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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 30 January 1990, at 10 a.m.

Chairman: Mrs. QUISUMBING (Philippines)

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The meeting was called to order at 10.30 a.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3)

1. The CHAIRMAN drew the Commission's attention to a letter from the Secretary-General informing it of actions taken pursuant to Commission decision 1989/113 entitled "Consideration of the report of the mission which took place in Cuba in accordance with Commission decision 1988/106". During the previous 10 months, the Secretary-General had been maintaining ongoing contacts, both written and oral, with the Cuban Government on the issues and questions contained in that report.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (E/CN.4/1990/3 and 4; A/44/352 and 599)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (E/CN.4/1990/10, 11 and 58 and A/44/526)

2. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda item 4, said that the question of the violation of human rights in the Arab territories occupied by Israel had been on the agenda of several United Nations organs since 1968. Since the start of the Palestinian uprising two years previously, those organs had stressed in particular the necessity to initiate urgent measures to improve the human rights of the peoples of the occupied territories.

3. At its forty-fifth session, the Commission had adopted resolutions 1989/1 and 1989/2 A and B with a view to considering the subject again at its forty-sixth session as a matter of high priority. It had also requested the Secretary-General to report at the current session on the measures taken to draw attention to those resolutions and to give them the widest possible publicity. The report prepared by the Secretary-General in accordance with that request was contained in document E/CN.4/1990/3.

4. Document E/CN.4/1990/4 contained a note by the Secretary-General listing all United Nations reports issued between sessions of the Commission which dealt with the living conditions of the population of occupied Palestine.

5. At its forty-first session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had adopted resolution 1989/4 on the situation in the Palestinian and other Arab territories occupied by Israel.

6. At its most recent session, the General Assembly had adopted resolution 44/2 requesting the Secretary-General to examine with urgency the situation in the occupied Palestinian territory. The Assembly had considered the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/44/352 and A/44/599), and had adopted resolutions 44/48 A to G. In those resolutions the Assembly had, inter alia, renewed the mandate of the Committee and changed its name to "the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories".

7. In the course of its first series of meetings, held at Geneva in January 1990, the Special Committee had heard a number of witnesses who had been expelled from the occupied territories, and had adopted a report (A/45/84) prepared in accordance with resolution 44/48 A.
8. Item 9 had been on the Commission's agenda since 1975. At its previous session, the Commission had adopted six resolutions under the item.
9. In its resolution 1989/18, the Commission reaffirmed that the question of Western Sahara was a question of decolonization which remained to be completed on the basis of the exercise by the people of Western Sahara of their inalienable right to self-determination and independence.
10. In its resolution 1989/19, the Commission had reaffirmed the inalienable right of the Palestinian people to self-determination without external interference and the establishment of their independent and sovereign State on their national soil, as well as the inalienable right of the Palestinians to return to their homeland, Palestine.
11. In its resolution 1989/20, the Commission reiterated its condemnation of the persistent occurrence of gross and flagrant violations of human rights in Kampuchea and reaffirmed that the continuing illegal occupation of Kampuchea by foreign forces deprived its people of their right to self-determination.
12. In its resolution 1989/22, the Commission called upon all States to implement fully and faithfully the resolutions of the United Nations, in particular General Assembly resolution 1514 (XV). It had reaffirmed the inalienable right of the people of Namibia to self-determination, freedom and national independence in a united Namibia, including Walvis Bay and the offshore islands. It had also reaffirmed the legitimacy of the struggle of the oppressed people of South Africa and its national liberation movements by all available means, including armed struggle, for the elimination of the apartheid system and the exercise of the right of self-determination by the people of South Africa.
13. In its resolution 1989/23, the Commission welcomed the completion of the withdrawal of foreign troops from Afghanistan and called upon all parties concerned to work for the urgent achievement of a comprehensive political solution which would enable the Afghan refugees to return voluntarily to their homeland. The Commission had also called upon all States to provide adequate financial and material resources to the Special Co-ordinator for Humanitarian and Economic Assistance relating to Afghanistan.
14. He drew attention to resolutions 44/79 and 44/80 in which the General Assembly reaffirmed that the universal realization of the right of all peoples to self-determination was a fundamental condition for the effective guarantee and observance of human rights. The Assembly had requested the Commission to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation.
15. The Commission, in its resolution 1987/16, had decided to appoint a Special Rapporteur to examine the question of those of mercenaries. Subsequently, the Chairman of the Commission had appointed Mr. Enrique Bernales Ballesteros (Peru) as Special Rapporteur on that question.

