovereignty of a country and killed its people, the Commission could hardly stand aloof, for mass and flagrant violations of human rights and fundamental freedoms were involved.

12. It was in the light of those considerations that the Bulgarian delegation supported the three draft resolutions in question and would vote in favour of them.
13. Mr. EL-FATTAL (Syrian Arab Republic) said that his delegation was glad to hear that the United States Government and Congress were endeavouring to alleviate the plight of the American Indian people. However, the question concerned not so much assistance as the rights of equal citizens, with the same nationality as all other citizens of the United States. He expressed the hope that the Commission would take action concerning the grave allegations made by the International Indian Treaty Council, particularly with regard to the sterilization of Indian women. His delegation was prompted to speak on the subject not for political but for humanitarian reasons.
14. Mr. ORTIZ (Cuba) said that his delegation had a moral obligation to speak on the situation of the Indians in the United States. The fact that the International Indian Treaty Council had found it necessary to bring the issue before the Commission proved that the system available for solving such problems in the United States was far from satisfactory. That was further borne out by the recommendation of the United States representative that the International Indian Treaty Council have recourse to the procedure provided for in Economic and Social Council resolution 1503 (XLVIII). The Commission would do well to reflect on the situation of the Indians in the United States, who were still being portrayed in films as a people who could be massacred with impunity.
15. He also wished to refer to the despicable invasion which had occurred recently in the Far East, where the Vietnamese people's right to self-determination had been attacked. After a long struggle, Viet Nam had managed to become a unified and independent country; now a foreign Power was seeking to reduce the desire of the Vietnamese people for self-determination to nothing. Whether or not other United Nations bodies were considering the matter, the Commission must repudiate such acts.
16. Mr. CLARRY SAMPER (Colombia) said that if the question of Viet Nam was to be discussed under item 9, the Commission should also examine other aspects of the situation in the Far East, including the situation in Democratic Kampuchea, for otherwise it would be guilty of applying a double standard with regard to the right to self-determination. It might be helpful for the Commission to clarify the criteria for defining a revolution, since there appeared to be some confusion on the matter.
17. His delegation would vote in favour of draft resolution E/CN.4/L.1423. However, since his country was not a member of the non-aligned group, it did not wish to appear to be supporting documents which might compromise its foreign policy. Thus, wherever reference was made to an instrument adopted by the non-aligned countries, it should be borne in mind that his country had not participated in the drafting of such instruments. With regard to paragraph 7 of the draft resolution, his delegation understood article 5 of the Universal Declaration of Human Rights to be universally applicable. Social and economic differences, revolutionary processes or variations in levels of development could not be cited as an excuse for violating human rights or articles of the Charter of the United Nations which were internationally binding on all Member States. It was obviously logical to analyse each case in its particular political, historical, social, economic and cultural context, but that procedure must not undermine the universality of human rights.

18. His delegation endorsed draft resolution E/CN.4/L.1422. However, with prejudice to the exercise by the Palestinian people of its right to self-determination, his delegation maintained its support for the terms of Security Council resolution 242 (1967), which referred to respect for the sovereignty and territorial integrity of States already existing in the area. With regard to paragraph 3 of the draft resolution, his country favoured a peaceful solution to the problem and was opposed to the use of force under any pretext whatsoever.

19. His delegation had similar reservations regarding draft resolution E/CN.4/L.1421 in so far as the wording did not conform to the terms used in Security Council resolution 242 (1967). Furthermore, it doubted that the use of the term "war crimes" in paragraph 2 of the draft resolution was appropriate under the circumstances.

20. His Government's policy was clear. It supported the Palestinian people's right to self-determination and believed that there could be no real peace in the Middle East until the Palestinians exercised that right and established an independent State. However, his Government welcomed recent efforts towards a peaceful solution and considered that no United Nations action or declaration should obstruct those efforts. A rapid, equitable, just and peaceful solution to the problem must be found.

