

SUMMARY RECORD OF THE ONE THOUSAND AND SEVENTY-EIGHTH MEETING

Held on Thursday, 19 March 1970, at 11.15 a.m.

Chairman:

Princess Ashraf PAHLAVI

Iran

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 10) (E/CN.4/1019/Add.1, 1034, 1035, 923/Add.3) (continued):

- (a) FUTURE IMPLEMENTATION OF TASKS REFERRED TO IN SECTION IV, PARAGRAPHS 1 TO 4, OF RESOLUTION 5 (XXV) OF THE COMMISSION (DECISION TAKEN BY THE ECONOMIC AND SOCIAL COUNCIL AT ITS 1602ND MEETING ON 6 JUNE 1969)
- (b) REPORTS OF THE AD HOC WORKING GROUP OF EXPERTS ESTABLISHED UNDER RESOLUTIONS 2 (XXIII), 2 (XXIV) AND 21 (XXV) OF THE COMMISSION:
 - (i) REPORT OF THE AD HOC WORKING GROUP OF EXPERTS SUBMITTED TO THE TWENTY-FIFTH SESSION OF THE COMMISSION (E/CN.4/984 and Add.1-19) AND RESOLUTION 1424 (XLVI) OF THE ECONOMIC AND SOCIAL COUNCIL (E/AC.7/L.560; E/CN.4/L.1115, L.1116, L.1139)
 - (ii) REPORT OF THE AD HOC WORKING GROUP OF EXPERTS TO THE TWENTY-SIXTH SESSION OF THE COMMISSION (E/CN.4/1020 and Add.1-3)
- (c) STUDY OF SITUATIONS WHICH REVEAL A CONSISTENT PATTERN OF VIOLATIONS OF HUMAN RIGHTS AS PROVIDED IN RESOLUTION 8 (XXIII) OF THE COMMISSION AND RESOLUTION 1235 (XLII) OF THE ECONOMIC AND SOCIAL COUNCIL (CHAPTER V OF THE REPORT OF THE TWENTY-SECOND SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES) (E/CN.4/1008)
- (d) MODEL RULES OF PROCEDURE FOR UNITED NATIONS BODIES DEALING WITH VIOLATIONS OF HUMAN RIGHTS (COMMISSION RESOLUTION 8 (XXV)) (E/CN.4/1021)

Mr. SUAT BILGE (Turkey) observed that the Commission had been unable to study draft resolution E/CN.4/L.1139 in detail; he therefore suggested that it should be transmitted directly to the Economic and Social Council.

Mr. SADRY (Iran) said that the draft resolution repeated a number of paragraphs in resolution 2547 (XXIV) and other General Assembly resolutions; in his view such repetitions should be avoided. It might perhaps be possible to omit them and retain the part of the resolution which concerned the Economic and Social Council.

Mr. JHA (India) thought it would be preferable for the Commission to transmit the draft resolution in its entirety to the Economic and Social Council. To determine which parts were repetitive would require a good deal of time and work.

(Mr. Jha, India)

The draft also contained paragraphs and sub-paragraphs which were new and important. He was sure that the other sponsors would agree with his view, and suggested that the complete text of the draft resolution should be sent to the Economic and Social Council, which would at the same time be informed of the discussions which had taken place in the Commission.

Mr. CALOVSKY (Yugoslavia) supported the Indian proposal. However, he would prefer it if delegations which disagreed with the draft resolution could make specific proposals concerning it, instead of simply adopting a negative attitude, so that difficulties could be eliminated.

Mrs. OULD DADDAH (Mauritania) said it was true that the resolutions on apartheid and similar practices repeated themselves; however, that was merely because the United Nations had arrived at a deadlock in its attempts to solve those serious and urgent problems.

Mr. LEGNANI (Uruguay) said that the task of the Commission was to promote human rights and fundamental freedoms, to initiate campaigns to ensure their effective implementation, to spread knowledge of them and promote respect for them, to investigate and condemn violations and to take other measures to achieve those aims. However, the Commission was not fulfilling its function when it strayed from purely humanitarian questions to political issues.

The draft resolution under discussion did reiterate earlier resolutions, but his delegation would support it because it had supported those resolutions, even though it did not favour such repetitions.

Mr. YEVDOKHEYEV (Union of Soviet Socialist Republics) and Mr. CALOVSKY (Yugoslavia) said they agreed that the four-Power draft resolution should be transmitted directly to the Economic and Social Council.