16. In 1988, the Commission had decided to extend the mandate of the Special Rapporteur for another two years and requested him to submit a preliminary report to the Assembly at its forty-third session. In that report, the Special Rapporteur described a visit which he had made to Angola and analysed acts of mercenarism brought to his attention as a factor in the struggle for self-determination in southern Africa.

17. At its forty-fifth session, the Commission had considered the third report by the Special Rapporteur, focusing on his visit to Nicaragua in late 1988 and describing the position of the Nicaraguan Government with regard to mercenary activities in its territory.

18. Following that mission, the Special Rapporteur had visited the United States of America in July 1989 and held discussions with Government officials and representatives of non-governmental organizations. An account of that visit was contained in document E/CN.4/1990/11.

19. Mr. RAMLAWI (Observer for Palestine) recalled that, in its resolutions 1989/2 A and B, the Commission had called upon Israel to withdraw from the Palestinian territories occupied by force and to desist from its practices which were in violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949. The Secretary-General had informed the Government of Israel of the grounds for those resolutions, particularly with regard to the right of the Palestinian people to self-determination.

20. None the less, the Government of Israel had not yet replied to the Secretary-General, a fact which highlighted Israel's stubborn rejection of the resolutions of the Commission, the General Assembly and the Security Council, and its persistence in implementing its policies in defiance of the wishes of the international community.

21. At its previous sessions, the Commission had discussed the Israeli policies which were in violation of the 1949 Geneva Convention, including the murders of Palestinians, the confiscation of Palestinian lands and the use of tear gas causing Palestinian women to miscarry. Since the previous session of the Commission, Israeli crimes against the Palestinian people had continued. The number of martyrs had reached 1,080, including 450 persons under 18. More than 58,000 persons had been wounded, including 7,500 disabled, of whom 2,500 were children. The number of Palestinian prisoners exceeded 64,500, including 9,000 administrative detainees. Since the beginning of the Palestinian uprising in 1987, more than 60 persons had been deported.

22. International press reports and the reports by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories by Amnesty International and by the International Committee of the Red Cross had all confirmed the Israeli practices in the occupied Arab territories. The Chairman of the Special Committee, in a letter to the Secretary-General, had mentioned the deaths of hundreds of civilians of all ages from bullet wounds, electric shocks and other causes, the system of military justice which provided no legal guarantees to Palestinian detainees, and the imprisonment of thousands, including women and children, in inhuman conditions.

23. The Chairman of the Special Committee had expressed concern that, after 21 years of Israeli occupation, the international community had not yet been able to take effective measures to protect the human rights of Palestinian civilians or to put an end to Israeli's violations of the provisions of the Charter, United Nations resolutions and the principles of international law. Israel was the most flagrant example of a State Member of the United Nations which consistently rejected the obligations incumbent upon it. If every Member State acted in the same way, there would be reason to question the value of the lofty principles upon which the United Nations was founded. The international community as a whole was being threatened by the unlimited military and political support which the United States of America provided to Israel, particularly when the need arose for international measures to deter Israel from its violation of the principles of international law, as had frequently happened in the Security Council.

24. The Palestinian people, which had been suffering under Israeli occupation, had a responsibility to resist that occupation until it recovered its national rights, particularly its right to self-determination and to the establishment of a Palestinian State on its national soil.

25. The State of Palestine had submitted its instruments of accession to the 1949 Geneva Convention. That step had been widely welcomed at the international level, especially by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities and the Ninth Summit Meeting of the Movement of Non-Aligned Countries, held at Belgrade.