21. Mr. BARROMI (Observer for Israel) said he regretted that two of the three draft resolutions before the Commission had been introduced by the delegation of India. Did that country really believe that political ends should be achieved by "all means", as stated in paragraph 3 of draft resolution E/CN.4/L.1422? Was that light-hearted attitude towards violence consistent with Gandhi's teachings? The "all means" concept contradicted the basic principles of both international and municipal law, which distinguished between right and wrong and allowed recourse only to legal means. Furthermore, the Charter of the United Nations accepted certain means, such as negotiation, conciliation or self-defence, but rejected others, such as aggression and threats to the security and territorial integrity of States. Neither could his delegation agree with the aims of the draft resolution. The way to peace lay not in the establishment of a PLO-ruled state bent on the destruction of Israel but in a gradual advance to co-existence and co-operation through a period of autonomy, followed by negotiations with Palestinian participation as provided for in the Camp David agreements. Was the Commission ready to support a text which in effect called for the annihilation of a State Member of the United Nations?

22. Draft resolution E/CN.4/L.1423, also introduced by the delegation of India, included a similar endorsement of "all available means". In addition, it recalled the Declaration made by the Ministers of Foreign Affairs of the Non-Aligned Countries in Belgrade, which called for the elimination of Zionism. Zionism and Judaism were two facets of the same conception and drew their inspiration from the same spiritual sources. To insult them was to vituperate one of the great accomplishments of civilization and to offend the memory of millions of martyrs and heroes.

23. Draft resolution E/CN.4/L.1421 had been introduced by the Cuban representative who, as the spokesman of a tropical gulag, was certainly not the best qualified to defend human rights in the Israeli-held territories or elsewhere. His delegation

rejected the draft resolution as a whole, for the accusations it contained were nothing but contemptible slanders. Israel was a country administered under the rule of law and whenever the law was transgressed in either the country proper or the territories, the culprits were punished. Breaches of regulations or laws by public officers were rare, but penal action was taken if a complaint proved to be founded, as indeed had been the case only two days previously in respect of six members of the Israeli civil guard accused of unbecoming behaviour towards an Arab family. He challenged the sponsors of the draft resolution to produce evidence of a similar standard of law enforcement elsewhere. Nobody disappeared in Israel and no death sentences were carried out. Referring to the ninth preambular paragraph of the draft resolution, he asked how the sponsors could reconcile the assertion that Israel consciously followed a policy of annexation with the Camp David agreements' project for self-rule and negotiated peace. The accusations in paragraph 3(j) deliberately ignored facts such as the expansion of the school and university network and the dramatic increase in school attendance, and the report of a UNESCO mission which had visited Israel in 1978 contained no findings to corroborate those wanton charges. In short, draft resolution E/CN.4/L.1421 was a tissue of lies and utterly divorced from reality. Israel had been accused of blind obstinacy by an observer delegation; those who supported the draft resolution might not be blind, but they were certainly averse to truth and decency.

24. None of the draft resolutions in question was a genuine human rights document. All three were part of an overall aggressive strategy, the issue at stake being Israel's right to live free from outside threats in dignity and security and to work in freedom and equality for peace in the Middle East.

25. Mr. ARMALIE (Observer, Palestine Liberation Organization) said it was well known that zionism and Judaism were not two facets of the same doctrine, as had been contended by the Zionist representative. Zionism could certainly not be assimilated to Judaism, the humanism and spiritual values of which commanded the highest respect. It should be recalled that the international community, in General Assembly resolution 3379 (XXX), had determined that zionism was a form of racism. That principle was reiterated in the Declaration and Programme of Action adopted by the World Conference to Combat Racism and Racial Discrimination, which had been endorsed by the General Assembly at its thirty-third session. The Palestinians knew better than anybody else what zionism represented, since they suffered daily from its subversive and aggressive acts.