The CHAIRMAN said that if there was no objection she would assume that the Commission decided to transmit draft resolution E/CN.4/L.1139 directly to the Economic and Social Council.

It was so decided.

The CHAIRMAN made a statement* summarizing the decisions taken by the Commission with regard to the various parts of the item which it had been discussing.

QUESTION OF THE REALIZATION 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 THE STUDY OF SPECIAL PROBLEMS RELATING TO HUMAN RIGHTS IN DEVELOPING COUNTRIES (COMMISSION RESOLUTION 14 (XXV) AND ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1421 (XLVI)) (agenda item 14)

Mr. MANOUCHEHR GANJI (Iran), Special Rapporteur, recalled that in its resolution 14 (XXV), the Commission had entrusted him with the task of preparing for 1971 a comprehensive report on the realization of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on the subject, and of submitting to the Commission at its twenty-sixth session a report containing the outline of that study and the programme of work.

With regard to the time-table for the study, the Advisory Committee on Administrative and Budgetary Questions had approved for 1969 only sufficient funds to cover the cost of the journey to be undertaken by the Special Rapporteur that year in connexion with the study. He had already indicated that he would need to be assisted by a number of highly qualified consultants, but in view of the decision by the Advisory Committee, it had been necessary to await approval by the General Assembly, in December 1969, of the financial implications of the Commission's resolution.

Since that time, he had been in touch with a number of experts with a view to enlisting their participation in the preparation of the report. In the circumstances, he would do everything possible to complete the study for the Commission's session in 1971. Failing that, he would present a full progress report at the next session, and the complete report in 1972.

In the meantime, letters had been addressed to various specialized agencies, in particular FAO, the ILO, UNESCO and WHO, to intergovernmental organizations, to the United Nations regional economic commissions and to various non-governmental organizations in consultative status with the Economic and Social Council,

* Subsequently issued as document E/CN.4/L.1141.

(Mr. Manouchehr Ganji, Iran)

requesting them to make available information which, in their opinion, could be used in the report. The views of Professors Myrdal, Lewis and Prebisch had also been requested, and would probably appear as addenda to the report. The various United Nations institutes for economic and social development had also been asked to contribute.

Subject to changes that might be made later, the framework of the report would involve the strategy for the implementation of economic and social rights in various parts of the world. It would show who achieved what rights, how effectively, at what time and by what means. It would highlight national and international measures aimed at achieving the realization of those rights, as well as the obstacles encountered. While maintaining a universal approach, it would focus attention on the problems of the developing countries. Broadly speaking, it would consist of three parts. Part I, dealing with national measures, would be divided into two sections: one on developing countries and one on other countries. Part II, dealing with regional and international measures, would also be divided into two sections, while part III would contain conclusions and recommendations.

Since preparations for the Second Development Decade was still under way, it would be appropriate if members of the Commission took the necessary steps to ensure that the international development strategy for the 1970s took due account of the principles and provisions on economic, social and cultural objectives and policy measures within an integrated programme of economic and social advancement, as had been provided for in the various human rights instruments of the United Nations.

QUESTION OF HUMAN RIGHTS IN THE TERRITORIES OCCUPIED AS A RESULT OF HOSTILITIES IN THE MIDDLE EAST, INCLUDING THE REPORT OF THE SPECIAL WORKING GROUP OF EXPERTS (COMMISSION RESOLUTION 6 (XXV))-(agenda item 5)* (E/CN.4/1016 and Add.1-5) (continued)

Mr. LESHEM (Israel) said that when Commission resolution 6 (XXV) had been adopted, his delegation had had occasion to demonstrate its prejudicial, discriminatory and politically biased character. In operative paragraph 2 the Commission had deplored, as facts, alleged incidents which it had subsequently wished to have investigated by a Special Working Group of Experts. In adopting

* Resumed from the 1075th meeting.

(Mr. Leshem, Israel)

the resolution, the Commission had chosen to disregard the real violations of human rights which were being committed daily in certain Arab countries against hapless Jewish communities. The initiative behind the resolution had been prompted not by genuine humanitarian concern but by hatred and hostility.

His delegation had also pointed out that the Commission had never studied the Geneva Convention and that United Nations bodies had no function whatsoever in its implementation. Moreover, in view of the provisions of article 149 of the Convention, the Working Group had not been the proper body to carry out the investigation provided for. It would be recalled that at the Commission's 1014th meeting, certain delegations had demanded to have the Israeli representative's remarks expunged from the record. The Commission would do well to bear in mind those circumstances, which clearly showed that resolution 6 (XXV) had never represented the views of the responsible and impartial majority of its members, and that, on the contrary, it had been no more than a politically motivated propagandistic exercise designed to enable the Arab countries to direct unfounded accusations against Israel.

