

UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE

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Letter dated 23 October 1951
addressed by the Principal Secretary of the Commission
to the Chairmen of the delegations of Egypt, Jordan,
Lebanon and Syria, transmitting a Memorandum
of the Commission

Sir,

I have the honour to transmit herewith copies of a Memorandum of the Conciliation Commission for Palestine, for your information.

Please accept, Sir, the assurances of my high consideration.

(signed) P. de Azcarate
Principal Secretary

M E M O R A N D U M

1. A memorandum concerning the competence and functions of the Commission dated 12 October 1951 and signed by the Chairmen of the delegations of Egypt, Jordan, Lebanon and Syria was transmitted to the Commission on 13 October by the Chairman of the Lebanese delegation.

2. This memorandum of 12 October raises in paragraph 3 certain questions concerning the relationship between members of the Commission and their respective Governments and the possibility of a conflict between the views of the Governments represented on the Commission and the decisions of the majority of the Members of the United Nations.

The General Assembly has in some instances given certain functions to persons appointed in their individual capacity; in other instances to commissions or committees consisting of States. As examples of the first category might be mentioned the United Nations Mediator on Palestine under General Assembly resolution 186 (S.2), the United Nations Commissioner for Libya under resolution 289 (IV), the United Nations Commissioner for Eritrea under resolution 390 (V); as examples of the second category, the Commission on Korea under resolution 195 (III), the Special Committee on the Balkans under resolution 274 (III), the Advisory Councils for Somaliland and for Libya under resolution 289 (IV), and the Conciliation Commission for Palestine under resolution 194 (III) which provided in paragraph 2 for a Commission "of three States Members of the United Nations."*

* The decision that the Commission should be composed of States was in conformity with the draft resolution introduced by Syria before the First Committee. The Committee rejected the proposals contained in other draft resolutions introduced by Guatemala and Colombia whereby the Commission was to consist of persons appointed in their individual capacity.

As United Nations bodies set up by the General Assembly, such Commissions and Committees are bound by the directives given them by the Assembly. The Governments of the three States which, as Members of the United Nations, are represented on the Conciliation Commission have a special responsibility in relation to the carrying out of the directives given the Commission by the General Assembly. The States members of the Commission and of other United Nations bodies exercise their mandate through representatives who are appointed by, and receive instructions from the Governments of those States.

3. The memorandum of 12 October emphasizes as the considered opinion of the delegations of Egypt, Jordan, Lebanon and Syria that the terms of resolution 194 (III) leave the Commission no discretionary power in the carrying out of its task; that the General Assembly has made decisions and not recommendations, and has instructed the Commission to implement these decisions; and that in particular the Assembly has decided as to the repatriation of the refugees wishing to return and the payment of compensation without giving any discretionary power to the Commission.

4. The terms of reference and the powers of the Commission are defined in resolution 194 (III) and subsequent resolutions. The Commission has no authority to assume any functions or powers beyond those assigned to it by the General Assembly. By resolution 194 (III) the Commission was given the primary mandate "to take steps to assist the Governments and authorities concerned to achieve a final settlement of all questions outstanding between them." In entrusting the Commission with this responsibility, the Assembly purposely refrained from restricting the Commission's authority within narrow limits. On the contrary the Assembly expected the Commission to exercise its judgement as to the best ways and means to be adopted in facilitating the return of peace in Palestine. At the 184th plenary meeting of the Assembly on the day on which resolution 194 (III) was adopted, the Representative of the United Kingdom pointed out that :

"The Assembly was, in fact, leaving the Conciliation Commission to put its own interpretation upon the sequence of events in Palestine...The Commission would have to define for itself, in the light of the attitude of the various parties, and of the prospects for future stability, the limits within which a settlement will be sought."

At the 224th meeting of the First Committee on 3 December 1948, when the paragraphs concerning the protection of the Holy Places and the internationalization of Jerusalem were the subject of discussion, the French representative expressed a similar concept when he pointed out that :

"...the aim was not to give such precise directives to the Conciliation Commission as would predetermine its work, but merely to provide a basic directive as to the manner in which that work would be organized."

It is clear, therefore, that the Assembly intended to give the Commission a considerable amount of discretionary power in carrying out its work.

5. It appears that in the opinion of the delegations of Egypt, Jordan, Lebanon and Syria the Commission's main functions should be the implementation of General Assembly decisions. In the exercise of its mandate the Commission has always been guided by the decisions and recommendations of the General Assembly. The Commission, however, has been given the main function of conciliation and mediation of the differences between the parties.

6. In the memorandum of 12 October the opinion is expressed that the Commission has no discretionary powers on the subject of repatriation and payment of compensation to refugees.

It is particularly important that there should be no misunderstanding in this regard. Paragraph 11 of resolution 194 (III) provides that :

"...the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to the property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible;"

In the last three years it has not been possible to make any appreciable progress in the solution of the refugee problem. In view of the different interpretations given by the parties to paragraph 11, and since the Assembly does not appear to have laid down a rigid rule on this subject, the Commission is anxious to take all the practical steps which may assist in the early solution of this problem. This is in conformity with General Assembly resolution 394 (V) of 14 December 1950, whereby the Commission,

through its Refugee Office, was directed to "make such arrangements as it may consider necessary for the assessment and payment of compensation in pursuance of paragraph 11 of General Assembly resolution 194 (III)," and "work out such arrangements as may be practicable for the implementation of the other objectives of paragraph 11 of the said resolution." The proposals of the Commission dated 17 September 1951 include certain suggestions regarding ways and means to make tangible progress in the settlement of the question of repatriation and compensation. These suggestions were made in the hope that the lot of the refugees would be improved if the interested parties extend their full cooperation to the Commission in its present efforts.

22 October 1951
