

GENERAL  
ASSEMBLYASSEMBLEE  
GENERALE

A/AC.13/SR.9

20 June 1947

ORIGINAL: ENGLISH

## SPECIAL COMMITTEE ON PALESTINE

## SUMMARY RECORD OF THE NINTH MEETING (PRIVATE)

Held at Kadimah Flats, Jerusalem, Wednesday,  
18 June 1947 at 10.30 p.m.

## Present:

Chairman : Mr. Sandstrom (Sweden)

Mr. Hood	(Australia)
Mr. Rand	(Canada)
Mr. Lisicky	(Czechoslovakia)
Mr. Garcia Granados	(Guatemala)
Sir Abdur Rahman	(India)
Mr. Entezam	(Iran)
Mr. Spits	(Netherlands)
Mr. Garcia Salazar	(Peru)
Mr. Fabregat	(Uruguay)
Mr. Brilej	(Yugoslavia)

Secretariat: Dr. Hoo (Assistant Secretary-General)  
Dr. Garcia Robles (Secretary)

The CHAIRMAN called the meeting to order at 10.30 p.m.

MR. HOOD (Australia) proposed that a verbatim record be taken of the meeting, but the CHAIRMAN pointed out that it would not be practicable at this point to bring out the necessary members of the staff.

The SECRETARY then read Rule 7 of A/AC.13/7 on verbatim records. The CHAIRMAN thereupon proposed that a summary record be made. This was agreed to and Mr. BRILEJ (Yugoslavia) suggested that all members have a right to request verbatim records of their remarks if they wished.

The CHAIRMAN then summarized a letter which had been sent to him as Chairman of the Committee by parents and relatives of three men convicted and sentenced to death by the Military Court of Jerusalem in connection with offences under the Defence Regulations, requesting that the Committee use its good offices

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with Government and military authorities in Palestine to prevent the execution of these young men by procuring a commutation of the death sentence.

The CHAIRMAN stated that the Committee must decide whether the measures requested fall within the competence of the Committee. Mr. GARCIA GRANADOS (Guatemala) suggested that the Committee might act without taking a position as a committee and proposed a resolution as follows:

"Whereas:

"A request has been received signed by the relatives of three men sentenced to death by the Palestinian Military Court,

"The United Nations Special Committee on Palestine, feeling the urgency of the case,

"Resolves:

"That, without entering to consider the legal aspects of the case, each Delegate individually or several or all of them, through Chief Justice Sandstrom, remain free to apply for mercy to the proper authorities, basing their request on the effects that the executions should have on the political situation, on the generous and human feelings of the high officials who exercise authority in Palestine and on any other reasons that would seem proper in making the request."

Mr. RAND (Canada) considered that individually the members of the Committee could do as they pleased. The CHAIRMAN asked for the opinions of members as to whether the Committee had authority to take action on the measures requested. Mr. GARCIA GRANADOS (Guatemala) said that he did not agree that the Committee was incompetent. The CHAIRMAN felt that the Committee did not have a mandate to act, even taking into consideration the Resolution of the General Assembly. Mr. GARCIA GRANADOS (Guatemala) stated that he could not accept "not competent" without further study.

Mr. BRILEJ (Yugoslavia) asked from what point of view it could be considered that the Committee was not competent--from a juridical point of view? He felt that the Committee was competent to apply for clemency.

Mr. ENTEZAM (Iran) stated that there were two things to be considered--the terms of reference of the Committee and the General Assembly Resolution calling upon Governments and peoples and particularly on the inhabitants of Palestine, to refrain, pending action by the General Assembly on the report of the Special Committee, from the threat or use of force, or any other action which might create an atmosphere prejudicial to an early settlement of the question of Palestine. He stated that the terms of reference indicate what the Committee must do. He felt that measures could be taken informally if the Committee should decide that action of this nature is not within its terms of reference. The Resolution did not concern the Committee but was addressed to Governments and political parties.

