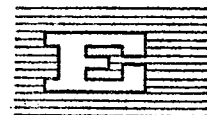


UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/SR.1490
23 February 1979

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Thirty-fifth session

SUMMARY RECORD OF THE 1490th MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 21 February 1979, at 4 p.m.

Chairman

Mr. NSANZE

Burundi

CONTENTS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES,
INCLUDING PALESTINE (continued)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES
UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (continued)

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 (continued)

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (continued)

This record is subject to correction.

Participants wishing to make corrections should submit them in writing to the Official Records Editing Section, room E.6108, Palais des Nations, Geneva, within one week of receiving the record in their working language.

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

The meeting was called to order at 4.15 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1307-1309; E/CN.4/1339; E/CN.4/NGO/238 and 241; E/CN.4/L.1419-1421)

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, vols. I-III; E/CN.4/Sub.2/405, vols. I-II; E/CN.4/L.1422-L.1423)

1. Mr. SOYER (France) said that his delegation had abstained from voting on part A of draft resolution E/CN.4/L.1421 because it could not accept the expression "war crimes" or the accusation of torture, unsupported by evidence discussed on both sides, that appeared in the part in question. However, it deplored the forced displacement of persons, the expropriation and destruction of property and the establishment of settlers' colonies to the detriment of the rightful owners of the land. Furthermore, it considered that the occupying forces could not evade the requirements of humanitarian law. It had therefore joined in the consensus that had emerged in respect of part B of the draft resolution.
2. As to item 9, his delegation had always defended the right to self-determination, but that right was inseparable from the specific conditions for its application and democratic materialization; mere reference to it was not sufficient to solve a conflict. His delegation had therefore been obliged to abstain from voting on draft resolution E/CN.4/L.1422. In addition, it had been obliged to vote against draft resolution E/CN.4/L.1423 because the text spoke of struggle by all possible means, and particularly armed struggle, something that his delegation held to be contrary to the spirit and the provisions of the Charter of the United Nations.
3. Mrs. SIBAL (India) said that, in keeping with the support it had always given to the right of peoples to self-determination, her delegation had voted in favour of draft resolution E/CN.4/L.1423. However, it had voted against General Assembly resolution 33/24, mentioned in the third preambular paragraph, because paragraph 15 of that resolution referred to document E/CN.4/Sub.2/405, vol. I, in respect of which her delegation had voiced reservations.
4. Mr. DAVIS (Australia) said that his delegation had been obliged to abstain from voting on draft resolution E/CN.4/L.1423 because parts of it posed difficulties, particularly the concept of armed struggle and the assumptions expressed in operative paragraph 5. The draft resolution, more especially paragraph 2, dealt with questions that had not yet been resolved by the competent bodies. The facts were presented incorrectly in operative paragraphs 3 and 8. Lastly, his delegation considered that the Commission should not encroach on the prerogatives of other organs of the United Nations.

5. Mr. ESFANDIARI (Iran) said that his delegation had voted in favour of operative paragraph 5 of draft resolution E/CN.4/L.1423, which had been the subject of a separate vote, because his country had changed its position with regard to the racist régimes in southern Africa.
6. Mrs. SILVA Y SILVA (Peru) said that her delegation had voted in favour of the three draft resolutions. In that regard, it had been guided by Security Council resolutions 242 and 338, which set out the principles that should make it possible to achieve an over-all settlement of the Middle-East question, while safeguarding the interests of the parties to the conflict. However, if the draft resolutions had been put to the vote paragraph by paragraph, her delegation would have abstained in respect of operative paragraph 10 of part A of draft resolution E/CN.4/L.1421 and the last part of paragraph 1 of draft resolution E/CN.4/L.1422, a text which seemed to prejudice a decision that rested solely with the parties concerned. Furthermore, her delegation welcomed the clarification concerning operative paragraph 2 of draft resolution E/CN.4/L.1423, since it considered that armed struggle could not take precedence over the peaceful means of settlement called for in the Charter of the United Nations.
7. Mrs. BOA (Ivory Coast) said that her delegation had abstained from voting on draft resolution E/CN.4/L.1421. In its view, the Camp David talks had created the necessary conditions for further negotiations between the parties concerned and had opened up prospects for a just and lasting settlement of the problem in the Middle East. It considered that the release of Arab prisoners detained because of their struggle for self-determination should come within the framework of an over-all peace plan. Her country supported the right of the peoples of the region in question to live in peace within secure and recognized frontiers, a right that could be achieved only by the withdrawal of Israel from the Arab territories occupied since 1967.
8. With regard to draft resolution E/CN.4/L.1423, her delegation had abstained from voting on operative paragraph 5, which had been the subject of a separate vote. In its opinion, the initiative taken by the five Western members of the Security Council and by some other countries to influence the racist régimes in southern Africa should not be discouraged. Indeed, her own country was convinced that certain contacts could lead the racist régimes in southern Africa to change their policy of apartheid.
9. Mr. HASHMI (Pakistan) said that his delegation had voted in favour of draft resolution E/CN.4/L.1423. It looked forward to consideration of the matter, at the forthcoming session of the General Assembly and hoped that, at that time, the conclusions and recommendations contained in the reports of Mr. Cristescu and Mr. Gros Espiell would be the subject of detailed examination.