26. Mr. GLAIEL (Observer for the Syrian Arab Republic) said that the situation in the occupied territories had not benefited from the new international climate of détente and understanding. His Government paid tribute to the heroes of the intifadah, who, rejecting Israeli occupation and remaining true to their Arab identity, were struggling to live in freedom on the land of their birth and to enjoy the legitimate rights that had been usurped by force.

27. Israel was continuing its policy of annexation and settlement and had stepped up its repressive and terrorist practices. Hundreds of women, children and old people had been killed, thousands wounded and tens of thousands detained and tortured. Deportations, the demolition of houses and collective sanctions were also on the increase. The Israeli authorities were interfering with the Commission's work by preventing its members from visiting the occupied territories.

28. The Israeli policies and practices, which were in flagrant violation of the human rights of the Palestinians, constituted war crimes and genocide and, as such, were punishable under international law. Israel was conducting a racist policy, and in that context, General Assembly resolution 3379 (XXX) had rightly condemned zionism as a form of racism. For its part, the intifadah would continue until the Palestinians established an independent State in their own homeland.

29. Israel's aim was to Judaize the occupied Syrian Golan and to impose its own laws. The citizens there were being separated from their ancestral land and their homes demolished. Israel had established 42 new settlements, and the social, cultural and structural fabric of the area was being modified in violation of Security Council resolution 497 (1981) and resolution 1/9 adopted

by the General Assembly at its ninth special session. Collective punishment was imposed, and Israel was exploiting the area as a source of cheap labour. All those practices were in violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949.

30. Israel wanted both land and peace; a policy that was doomed to failure. Relying on ancient documents, its rulers cherished the dream of a Greater Israel from the Nile to the Euphrates in defiance of the United Nations Charter and resolutions calling for Israel's withdrawal from the occupied territories. The Israeli rulers made constant references to Nazi crimes that had taken place 45 years previously, and yet at the same time they continued to perpetrate crimes against Arabs, and there was no end in sight. There would be no international peace and security until Israel gave up its racist policies and unjust dreams.

31. Mr. KASRAWI (Observer for Jordan) said that the human rights situation in the occupied Arab territories had deteriorated over the past year: Israel had stepped up its repression and, in the wake of the intifadah, hundreds had died, thousands had been wounded and tens of thousands had been detained. The Israeli authorities had escalated their policy of collective punishment, demolishing houses, sealing off villages from the outside world, imposing economic measures, deporting Palestinians and stepping up terrorist practices. In addition, eight new settlements had been established. Israel was blatantly conducting a policy of colonization, exerting pressure on the Palestinians to leave so that they could be replaced by Israelis. But the Palestinians were courageously opposing the repressive measures of the occupation authorities, whose practices were in violation of the Fourth Geneva Convention of 1949 and in total disregard of repeated international appeals. It was therefore essential to take international steps to compel Israel to apply all the provisions of the Fourth Geneva Convention.

32. The Commission on Human Rights had a moral obligation to ensure that the Israeli occupation did not become a fait accompli. Israel must be made to accept the legitimate rights of the Palestinian people, and an international peace conference must be convened to achieve that objective.

33. Mr. HARUN UR-RASHID (Bangladesh) said that the international community's great concern at the continuing deterioration in the human rights situation in the occupied Arab territories, including Palestine, was reflected in the priority the Commission had accorded the subject for over 20 years and the unreserved condemnation expressed in that and many other forums inside and outside the United Nations system. It was realized more than ever that the time had come for the Commission to take urgent action with a view to ending the sufferings of the Palestinian people.

34. The situation in the occupied West Bank and Gaza Strip had deteriorated gravely over the past few months, the frequency and enormity of human rights violations having surpassed all previous records. The Israeli authorities, in their attempts to suppress the spontaneous popular uprising of a people struggling to recover its inalienable rights, had resorted to measures such as arbitrary arrest, beating, detention without trial, deportation, collective punishment and mass reprisals which defied all accepted international standards and affronted human dignity.

35. The report of the Special Committee (A/44/599) vividly described the occupying Power's ruthless application of a policy of terror and oppression. The Special Committee was to be commended on the work it had carried out despite the lack of co-operation that Power. Its report would help all concerned to appreciate the gravity of the situation.

