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PROVISIONAL VERBATIM RECORD OF THE TWO THOUSAND
SEVEN HUNDRED AND EIGHTIETH MEETING

Held at Headquarters, New York,
on Tuesday, 5 January 1988, at 6.15 p.m.

President: Sir Crispin TICKELL

(United Kingdom of Great Britain and
Northern Ireland)

Members: Algeria
Argentina
Brazil
China
France
Germany, Federal Republic of
Italy
Japan
Nepal
Senegal
Union of Soviet Socialist
Republics
United States of America
Yugoslavia
Zambia

Mr. DJOUDI
Mr. DELPECH
Mr. ALENCAR
Mr. LI Luye
Mr. BROCHAND
Mr. VERGAU
Mr. STARACE-JANFOLLA
Mr. TANIGUCHI
Mr. RANA
Mr. SARRE

Mr. BELONOGOV
Mr. OKUN
Mr. PEJIC
Mr. MFULA

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The meeting was called to order at 6.25 p.m.

OPENING STATEMENT BY THE PRESIDENT

The PRESIDENT: This is the first time that the Security Council has met this year, and I extend my best wishes to all the representatives for a happy and prosperous New Year. This applies as much to their countries as to them, and my wishes are very sincere.

We must all hope that during the coming year the Council will be able to make a real contribution to its primary task - the maintenance of international peace and security - and to solving the complex issues with which it has to deal in the discharge of its responsibilities.

Since my arrival in New York some six months ago, I have come to value the close working relationship which exists between members of the Council. It is therefore a particular pleasure to welcome those who have just joined us: the Permanent Representatives of Algeria, Brazil, Nepal, Senegal and Yugoslavia. All are colleagues of wisdom and distinction and the Council is fortunate to be able to draw upon their knowledge and experience. They will, I am sure, make a valuable contribution to our work in the months to come.

(The President)

I take this opportunity to pay a tribute to the outgoing members of the Council, who have given so freely of their time, energy and talent over the past two years. I know that I am reflecting the sentiments of other members of the Council when I say that the Permanent Representatives of Bulgaria, the Congo, Ghana, the United Arab Emirates and Venezuela performed their duties with eloquence and distinction. We shall miss them, and we wish them all well.

Finally, I express the thanks of the Council - and I know I speak on behalf of all - to the outgoing President, Mr. Aleksandr M. Belonogov, Permanent Representative of the Soviet Union, for the skill with which he conducted our business last month, for his exceptionally hard work and his dedication, and for the good results he was able to produce during an altogether outstanding presidency. We thank him most warmly.

ADOPTION OF THE AGENDA

The agenda was adopted.

THE SITUATION IN THE OCCUPIED ARAB TERRITORIES

LETTER DATED 4 JANUARY 1988 FROM THE PERMANENT REPRESENTATIVE OF JORDAN TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL (S/19402)

The PRESIDENT: I should like to inform members of the Council that I have received a letter from the Permanent Representative of Israel in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Netanyahu (Israel) took the place reserved for him at the side of the Council Chamber.

The PRESIDENT: I should also like to inform the Council that I have received a letter dated 5 January 1988 from the Permanent Representative of Algeria to the United Nations, which reads as follows:

"I have the honour to request that the Security Council extend an invitation to Mr. Zehdi Labib Terzi, Permanent Observer of the Palestine Liberation Organization to the United Nations, in accordance with the Council's past practice, in connection with the Council's consideration of the item, 'The situation in the occupied Arab territories'."

That letter will be circulated as document S/19404.

The proposal by Algeria is not made pursuant to rule 37 or rule 39 of the provisional rules of procedure of the Security Council, but if approved by the Council the invitation to participate in the debate would confer on the Palestine Liberation Organization the same rights of participation as those conferred on Member States when invited to participate pursuant to rule 37.

Does any member of the Council wish to speak on this proposal?