10. Mr. EL-FATTAL (Syrian Arab Republic) pointed out that the Camp David agreements had not been concluded under the auspices of the United Nations. They were merely bilateral agreements relating to a territorial dispute between two parties. However, the agreements affected human rights in three respects: they deprived the Palestinian people of its right to self-determination; they deprived it of the right to return to its homeland; and they deprived the displaced persons of the right to return to their homes. The Camp David agreements had nothing to do with the work of the Commission; they were only agreements between zionism and imperialism.
11. The CHAIRMAN requested delegations to confine their remarks to explanations of vote.
12. Mrs. GUELMAN (Uruguay) said that, although her delegation had voted in favour of draft resolution E/CN.4/L.1423, it had some reservations with regard to operative paragraphs 2 and 5. Paragraph 2 institutionalized armed struggle, something that her delegation could not approve, since such institutionalization violated the provisions and the principles of the Charter of the United Nations, which sought to maintain international peace and security. As to paragraph 5, her delegation considered that States alone were the sole judge of the policy they pursued in their relations with other States.
13. Mr. SANON (Deputy Director, Division of Human Rights) drew the attention of the representative of the United States to the fact that the study by Mr. Gros Espiell had been undertaken on the basis of Commission resolution 5 (XXX) and Economic and Social Council resolution 1866 (LVI). The study by Mr. Cristescu had been undertaken on the basis of Commission resolution 4 (XXX) and Economic and Social Council resolution 1865 (LVI). For the study by Mr. Gros Espiell, the expenditure had been: \$2,400 in 1974, \$6,275 in 1975, \$6,275 in 1976, \$8,147 in 1977 and \$8,234 in 1978. For 1979, if the proposal by the Iraqi delegation was adopted, the estimated cost of editing and printing the report in four languages; i.e. English, French, Russian and Spanish would be \$64,600. In theory, the total cost of the report by Mr. Gros Espiell would therefore be \$95,931. However, as a result of the savings achieved with regard to outside expertise, the real cost of the study would amount to \$73,431.
14. For the study by Mr. Cristescu, the expenditure had been: \$2,200 in 1974, \$3,250 in 1975, \$3,250 in 1976, \$2,200 in 1977 and \$3,800 in 1978. Together with the estimated editing and printing costs for publication of the report in 1979, the total cost of the study should be \$73,828. Nevertheless, thanks to the savings achieved as a result of the assistance provided to Mr. Cristescu by the Division of Human Rights, the real cost of his study would in fact amount to \$43,828. For the two studies, the total cost would therefore be \$117,259.
15. With regard to travel costs, he reminded the Commission of the provisions of paragraph 2 (b) of General Assembly resolution 32/198 and assured members that experts travelled by the most direct and economical routes and that the duration of a particular flight rarely exceeded nine hours.