36. The Government and people of Bangladesh were deeply shocked by the unmitigated and continued violence and oppression being perpetrated on the unarmed civilian population of the occupied West Bank and Gaza Strip. Bangladesh had unequivocally condemned the Israeli occupation forces' atrocities and expressed its solidarity with the Palestinian people in its struggle to achieve its inalienable right to establish a sovereign, independent State under the leadership of its sole legitimate representative, the Palestine Liberation Organization.

37. Without that achievement, the problem could not be eradicated. Bangladesh therefore fully supported the convening of an international conference on the Middle East, under United Nations auspices, with the participation of all parties directly concerned, including the Palestine Liberation Organization, on an equal footing, and was ready to extend full support to the Secretary-General in his efforts to that end.

38. The Commission could not remain silent in the face of the rapidly deteriorating human rights situation in the occupied territories, but it should not despair either. By intensifying pressure on the occupying régime through the mobilization of world public opinion and other measures, it could help the oppressed people of the occupied Arab territories and hasten the end of their sufferings. In that connection, his delegation noted with appreciation the Secretary-General's follow-up action pursuant to Commission resolutions 1989/2 A and B.

39. While the Commission's immediate concern was to prevail upon the Israeli authorities to cease violating human rights forthwith in the occupied Arab territories, its ultimate aim must be to restore to the Palestinian people its fundamental, legitimate and inalienable rights, the denial of which continued to afflict the conscience of the entire international community.

40. Mr. AL-OTHMAN (Observer for Kuwait) said the fact that the intifadah of the Palestinian people had entered its third year showed that the event was not merely a brief outburst but an expression of that people's constant and unshaken will to achieve self-determination and establish an independent sovereign State. The world Zionist movement continued its efforts to mislead world public opinion about the situation in the occupied territories, but the activities of the occupying forces and settlers had recently exceeded all imaginings. The excesses perpetrated - including the breaking of limbs, the use of toxic gases, the blowing up of homes and forcible expulsions - stemmed from a systematic policy about which it was impossible to remain silent.

41. The Palestinians were struggling for the exercise of the right to self-determination upheld by the Commission. That goal was far from the situation the Zionists seemed prepared to accept; but the Palestinians had only stones with which to confront a heavily armed force of occupation. As for negotiation, it was unacceptable that one party should claim the right to choose who should represent the other.

42. The Israeli authorities, despite their prevarication and contempt for any procedures aimed at achieving a just settlement, were under growing pressure to desist from their practices, arising not only from the Palestinian people's continued struggle but from growing international concern; for example, the European Parliament had recently refused to strengthen its scientific ties with Israel because of the latter's acts of repression in the occupied Arab territories. In that connection, it was deplorable that, contrary to the majority view of world public opinion, one State, supposedly a standard-bearer of freedom and human rights, was exercising the right of veto against the adoption of a draft resolution condemning Israel's repressive acts in the occupied territories.

43. One particularly serious malpractice was to be seen in Israel's attacks on the holy places of Islam in those territories. Shaikh Jaber Al-Ahmad Al-Sabah, Amir of the State of Kuwait, as Chairman of the Organization of the Islamic Conference at its fifth session had voiced the Organization's concern at the Zionists' provocative action in attempting to lay a foundation stone for the new Temple of Solomon on the site of the Al Aqsa mosque in Jerusalem, and had appealed, on behalf of the Conference, to all States and world institutions, especially the United Nations, to speak out against such a blatant attack on freedom of religion, especially at a time when all possible attempts should be made to end the explosive situation in the region and bring about peace and security.

44. Israel had also inflicted untold suffering on the Lebanese people for the past 14 years, violating the country's territorial integrity and thwarting all attempts by Arab nations to negotiate an end to the strife there. The Lebanese people would never have stability until Israel ceased its aggression against that country's sovereignty; the world community must force Israel to withdraw completely in accordance with the relevant Security Council resolutions. The Arab population in the occupied Syrian Golan Heights likewise continued to suffer from the Israeli occupiers' aggressive acts.