Mr. GARCIA GRANADOS (Guatemala) was of the opinion that the Committee was a political one. Although the case could be considered as legal it had political implications which must be taken into account. He had not considered the legal aspects when wording his proposal because he felt that if a similar situation should present itself later the Committee would have committed itself to a certain line of action. Therefore he preferred not to discuss the legal aspects.

Mr. SFITS (Netherlands) suggested that it would be convenient, in case it were found necessary to consider similar cases, to leave the door open.

Mr. GARCIA GRANADOS (Guatemala) pointed out that he had done this and reread his resolution.

The CHAIRMAN stated that he was of the opinion that this was not a political committee. It was a committee of

investigation on questions with certain political aspects. That did not give it wider competence than the terms of reference. The terms of reference are to investigate the matter and make recommendations in the report to the General Assembly.

At the request of Mr. GARCIA GRANADOS (Guatemala) the Secretary read paragraphs 2 and 4 of the terms of reference.

Mr. GARCIA GRANADOS (Guatemala) agreed that it was entirely true that the terms of reference did not make provision for the Committee to request mercy for anybody, but he felt that the members of the Committee could personally address themselves to the Government of Palestine concerning the political implications involved. The Chairman disagreed, stating that the only questions which could be put to the Government of Palestine were those relevant to the solution of the problem of Palestine.

Mr. ENTEZAM (Iran) felt that there were two alternatives--the Committee could put the question to the Palestine Government, though he himself would not agree with this course of action, and secondly the Committee could report to the General Assembly that the British Government by this policy had made the Committee's task more difficult. The British Government could not be asked to explain--they would be justified in replying that it was not within the Committee's province.

Mr. RAND (Canada) agreed that there might be relevant circumstances arising from the executions which the Committee would need to include in its report to the General Assembly.

The CHAIRMAN felt that a decision could not be made on such a vague basis and that the Committee would have to turn to the terms of reference.

/SIR ABDUR RAHMAN (India)

SIR ABDUR RAHMAN (India) suggested that a vote be taken as to whether the Committee was legally competent.

Mr. HOOD (Australia) asserted that in his opinion the Committee was not legally competent to take any kind of action. He admired the motion of Mr. Granados and thought that given the premise it met the purpose very well. However, it contained one fallacy. It explicitly stated that the Committee would not enter into the legal aspect of the question, yet went on to say that it was the Committee's duty to do so. This Committee could not accept a motion which implied that it was not doing its proper duty. Although he appreciated the motives of the members of the Committee and of the General Assembly resolution, he felt that any act sanctioned by the Committee either on an informal or individual basis might have unforeseeable repercussions. The Committee had taken into account the effect of the execution of the sentences on one element of the population; it must also consider the effect on other elements of the population of the deferment of the sentences. Could it not be assumed that the Palestine Government in carrying out its duties had taken these possible effects into consideration. He felt that there was no conceivable ground in the Resolution of the General Assembly for assuming that the Committee was competent. Neither did he feel that any action by members of the Committee individually would be acceptable.

Mr. LISICKY (Czechoslovakia) was of the opinion that the Committee should consider the legal aspects. He offered a resolution containing two points: First, the Committee is not legally entitled to intervene; second, the Committee should ask the Chairman to draw the attention of the High Commissioner to the Committee's preoccupation, pointing out that if the sentences were executed during the Committee's stay in the country it would have harmful effects on its

work.

In the opinion of SIR /BDUR RAHMÂN (India) the two proposals were almost inconsistent. He thought that if the Committee could decide that it was legally competent it could proceed. If not, it could go no further. In any event a decision must be taken on the legal question. The Committee could not proceed with action while admitting that it was not within its legal competence.

Mr. FABREGAT (Uruguay) asserted that the Committee was here to study the whole problem of Palestine. This was an aspect of the question. The General Assembly Resolution was an appeal to parties not to carry out any act of violence during the Committee's stay in Palestine. He believed that without intervening the Committee could ask for the commutation of the death sentence and suggested that the Chairman request the High Commissioner to commute the sentences.

The CHAIRMAN, while agreeing that execution of the sentences would have a bad effect on the work of the Committee, reiterated his opinion that it was not within the competence of the Committee to interfere in this matter.