16. Mr. CHERNICHENKO (Union of Soviet Socialist Republics) said it was his delegation's understanding on the subject of the proposed publication of the two studies on the right of peoples to self-determination that they would be published strictly in accordance with Sub-Commission resolutions 3 (XXXI) and 4 (XXXI) and in the light of the views expressed in the Commission.
17. Mr. EL-FATTAL (Syrian Arab Republic) supported the proposal of the Iraqi delegation concerning publication of the reports by Mr. Cristescu and Mr. Gros Espiell and expressed the hope that they would also be published in Arabic, which would prove very valuable in informing public opinion in the Arab States. He asked whether the Commission could take a decision on the subject or whether a General Assembly resolution would be required.
18. Mr. GHAREKHAN (India) supported the request of the Syrian representative, which seemed perfectly justified.
19. Mr. SANON (Deputy Director, Division of Human Rights) pointed out that, under rule 29 of the rules of procedure, the languages of the Commission on Human Rights were English, French, Russian and Spanish. If the Commission so wished, it could recommend to the Economic and Social Council that the studies should also be published in Arabic. For the moment, he was not in a position to state the financial implications of an edition in Arabic.
20. Mr. EL-FATTAL (Syrian Arab Republic) said that he intended to submit to the Commission a proposal to recommend to the Economic and Social Council to decide that the documents in question should also be published in Arabic.
21. The CHAIRMAN said that, pending information about the financial implications of the Syrian proposal, the Commission might take a decision on the Iraqi proposal.
22. Mr. SANON (Deputy Director, Division of Human Rights) said that the financial implications of the Syrian proposal could not be worked out immediately. Since no decision could be taken until the financial implications were known, he suggested that the Syrian proposal should be annexed to the recommendation that the Commission would be called upon to make to the Economic and Social Council with regard to the Iraqi proposal.
23. Mr. EL-FATTAL (Syrian Arab Republic) agreed to that procedure.
24. The CHAIRMAN said that, in the absence of any objections, he would take it that the Commission adopted the Iraqi proposal, as supplemented by the Syrian proposal.
25. It was so decided.
26. Mr. CRISTESCU, Special Rapporteur, expressed his gratitude to the Commission for the decision it had just taken and thanked the members for their judicious comments, which he would not fail to take into account when preparing the final text of the study for publication purposes.

27. He noted with satisfaction that the discussion had confirmed the considerations, conclusions and recommendations set out in his study and had highlighted the importance and topicality of the right to self-determination as well as the need for the United Nations and its Member States to ensure that that right was scrupulously observed.

28. He agreed with the Iraqi representative about the close links between development and the right to self-determination viewed from the political, economic, social and cultural standpoint and pointed out that the legal status of national liberation movements was discussed in paragraph 253 et seq. of his study, and in its conclusions and recommendations.

29. Like the representative of Cyprus, he believed that aggression, occupation, and colonialization forced peoples to divert their resources from more fruitful ends and allocate them to self-defence.

30. In reply to the comments of the Austrian representative on the relationship between his study (E/CN.4/Sub.2/404) and that by Mr. Gros Espiell on the implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination (E/CN.4/Sub.2/405), he pointed out that the two studies had been written from different standpoints and that they were complementary. He belonged to the positivist school and, unlike Mr. Gros Espiell, who was an adherent of natural law, he had not reached the conclusion that the right of peoples to self-determination was a peremptory norm of international law (jus cogens), since none of the international instruments adopted so far had conferred that status on it. Again, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted in 1970, placed the right to self-determination on the same footing as the six other principles that it enunciated; accordingly that right alone could not be regarded as constituting a peremptory norm of international law. As for the beneficiaries of the right to self-determination, he would refer the Austrian representative to paragraphs 269-279 of his study.

31. He endorsed the Indian representative's comment to the effect that there was a close link between the right of peoples to self-determination and sovereign equality, territorial integrity, non-intervention and international co-operation. Furthermore, like the representative of Pakistan, he thought that the right to self-determination was a fundamental right inherent in the human being, that it was the foundation for other human rights and that the struggle to exercise it was legitimate. He also agreed with the stress laid by the Uruguayan representative on the need to ensure full exercise of the right to self-determination in all its aspects and on the close link between the right to self-determination and the principle of non-intervention. Finally, like the Syrian representative, he thought that the right to self-determination was the supreme right.

32. He thanked all the other delegations which had commented on his study and assured the Commission that he would take account of all the observations that had been made, so as to improve and update his study and co-ordinate it with the remarkable Secretariat study on the right to development (E/CN.4/1334).

33. Mrs. MATTSON (United States of America) thanked the Secretariat for its statement of the financial implications of the Iraqi proposal and expressed her concern at the time required to finalize the text of certain studies and at the ever increasing cost that it involved.