In a note dated 25 June 1969, which was mentioned in the Working Group's Report (E/CN.4/1016, paras. 9 and 22), the Government of Israel had made it quite clear that it would not stoop to co-operating with a group appointed under such circumstances and obliged to work under biased and prejudicial terms of reference.

It was regrettable that the misgivings which the Government of Israel had expressed found ample justification in the document submitted by the Working Group. He would confine himself to referring to one or two of the distortions in the report that might lead to erroneous conclusions. In the first place, paragraph 15 of the introduction, concerning the composition of the Working Group, implied that all the members had attended its meetings regularly. But the truth, as could be seen from annex 2 (E/CN.4/1016, Add.4), was that there had not been a single meeting at which all the members had been present, and that at some of them, including meetings at which testimony had been taken, only two or three members had been present.

Other parts of the report clearly indicated its bias. Paragraphs 32 and 33 of chapter I contained long lists of letters from the Governments of Jordan, Syria and the United Arab Republic, which had been published as Security Council and

/...

(Mr. Leshem, Israel)

General Assembly documents and which were said to have "prompted" the adoption of the earlier resolutions of the Commission on Human Rights. Yet it would be fruitless to attempt to find in the text of those resolutions any reference to that mass of Security Council documentation, some of which (S/9199, for example) was even of a later date than the resolutions. Paragraph 34 listed seven letters from the Government of Israel replying to some of the allegations made by the different Arab Governments, but it had carefully omitted to mention that the Government of Israel had replied to every one of those allegations and that over forty replies were contained in Security Council documents. There was no doubt, therefore, that at the outset the report contained serious flaws, which seriously detracted from its objectivity. In paragraph 32 (b), reference was made to a letter dated 18 January 1968 (S/8344) from the Permanent Representative of the Arab Republic which was full of serious accusations against Israel. The reply to that letter (S/8349), in which the Permanent Representative of Israel had refuted the allegations, was not referred to anywhere in the report. Moreover, a rapid check of the list of documents (paras. 32 and 33) revealed at least twenty cases in which even the existence of replies from the Government of Israel had not been mentioned. Consequently, the presentation of the matter contained in those paragraphs totally failed to meet the normal standards of international reporting.

His delegation had noticed that, at the beginning of each meeting devoted to the taking of the so-called testimony, the Working Group had been careful to ensure that the resolution containing its terms of reference had been read out. But since that resolution prejudged Israel's responsibility, such a procedure amounted to an invitation to the witnesses to confirm the determinations of the minority which had secured the adoption of the resolution in 1969.

It was significant that one of the witnesses that had appeared before the Working Group had been Emil El Ghoury, whose extradition as a Nazi war criminal had been demanded by the Yugoslav Government, and who was now one of the principal aides of a terrorist group. His credentials as a witness had been questioned on a previous occasion. It was obvious that a large number of carefully chosen Arab witnesses had appeared before the Working Group and had produced a whole series of lurid tales of alleged ill-treatment. In its conclusions, the Working Group

(Mr. Leshem, Israel)

had had to admit that it had not been in a position to evaluate the truth of the evidence or to prevent perjury. No valid conclusions could be drawn from such testimony, which was unfit to be included in a United Nations report.

On the basis of testimony heard at Geneva on 8 August 1969 (chapter I, para. 21 of the report), a certain position regarding the Fourth Geneva Convention of 1949 had been attributed to the Government of Israel. For reasons which it had already given, the Government of Israel considered that the Commission on Human Rights had not been competent to adopt the resolution concerned and that the Working Group was therefore an illegal body. Moreover, since not even the United Nations was competent to take decisions regarding the interpretation of the Geneva Convention or its application in Israeli-held territories, his delegation did not feel that those aspects of the report should be discussed, and would merely reserve its Government's position in that connexion.

With regard to the assertion in paragraph 23 of chapter I that Israel had ratified the Convention without reservation, he wished to state that his Government's position concerning the Red Shield of David emblem, as expressed in its instrument of ratification, remained unchanged.