26. The representative of the Zionist entity had yet again referred to the Jewish martyrs and heroes of the Second World War holocaust. Nobody was attempting to deny that such a holocaust had taken place, and it had been universally condemned. But that did not mean that those tragic events should be evoked for the purpose of covering other criminal acts perpetrated against a peaceful people. There had been over 20 million martyrs of the Second World War in the Soviet Union alone and very heavy losses had been sustained by other countries such as Yugoslavia and Greece, but those countries were not forever alluding to the fact. The film "Holocaust" was deeply moving, but the Commission was being invited to condemn Israel precisely in order to prevent the possibility of a similar film being made in 30 years' time on the holocaust inflicted on the Palestinian people by the erstwhile victims of nazism.

27. Mr. SADI (Observer for Jordan) expressed his delegation's satisfaction with the three draft resolutions before the Commission (E/CN.4/L.1421-L.1423).
28. With regard to the "all means" concept, it was true that the Charter of the United Nations placed States under the obligation to pursue their aspirations by peaceful means. However, it was a generally recognized principle that the Charter did not prohibit the use of other means in self-defence, if all peaceful means had been exhausted. Israel itself resorted to such other means and the Israeli Government would no doubt be the first to admit that military means had always been high on the list of those it employed to pursue its aspirations.
29. His delegation rejected the concept of self-rule or home rule as a formula that would satisfy self-determination requirements. Neither arrangement would be an adequate substitute for self-determination.
30. It was true that capital punishment did not exist in Israel in the formal sense. However, it should be borne in mind that death could also be caused by slow methods, such as detaining a person underground without ventilation and basic means of sustenance.
31. Mr. EL-FATTAL (Syrian Arab Republic) commended the delegation of India for the sense of responsibility it had demonstrated in sponsoring two of the draft resolutions before the Commission and thus serving the cause of international law, which prohibited the occupation of a foreign territory by force. He also expressed his gratitude to the other non-Arab States which had sponsored the draft resolutions.
32. Turning to the Colombian representative's comments on the use of the words "war crimes", he observed that the term was the equivalent of the term "grave breaches", which were defined by the International Committee of the Red Cross and the Additional Protocols of 1977 as those entailing criminal responsibility and which appeared in many resolutions relating to the violation of Arab territories by Israel.
33. Finally, it should be stressed that the Camp David agreements which Israel was so eager to defend were diametrically opposed to the right of the Palestinian people to self-determination.
34. Mr. SANON (Deputy Director, Division of Human Rights) said that Mr. Cristescu, supported by the representatives of Iraq and Austria as well as other delegations, had requested that his study contained in document E/CN.4/Sub.2/404 and Add.1 should be printed and given the widest possible distribution. Both the study by Mr. Cristescu and that by Mr. Gros Espiell (E/CN.4/Sub.2/405) covered aspects of agenda item 9, now before the Commission. By its resolutions 3 (XXXI) and 4 A (XXXI), the Sub-Commission on Prevention of Discrimination and Protection of Minorities had recommended that the two studies should be printed. The financial implications of printing Mr. Gros Espiell's study were set out in document E/CN.4/1296, annex II, paragraph 8. The editing and preparation of the report for printing (275 pages) would cost \$US 27,400, printing of the report in English, French, Russian and Spanish would cost \$US 34,900 and travel (first class) and subsistence of the Special Rapporteur to consult with the Division of Human Rights (Mexico/Geneva/Mexico: total time, five working days) would cost \$US 2,300. The total expenditure for Mr. Gros Espiell's study would therefore amount to \$US 64,600. The financial implications of the proposal to publish and distribute Mr. Cristescu's study were \$US 8,500 for editing prior to printing (two months at the P-3 level), and \$US 48,428 for printing of the report in English, French, Russian and Spanish (260 pages), i.e. a total of \$US 56,928.

35. Mr. MEZVINSKY (United States of America), referring to the information given by the Deputy Director of the Division of Human Rights, said that further clarification was required before a decision could be taken. He asked when work had been started, what expenditure had been incurred to date, and whether first-class travel was authorized systematically for the purposes mentioned.

36. Mr. SANON (Deputy Director, Division of Human Rights) said that, under General Assembly resolution 32/198, first-class travel was authorized when flight time exceeded nine hours. He was not in a position to answer the other questions put by the United States representative immediately but would do so at the earliest opportunity.

The meeting rose at 12.45 p.m.