Mr. OKUN (United States of America): The United States has consistently taken the position that under the provisional rules of procedure of the Security Council the only legal basis on which the Council may grant a hearing to persons speaking on behalf of non-governmental entities is rule 39. For four decades the United States has supported a generous interpretation of rule 39 and would certainly not object had this matter been raised under that rule. We are, however, opposed to special ad hoc departures from orderly procedure. The United States consequently opposes extending to the Palestine Liberation Organization the same rights to participate in the proceedings of the Security Council as if that organization represented a Member State of the United Nations. We certainly believe in listening to all points of view, but not if that requires violating the rules. In particular, the United States does not agree with the recent practice of

(Mr. Okun, United States)

the Security Council which appears selectively to try to enhance the prestige of those who wish to speak in the Council through a departure from the rules of procedure. We consider this special practice to be without legal foundation and to constitute an abuse of the rules.

For those reasons, the United States requests that the terms of the proposed invitation be put to the vote. Of course, the United States will vote against the proposal.

The PRESIDENT: If no other member wishes to speak, I shall take it that the Council is ready to vote on the proposal by Algeria.

It is so decided.

A vote was taken by show of hands.

In favour: Algeria, Argentina, Brazil, China, Japan, Nepal, Senegal, Union of Soviet Socialist Republics, Yugoslavia, Zambia

Against: United States of America

Abstaining: France, Germany, Federal Republic of, Italy, United Kingdom of Great Britain and Northern Ireland

The PRESIDENT: The result of the voting is as follows: 10 votes in favour, 1 against and 4 abstentions. The proposal has been adopted.

At the invitation of the President, Mr. Terzi (Palestine Liberation Organization) took a place at the Council table.

The PRESIDENT: The Security Council will now begin its consideration of the item on its agenda.

The Security Council is meeting today in response to the request contained in the letter dated 4 January 1988 from the Permanent Representative of Jordan to the United Nations, in his capacity as Chairman of the Group of Arab States for the month of January, addressed to the President of the Security Council, document S/19402.

(The President)

Members of the Council have before them document S/19403, which contains the text of a draft resolution submitted by Algeria, Argentina, Nepal, Senegal, Yugoslavia and Zambia.

The first speaker is the representative of Israel. I invite him to take a place at the Council table and to make his statement.

Mr. NETANYAHU (Israel): I wish to congratulate you, Sir, on your assumption of the presidency; I am sure you will conduct it in an exemplary fashion. I wish also to congratulate your predecessor, Ambassador Belonogov, on the successful completion of his tenure.

This is the second time within a few weeks that the Security Council has met on this subject. If I were to strip away all the invective and rhetoric that was heard in this Chamber during those meetings, basically two issues would be brought forth: The first is the restoration of tranquillity to the areas of Judea-Samaria and Gaza, and the second is the political resolution of their ultimate status.

Now, the second issue cannot proceed before the first. One cannot proceed to peaceful political negotiations under the threat of Molotov cocktails and bombs and under the threat of violence in general.

(Mr. Netanyahu, Israel)

I do not think any representative here would recommend that his Government do that, and we certainly do not. In fact, any Government in similar circumstances would invoke the rights that accrue to it under international law to maintain the orderly government of the territory under its control, to ensure the security of its armed forces and to keep roads and other lines of communication open. That is the first and foremost duty of any Government, military or civilian, whether we are dealing with territory that is sovereign, disputed, occupied or whatever.

Even the Fourth Geneva Convention, which so many have invoked against us here, is very clear about the matter. I should like to read out the relevant paragraph:

"The Occupying Power may ... subject the population of the occupied territory to provisions which are essential to ... maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them."

What could be clearer? What is Israel doing, if not ensuring orderly government, the security of its forces and, of course, the maintenance of open lines of communication?