Stating that his Government was co-operating fully with the International Committee of the Red Cross in the Middle East, he said that certain reports of the International Committee concerning visits to some prisons, which had been submitted to the Working Group by some of the witnesses, had been of a confidential nature and that it had been a breach of faith on the part of the President of the Jordan Red Crescent Society to allow their publication. The representatives of the Red Cross had from time to time informed the Israeli authorities of various matters which required their attention, and the existing documentation in that connexion was evidence of the constructive and correct attitude of those authorities.

The general policy of the Government of Israel towards the Arab population of the occupied territories had as its fundamental purpose the maintenance of normal conditions of life to the extent that that was compatible with security considerations, which the Special Working Group was not competent to evaluate.

(Mr. Leshem, Israel)

The Israeli administration had helped to raise considerably the level of living in those territories and has as far as possible respected the laws and practices in force before the occupation, retaining all the administrative personnel who were willing to continue their work. The bridges across the Jordan River were being kept open for the free flow of goods and persons in both directions. Anyone could visit any part of Israel and talk to whomever he wished. The presence of troops in the occupied territories was virtually imperceptible. He quoted statements from various journalists and travellers corroborating his assertions.

With reference to the complaints submitted by local residents or by the representatives of the International Committee of the Red Cross concerning abuses in improper conduct by the members of the Israel Defence Forces or other authorities in the occupied territories, he said that his Government had investigated every situation and had taken appropriate steps. Moreover, his Government was willing to grant those complainants who were at present living in the Arab States the requisite permits to enter the occupied territories so that they could lodge their complaints in accordance with the existing procedures. Should the complainant so desire, he could appoint local lawyers of his choice to assist him in the proceedings. The Israeli authorities would guarantee the safety of the complainants throughout their stay in the occupied territories and their right to leave them.

Nevertheless, the Government of Israel could not agree that United Nations bodies and, in particular, a body such as the Special Working Group, had the right to collect and submit complaints to the Israeli authorities, still less to pronounce on their validity.

For those reasons, his delegation would not take part in the debate on that item or in the voting on any draft resolution which might be submitted, and it formally requested that its position and the reasons for it should be noted in the Commission's report.

Mr. AL-SHAWI (Iraq), referring to chapters I and II of the report of the Special Working Group of Experts (E/CN.4/1016 and Add.1-5), said that Israel had disregarded all the resolutions mentioned in the fourth preambular paragraph of the Commission's resolution 6 (XXV). General Assembly resolutions 2341 B (XXII) and 2452 (XXIII), among others, had likewise been disregarded. He also drew the

/...

(Mr. Al-Shawi, Iraq)

Commission's attention to the note dated 25 June 1969 addressed to the Secretary-General by the Permanent Representative of Israel, which stated that Israel rejected resolution 6 (XXV) of the Commission on Human Rights and was unable to consider it as a basis for co-operation on its part. It was hardly necessary to say that all the Arab States concerned, together with the League of Arab States, had extended their full co-operation to the Special Working Group established under that resolution.

He shared the view expressed by the Special Working Group that an investigation of alleged violations of human rights of the Jewish communities in Arab countries did not fall under any of the provisions of the fourth Geneva Convention and was not within the competence of the Group. He also shared the view that there was a close relationship between the provisions of the fourth Convention and other legal provisions which formed part of the law of armed conflicts. Article 154 of the fourth Convention confirmed that relationship and on the basis of that article it could be concluded that the provisions of the Hague Conventions respecting the Laws and Customs of War on Land of 1899 and 1907 were binding on the parties to the conflict in the Middle East.

In that connexion he wished to point out the abrogation of article 35 of the Order concerning security instructions for the West Bank region, which had recognized the fourth Convention as an auxiliary source of law (Amendment No. 9, Order No. 144). Furthermore, despite the fact that article 54 of the fourth Convention guaranteed the maintenance of all the institutions and the Government of the occupied territories, the Israeli authorities had replaced the ordinary courts by military courts and had sanctioned Law and Administration Order No. 1 (1967), under which the occupied area of Jerusalem was subject to the legislation, jurisdiction, and administration of Israel.

In his view, the information in paragraphs 16-76 of chapter III of the report could be divided into four categories: (1) intentional homicides, (2) tortures and inhuman treatment, (3) the destruction of houses and other property, expropriation and pillage, and (4) the expulsion of Arabs and the settlement of Jews.

Cases of intentional homicide had occurred frequently throughout the occupation and not only in the period immediately following the war of June 1967.