45. His delegation was grateful to the Special Committee for its continued vigilance in reporting on the deteriorating human rights situation in the occupied Arab territories. It hoped that the Israeli authorities could be induced to cease refusing to recognize the Committee and to co-operate with it in the future.

46. Mr. PHEKO (Observer, Pan Africanist Congress of Azania) said that the right to self-determination, enshrined in the Charter, was not only a fundamental human right but a prerequisite for full enjoyment of the other rights. It disturbed his delegation, therefore, that reference was never made to South Africa as a country whose indigenous people had that right; indeed, in some cases self-determination seemed to be confused with secession, which was contrary to Article 2, paragraph 7 of the Charter.

47. South Africa was not a sovereign State and should be considered as a country under colonial or alien rule or foreign occupation. The story of apartheid was that of a dispossessed people whose country had not been decolonized. Apartheid stemmed direct from the colonial policy of the United Kingdom - a policy which seemed to have been the most racist in Africa's entire colonial history. History showed that there had been no apartheid in Azania, currently named South Africa, before the advent of European colonialism and aggression.

48. What was currently called South Africa had been created by the South Africa Act of 1909, which united and strengthened four British colonies to the benefit of settlers and against the colonized Africans. According to a 1904 census, Azania had then contained over five million indigenous Africans and 349,837 colonial settlers; but political power had been transferred by the United Kingdom not to the Africans, so as to restore their right to self-determination, but to the minority of colonial racists, some of whom had later become Nazis and still were.

49. Pursuant to the Act of 1909, only property-owning Africans in the Cape Colony (about 10 per cent) had held the right to vote; and even that very limited right had been abolished in 1936 under article 35 of the same Act, leaving over 75 per cent of the population of Azania disfranchised, despite a clause in a United Kingdom statute of 1865 which empowered a United Kingdom Government to disallow any repugnant legislation in its colonies. In current international law, the denial of such a right to vote was a violation of jus cogens.

50. The provisions of the Act of 1909 had prevented Africans from standing for election. The creation of South Africa had been clearly intended, as stated by Sir George Grey, a colonial governor, to create a strong federal government by the European races in South Africa, for the maintenance of the United Kingdom's possessions in the region. To judge from the debate on the bill in the United Kingdom Parliament, the intention had been to rule black Africans as a subjugated people, as they were still being ruled in South Africa.

51. Another consideration, of course, had been control by white colonial settlers of the wealth discovered in the region. The Africans had been deemed "a danger", and therefore were never to have been allowed to regain control of their country and its natural resources.

52. Further oppressive measures had been enacted by the Land Act of 1913. Africans had been robbed of eighty seven and a half per cent of the total land area of the country and allocated only twelve and a half per cent of the so-called "native reserves", which had subsequently become the Bantustans or so-called "homelands". The effect had been to reduce the life-expectancy of the African people as a result of increased poverty, disease, malnutrition and child mortality, as well as to impede political, economic, educational and technological progress.

53. Thus the situation in South Africa had from its very inception, been one of disguised slavery, the most barbarous form of colonialism and foreign occupation; it was no wonder that the oldest human rights organization, the British Anti-Slavery and Aborigines Protection Society, had objected so strongly to the creation of South Africa in 1910. That situation was the worst colonial scandal of the twentieth century.

54. Azania's dispossessed and oppressed people rejected with contempt any notion that its country, colonially renamed South Africa in 1910, had no right to self-determination. That people constituted an overwhelming majority and utterly rejected the tyranny of a racist colonial régime which represented a mere 13 per cent of the population. His organization claimed the right of Azania to self-determination, so that racist colonial tyranny and apartheid

could be buried; it regarded all white persons in Azania who acknowledged allegiance to Africa alone, and accepted the democratic rule of the indigenous majority, as Africans entitled to all the individual rights of citizenship.

55. As the representative of India to the Security Council had stated in 1961, in connection with India's claim to the then Portuguese colony of Goa, the tenets of international law quoted by colonial Powers in support of their rights over territories won by conquest in Asia and Africa were no longer acceptable.

The meeting rose at 12.25 p.m.