We have applied various measures to restore tranquillity. As far as possible we have tried to use non-lethal measures. Our forces are under very strict and difficult orders not to cross certain lines, and when such lines are crossed, as sometimes inadvertently happens, the soldier or officer involved - usually it is both, the soldier and his officer - is immediately investigated and when necessary brought to trial.

We have apprehended a network of professional inciters and organizers of riots. There are those who believe, falsely, that all of the violence is spontaneous. I can assure the Council it is not. The best proof of that is that

(Mr. Netanyahu, Israel)

when we apprehended this system, this network, of inciters and instigators much of the violence dropped - immediately, precipitously.

All of the suspects that we have taken into custody are given due process, with legal representation. If there is evidence against them, they are brought to trial. If there is no evidence, they are released. In fact, today 115 suspects were released in Judea-Samaria, and 207 in Gaza.

In a few hardcore cases Israel has decided on deportation. The nine cases have all been heavily involved in incitement and subversion on behalf of terrorist organizations. All of them, without exception, were chief organizers and instigators of the recent violent public disorders in the territories. Each one of them is affiliated with one extremist organization or another. One is with the PFLP of Habash, three are with extreme fundamentalist Islamic organizations, and the rest are with the Fatah.

They were brought to trial. In the past five had been sentenced to heavy prison terms for their terrorist activities. Two were later released in prisoner exchanges with the Jibril organization, on the condition that they would engage no further in subversion. Of course, immediately following their release they renewed their terrorist activities.

Expulsion has been decided upon as the only means left to halt the activities of those nine agitators in the territories and thereby aid in the restoration of calm.

I have heard references in this Chamber - maybe we shall hear them later in this meeting - to those people as innocent defenceless civilians. I want to tell the Council a little about some of them. I start with Bashir Ahmad Khayri. In 1969 he was sentenced to 15 years' imprisonment for setting off a bomb that killed several people. He was released in 1984, and he has resumed his terrorist activities.

(Mr. Netanyahu, Israel)

My next example is Jibril Mahmud Rajud, who was arrested in 1970 and sentenced to life imprisonment for taking part in a terrorist cell that carried out 10 separate terrorist attacks. It was a terrorist cell, by the way, that possessed large quantities of arms. He was released in May 1985 as part of the Jibril organization exchange, and he immediately resumed his activities. Those are some defenceless civilians! All the rest have a similar record of subversion and terrorism and systematic incitement.

Those people are not left without recourse. They can appeal all the way up to the Supreme Court of Israel. As far as I know, as of this afternoon six of the nine had already started to do so. They all have lawyers; they all have legal recourse.

That right of appeal to the Supreme Court is not part of the Geneva Convention. Let me tell the Council of something that is; the death penalty is part of the Geneva Convention. We choose to allow those people legal recourse, including recourse up to our highest court. But we also choose not to follow the course of the death penalty in these or any other cases. We have tried to find a balance between security needs and humanitarian needs. In these extreme cases we limit ourselves and employ the measure of deportation.

It is said - the draft resolution to be put forward shortly will say - that that is against international law. International law is a rather broad set of documents. Here is one of them: Article 63 of the Hague Regulations of 1907, which says that the governing administration

"shall take all the measures in its power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country."

That is exactly the basis of our action; we follow local laws.

(Mr. Netanyahu, Israel)

Representatives might ask "Which laws?" The British Mandate laws were the first laws in the modern era, in this century. The Defence Emergency Regulations that Great Britain employed in 1945 allowed deportation. That provision was picked up by the Jordanian rule. Not only was it picked up as a regulation, but it was exercised many times, and not only by Jordan, in Judea and Samaria, but by Egypt, in Gaza. We have continued that practice, as is our right under international law.

The interesting thing is that although there were many deportations up to 1967, and there was a Security Council up to 1967, there was never, not once, a convening of the Council to discuss this "flagrant violation of international law". Nor, for that matter, has the Security Council ever been convened to discuss the murder of a Jew - not deportation, but the murder of an Israeli. Not once has that been done, though there have been many such murders. Therefore, there is obviously something flawed here in the way in which the Council is being used on this question.