34. The CHAIRMAN announced that the Commission had completed its consideration of items 4 and 9 of its agenda

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) (continued) (E/CN.4/1271, 1329, 1334 and 1340)

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 21) (continued) (E/CN.4/1329; A/33/40)

35. Mr. TOSEVSKI (Yugoslavia), referring to agenda item 21, said that the entry into force of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights was a milestone in the action taken by the United Nations and the entire international community to secure the implementation of human rights throughout the world. It was therefore regrettable that, to date, almost two thirds of the States Members of the United Nations had not yet signed or ratified the Covenants or had still not acceded to them.

36. The discussion on the report his Government had submitted to the Human Rights Committee under article 40 of the International Covenant on Civil and Political Rights confirmed his delegation's conviction that the Covenant and the Human Rights Committee were two significant elements in the efforts made to promote respect for civil and political rights in the world.

37. Turning to item 8, he said that the Secretary-General's study on the right to development (E/CN.4/1334) described the present state of affairs in that respect with great objectivity. It cited important United Nations documents and showed that recognition of that right had made considerable headway in all spheres of activity of the international community, but also that a whole range of reservations and resistance still persisted regarding both the very concept of the right to development and its practical application under existing international mechanisms. The documents and activities of United Nations organs and agencies showed that that right could not be sidestepped in the over-all system of human rights but that in practice it encountered considerable and frequently unbridgeable difficulties, owing to the lack of understanding or efforts.

38. Generally speaking, the picture drawn in the study was not an inaccurate one and it justified the initiative taken by the Commission. His delegation wished to comment on a few aspects that it considered especially important. First of all, the right to development, like all other rights, was universal in its significance and belonged to all individuals, all groups and all nations. In particular, nobody had the right to deprive other nations or other individuals of the right to enjoy it. However, enjoyment of that right should not be reduced to petty bargaining about transfers of income. In the second place, it was obvious that, so far, the socio-economic development of mankind had evolved in such a way that most peoples had been largely, if not completely, deprived of the enjoyment of their right to development. The struggle against colonialism, foreign domination and imperialism was above all a struggle for the right to development, and the pressures exerted by the developing countries today were nothing but a justified demand for universal application of the right to development. In future, it would be necessary to strengthen universal recognition, application and observance of that right in an increasingly interdependent world; something that was the very essence of the new international economic order and of the efforts made in that field by the non-aligned countries. In particular, it would be erroneous to substitute the strategy of basic needs, which was essentially a philanthropic action of international solidarity, for application of the right to development; and the Secretary-General's study ought not to give the impression of justifying such a substitution. The study also dealt at some length with the links between the right to development and other rights. In that connexion, he emphasized that the right to development was not a static notion, any more than were the other human rights. In particular, it could carry the connotation of the development of human rights. His delegation would continue to consider the matter, which could not be dealt with in terms of formal law alone.

39. Mr. ZORIN (Union of Soviet Socialist Republics) first expressed his satisfaction that item 8 had been kept on the agenda as a standing item of high priority, something that clearly reflected its importance and timeliness. Economic and social rights were not only fundamental - they also formed the basis for the enjoyment of the other rights. For example, there could be no human dignity without the right to work, and while countries accepted the existence of permanent armies of unemployed, one might well ask whether they were safeguarding that dignity. The same was true of the right to health or to social security. Moreover, such links were apparent from the fact that economic, social and cultural rights and civil and political rights were placed side by side in the International Covenants on Human Rights. In that connexion, the Commission had taken a clear position on the matter in its resolution 4 (XXXIII) and he read out paragraph 1 of that resolution. The relationship between the various kinds of rights had also been emphasized in General Assembly resolution 32/130, which had been adopted unanimously, and on which the Commission must base itself.

40. Although the significance of economic, social and cultural rights was widely recognized, millions of unemployed were to be found in the developed market-economy countries, where medical care was provided on a profit-making basis and social security depended on a bank account - all of which was hardly compatible with human dignity. The socialist countries, on the other hand, ensured that all citizens enjoyed equal rights to work, rest, education, medical care, social security and protection against hunger and need. Moreover, the USSR and the other socialist countries were pursuing a foreign policy of détente and co-operation which, in the spirit of the Charter, encouraged the promotion of human rights. His country was taking advantage of the scientific and technological revolution to raise the standard of living, to ensure full employment and to continue economic and social progress.