Mr. BRILEJ (Yugoslavia) felt that the case was connected with the work of the Committee, since the execution of the sentences would make conditions of the work of the Committee much worse. He asserted that he was convinced the Committee was not juridically competent but from a political and human standpoint the Committee was not only competent but obliged to intervene.

Mr. ENTEZAM (Iran) suggested that the Committee accept the second part of the proposal of Mr. Garcia Granados but not the first part.

Sir Abdur RAHMAN (India) disagreed, saying that it was impossible to accept the second part of the proposal without accepting the first part.

Mr. GARCIA GRANADOS (Guatemala) suggested changing the words "without considering the legal aspect of the question" in his proposal to "without deciding on the legal aspect of the question".

The CHAIRMAN stated that if the Committee decided on either the proposal of Mr. Garcia Granados or of

Mr. Lisicky it would constitute intervention as a Committee.

Sir Abdur RAHMAN (India) urged that the Committee take a decision as to whether the Committee were legally competent.

It was the view of Mr. LISICKY (Czechoslovakia) that his proposal was not inconsistent, since the first part was concerned with the legal aspect and the second part was concerned with the political aspects. It was a proposal of conciliation. He retained his view that the Chairman should place before the High Commissioner the view of the Committee that it would be detrimental to their work if these sentences were carried out during the Committee's presence in Palestine.

It was pointed out by Mr. HOOD (Australia) that the Committee's sanction of any proposal would constitute intervention.

In the opinion of Mr. RAND (Canada) any action of the Committee derived force not from individuals but from its representative capacity.

Mr. SPITS (Netherlands) inquired whether an approach by the Chairman to the High Commissioner drawing his attention to the eventual consequences of the executions would constitute intervention.

The CHAIRMAN replied that he could submit Mr. Lisicky's proposal to the High Commissioner only if he stressed that the Committee had agreed that it was not competent to intervene.

Mr. RAND (Canada) expressed the view that the proposal of Mr. Lisicky disclaimed legal competence but affirmed political competence. He did not think that a Committee of the United Nations could express an opinion

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concerning the manner in which the administration was proceeding in carrying out the law.

Mr. LISICKY (Czechoslovakia) suggested that the administration be asked merely to postpone the sentences in the interests of the work of the Committee.

It was the opinion of the CHAIRMAN that any decision constituting intervention would reflect on the prestige of the Committee. If Mr. Lisicky's proposal were accepted it would have on the various elements of the population the effect already pointed out by the Delegate of Australia.

Mr. RAND (Canada) suggested that an answer be drafted expressing sympathy with the writers, but stating that in the opinion of the Committee the matter was not within its scope.

The CHAIRMAN pointed out that the fact that the terms of reference of the Committee would not permit it to take the action requested could be included in the reply.

Mr. RAND (Canada) suggested that particular reference be made to the paragraph requesting the intervention of the Committee to prevent the execution.

After some discussion the Committee decided that it could not proceed with the Chairman's suggestion to vote on the proposals until it had reached agreement on its legal competence.

It was the opinion of Mr. GARCIA GRANADOS (Guatemala) that his proposal took into account the urgency of the matter, and requested that consideration of the legal competence of the Committee be postponed.

Consideration of the proposal of Mr. Garcia Granados was again undertaken and after some discussion he decided to withdraw his proposal.

The CHAIRMAN stated that he would take individual responsibility and approach the High Commissioner.

Mr. HOOD (Australia) asked whether the opinion of the Committee concerning this individual action would be on record and would be communicated publicly.

Mr. LISICKY (Czechoslovakia) suggested that the Committee decide to act on his concrete proposal.

The CHAIRMAN, however, pointed out that if the Committee rejected this proposal he would not feel that he could approach the High Commissioner as an individual.

In the opinion of Mr. BRILEJ (Yugoslavia) it was a poor solution to charge the Chairman to take action without making clear the desires of the Committee.

In view of the late hour the CHAIRMAN then proposed to adjourn the meeting until further notice. It was so agreed and the meeting was adjourned at 12:45 a.m.

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