But I should like to touch upon a larger issue, since the question of international law and international conventions is being solemnly invoked here. There is a very big difference between pledging adherence to a document or an agreement and doing something about it. The most classic demonstration of that difference is as follows. In 1927 the Kellogg-Briand pact was signed by 44 nations, basically by the United Nations of that time. Each one of them solemnly swore to forgo war as an instrument for the resolution of political disputes, and within 10 years every one of the signatories - with perhaps one exception - was up to its neck in the Second World War.

Everybody talks about the Geneva Convention, but nobody does anything about it. The only one that does is my country, Israel. Everybody here pledges recognition of the Convention, but nobody does anything about it. Some - in fact, many - of the countries represented here do not have to do anything about it; they

(Mr. Netanyahu, Israel)

are not even remotely in circumstances that require the application of the Convention. But many others are.

(Mr. Netanyahu, Israel)

If we have to, I shall be happy to get into an itemization of which countries they are. The interesting thing is this. We of course recognize the Convention, but it is doubtful whether it applies to these areas of Judea-Samaria and Gaza in view of the unclear status of these territories under international law.

Nevertheless we have agreed to apply to the areas all the humanitarian provisions of the Convention. And again, to the best of my knowledge - and please correct me if I am wrong; I should be happy to be corrected, but I am sure that if there is such a correction it is a solitary example; I know of none - the Convention has never been formally applied by any State anywhere, and Israel is apparently the only State to have even applied it de facto.

So what we have here is a rather peculiar situation. Here you have a conglomeration of States that invoke the Geneva Convention - many of which reject it in practice - against the only country that effectively applies its humanitarian provisions.

There is one name for what is going on here: a rigged game. It is a double standard; it is one-sided; it is partisan. And we all know it.

The purpose of those who are playing this game, who initiated this game, who are behind this exercise, is not to address or resolve the current problems: it is to exacerbate them. And, while unfairly attacking us, the other countries, which really do not share that objective, do not say a word about the men of the bomb who continue to pursue violence not only as a means but as an end.

So, having started out with the question of means of restoring tranquillity, let me say a brief word about ends. Our ends are peace. But the ends of those who have initiated this exercise are something else.

A few days ago the PLO celebrated the twenty-third anniversary of Fatah. I think the date was 1 January 1965. The interesting thing is that PLO stands for Palestine Liberation Organization. There is an interesting question: on

(Mr. Netanyahu, Israel)

1 January 1965, what were they trying to liberate, for God's sake? They were not trying to liberate Gaza; it was not in Israeli hands. They were not trying to liberate what they call the West Bank; it was not in Israeli hands. What they tried to do - along with Arab régimes that were in alliance with them - was what they said and set out to do, and that was to use those territories as the springboard for the destruction of Israel in any borders. They tried and they failed. And now, using this Council, they say "Get out, so we can get in." The question is, get in for what? For peaceful coexistence? For a resolution of the conflict? No way.

As the PLO repeatedly assures anybody who asks and delves into the matter, their purpose is to use these territories again once we presumably vacate them, to again try to destroy us.

Well, I can assure the Council that Israel will not allow that to happen. Nor will it countenance any attempt to interfere with its legitimate responsibility of maintaining orderly government and security in all the areas under Israel's control, as we see fit.

We shall continue to strive for peaceful coexistence as we restore calm and tranquillity in spite of the Security Council's partisan and unbalanced resolutions.

The PRESIDENT: I thank the representative of Israel for his kind remarks about me.

It is my understanding that the Council is ready to proceed to vote on the draft resolution before it. Unless I hear any objection, I shall put the draft resolution to the vote now.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour: Algeria, Argentina, Brazil, China, France, Germany, Federal Republic of, Italy, Japan, Nepal, Senegal, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia, Zambia

The PRESIDENT: There were 15 votes in favour. The draft resolution has therefore been adopted unanimously as resolution 607 (1988).