41. Under the Charter, all States were obliged to take steps to protect the rights he had mentioned. To that end, the indispensable requirements were elimination of the exploitation of man by man and guaranteed equality for all members of society. The socialist State had already put an end to exploitation, the class society and hostility between nations. It guaranteed all economic, social and cultural rights, as well as civil and political rights. The socialist society rejected all forms of social or national enslavement and practised democracy in all fields. The results obtained by that kind of society were perfectly clear; in his own country, in the 60 years that had elapsed since the 1917 Revolution, the national income had multiplied by 65, the income of the workers by 10 and that of the farmers by 14. The new Constitution adopted on 7 October 1977, which Leonid Brezhnev, Chairman of the Supreme Soviet, affirmed was the result of the general development of socialist society, fully guaranteed fundamental rights, including equality of rights between men and women, by confirming joint ownership of the means of production. For example, it guaranteed the right to work: something that was clearly established in the USSR, since it was a country which had experienced no unemployment since 1930. It also guaranteed the free choice of a profession and vocational training based on education, the needs of society and the wishes of the individual. Free education was reaffirmed and backed up by a broad system of scholarships; so that a total of 93 million persons in his country benefited from all the training provided. Medical care was free and access by everybody to skilled care was guaranteed. The Constitution of the USSR also guaranteed a right which was not to be found in any of the constitutions of the Western countries; namely the right to housing, which had been made possible by enormous efforts that had led to the construction of 1.5 billion square metres of housing within the space of 15 years. Opportunities for utilizing the creative capacities of the individual were also recognized. In addition, his country was working resolutely to guarantee the most important right of all, the right to life, through a foreign policy aimed at détente and the development of mutually advantageous relations between States.

42. In contrast, imperialism and colonialism were threatening the sovereignty of States, perpetuating an unequal division of labour and fomenting racial discrimination; in the last analysis it was because of them that there were hundreds of millions of hungry and disinherited people in the world. In the Declaration on the Establishment of a New International Economic Order, adopted at its sixth special session, the General Assembly had recognized the right of the liberated countries to compensation for the wealth which had been taken away from them through foreign exploitation. Even today, the capitalist countries were intensifying their exploitation of the wealth of the developing countries in order to solve their own economic problems. It was estimated that the inadequate prices paid to the developing countries were causing them to lose the equivalent of \$50 million to \$100 million each year. The capitalist countries were perpetuating the imbalance

in the terms of trade and the multinational corporations were playing a decisive role in the exploitation practised by those countries. The socialist countries, however, were supporting the efforts by the developing countries to put an end to the exploitation of their natural and human resources by the monopolies. Their support had once more been confirmed by the Member States of the Warsaw Pact in the Moscow Declaration, reproduced in document A/33/392. It was well known that his own country was proposing a simultaneous reduction of military budgets and reallocation of the resulting savings to development. One important task of the Commission was to support the efforts to restructure international economic relations and protect the resources of young States, especially against the designs of the multinational corporations. The international juridical basis for the enjoyment of economic, social and cultural rights should be broadened, in particular by the accession of States to the two International Covenants on Human Rights.

43. Referring to the Secretary-General's report entitled "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 the fundamental human needs" (E/CN.4/1334), he pointed out that the Russian version had not yet been circulated. He would therefore confine himself to a few preliminary remarks on the main conclusions reached in that document. In the first place, the right to peace should be recognized as a prerequisite for enjoyment of the right to development and of economic and social progress. Secondly, the backwardness of the developing countries was due to the consequences of colonialism and neo-colonialism, and those countries should be compensated for the harm they had suffered as a result of that fact. Thirdly, it was absolutely essential to eliminate the consequences of colonialism, neo-colonialism, foreign occupation, racism and apartheid. Moreover, certain parts of the report raised doubts and called for clarification.

44. His delegation was gratified that some 50 States had become Parties to the International Covenants on Human Rights, but hoped that the number of accessions would increase rapidly. His own country had acceded to the two Covenants after taking an active part in their preparation and had long been implementing their provisions. It was fulfilling all its commitments and was submitting regular reports; at the fifth session of the Human Rights Committee, the Soviet report had been deemed detailed and exhaustive. He hoped that all States Members of the United Nations would become parties to those instruments and would fully assume the international obligations flowing from them.

The meeting rose at 6.5 p.m.