(Mr. Al-Shawi, Iraq)

In particular, they had occurred when villages, quarters or houses were being demolished or when residents of the West Bank were trying to cross the Jordan to go back to their homes; many had been killed while moving to other villages after the destruction of their homes or while returning to their homes to recover what remained of their belongings. Fifteen civilians had been murdered because they had not managed to return to their homes after the sudden announcement of a curfew.

With regard to tortures and inhumane treatment, the Israelis had resorted to various methods ranging from the application of red-hot iron to immersion in electrified water. Neither women nor children had been spared that horrible treatment, which in some cases had led to the death of the tortured persons.

The Israeli forces had destroyed whole villages and entire quarters in the cities with no justification whatever, as was shown by the triviality of the excuses given for the adoption of such drastic measures and the fact that in many cases no excuses at all had been given.

With regard to the expropriations, an act of 1943 relating to the confiscation of property provided the legal basis for the large-scale expropriation, from 1967 on, of Arab land and property in the eastern sector of Jerusalem and in its suburbs. A large number of buildings had been thus expropriated, including mosques, schools, homes and shops. The figures relating to those expropriations had been quoted in the Israeli Knesset by one of its members and published in the Israeli daily newspaper Al Ittihad on 26 July 1968.

Villages had also assumed alarming proportions owing to the obvious support of the Israeli authorities. In the majority of cases it was a mass operation, carried out under the direction of officers of the Israeli armed forces. Not even the most essential services were respected, and in addition to shops, homes and even hotels, hospitals and schools had also been pillaged. The Holy City of Jerusalem itself had been pillaged during the first weeks of the occupation.

With regard to the expulsion of Arab inhabitants and the settlement of Israelis, it was important to remember that Israel's aim was to accomplish the "de-Arabization" of the occupied territories and to set up in them Israeli

/...

(Mr. Al-Shawi, Iraq)

centres which could be used at an appropriate time as a basis for laying claim to those territories in accordance with the tradition of the fait accompli, which had been applied very cleverly by the Zionist movement before 1948 and had paved the way for the establishment of Israel.

One of the stratagems used to expel the inhabitants of the occupied areas was Ordinance No. 125, issued by the Commander of the Israel Defence Forces on the West Bank; all persons absent from the West Bank on 7 June 1967 who attempted to return to it without a permit from the Israeli authorities were to be considered infiltrators and, as such, subject to sentences of imprisonment ranging from fifteen years to life. Thousands of West Bank inhabitants had been working on the East Bank or had temporarily emigrated to it to work in neighbouring Arab countries and, since the total number of re-entry permits granted by the Israeli authorities was negligible in proportion to the applications submitted, the Ordinance had meant in practice the expulsion of all those thousands of Arabs from their homes.

Those persons naturally wanted to return to their homes, and thus Israeli soliders were killing men, women, children and whole families every night.

Turning to the conclusions of the Ad Hoc Working Group, he said that he found it difficult to accept two assertions. The first was that the largest number of allegations concerning violations of the Geneva Convention related mostly to the period immediately following the hostilities of June 1967. The term "immediately" was of course, subject to various definitions, but in no case could it signify the period from three to eighteen months after the hostilities. Yet the evidence cited in the report itself showed that it was precisely in that period that the majority of crimes and atrocities committed in the occupied Arab territories had occurred. That could be verified in paragraphs 70, 73, 83, 103, 106, 110, 112, 121, 128-130, 135-137, 140, 143, 145-147, 149, 150, 157, 158, 174, 186, 190, 192-194, 198, 200, 202, 213, 246, 250, 254, 256, 261, 262, 264, 268, 269, 271, 272, 279, 282, 284, 293, 308-310, 314 and 318-320.

Secondly, he objected to the Group's insistence on giving opinions from the "juridical" point of view. Under resolution 6 (XXV), the Group was a committee

/...

(Mr. Al-Shawi, Iraq)

of investigation, whose only task was to substantiate certain facts in relation to certain allegations, and to arrive at certain conclusions and recommendations based solely on those facts. Therefore it was not a body competent to pass juridical judgements. Finally, he expressed reservations concerning the recommendation that Israeli authorities should investigate certain allegations. The Israeli authorities were in all cases responsible for those outrageous violations of the Geneva Convention.

Such criticisms by no means signified that his delegation did not uphold many of the conclusions and recommendations of the Working Group. Indeed, since Arab territories were still under Israeli occupation and since Israel was continuing to violate the Geneva Convention of 1949, Iraq was in favour of the Group continuing its work of investigation.

The meeting rose at 1 p.m.

/...