I shall now call upon those members of the Council who wish to make statements after the voting.

Mr. OKUN (United States of America): Mr. President, on behalf of Ambassador Walters and myself I should like to express the great satisfaction of the United States delegation at seeing you presiding over the work of the Council. The ties between our two countries are too close and numerous to require mention. We are also aware of your strong personal qualities of leadership, your distinguished record as a diplomat and your dedication to the work of this Council. We pledge you our support and co-operation as you guide our work.

I should also like to express our appreciation for the work of your distinguished predecessor, Ambassador Belanogov of the Soviet Union. We congratulate him on his successful stewardship of the work of the Security Council during the month of December. We all benefited from his wise counsel, unflinching courtesy and effective leadership during the previous month.

Permit me also to welcome the new members of the Council - Algeria, Brazil, Nepal, Senegal and Yugoslavia. The United States delegation looks forward to working with them, as well as with the other members of the Council, and is confident that working together we shall succeed in performing the tasks entrusted to us.

(Mr. Okun, United States)

Over the last month the United States Government has followed with deep concern the outbreak of violence in the West Bank and the Gaza Strip. The United States recognizes that Israeli authorities have the responsibility to maintain order in the occupied territories and have the right to insist that the law is obeyed. But, as officials of the United States have said both publicly and in diplomatic representations, the actions of the occupying power must be in accordance with international law and practice.

On 3 January the Israeli Government announced its intention to deport nine Palestinian civilians it has identified as leaders of the recent or other disturbances. The view of the United States is that deportation of individuals from the occupied territories is a violation of Article 49 of the Fourth Geneva Convention, which prohibits individual or mass forcible transfers "regardless of their motive". The United States further believes that such harsh measures are unnecessary to maintain order. They also serve to increase tension rather than contribute to the creation of a political atmosphere conducive to reconciliation and negotiation. We therefore voted for the resolution, which calls upon Israel to refrain from carrying out the envisaged deportations.

(Mr. Okun, United States)

The United States hopes that this matter will be reconsidered by the Government of Israel. As we have stated in the past, the United States regards the phrase

"Palestinian and other Arab territories occupied by Israel in 1967, including Jerusalem" (resolution 607 (1988), para. 1),

which appears in this resolution, as being merely demographically and geographically descriptive and not indicative of sovereignty.

The PRESIDENT: I thank the representative of the United States for his unduly kind words about me. May I deserve them.

The representative of the Palestine Liberation Organization wishes to speak, and I now call on him.

Mr. TERZI (Palestine Liberation Organization): At the outset, let me express to you, Sir, our pleasure at seeing you presiding over the Council's deliberations - particularly since, on this first leg of your exercise of the presidency, you have succeeded in getting a full score, a unanimous resolution. I would say that you should be thanked for this and that your expertise should be fully recognized and appreciated.

We wish also to extend a welcome to the representatives who are assuming their responsibility as representatives of their countries in the Security Council for the coming two years.

We should like, too, to thank the representative of the Soviet Union, Ambassador Belonogov, for his efforts during the month of December.

The Security Council has now reiterated a position that is in full conformity with its obligations. We look forward to Israel's complying with the Council's resolution and refraining from deporting any Palestinian civilians from the

(Mr. Terzi, Palestine
Liberation Organization)

occupied territories. Of course, we hope that we shall not be obliged to come back to the Security Council in a very short time to bring before it the issue of real action taken by Israel to deport or expel Palestinians from their homes.

Israel is bound and committed, I would say, to the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949. Article 49 thereof reads as follows, in part:

"Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive."

So there is no ambiguity, no vagueness, there.

Thus, the Geneva Convention imposes upon the occupying Power, Israel, some obligations. The Convention not only gives it rights, but imposes obligations upon it. One of those obligations is that the occupying Power is prohibited from deporting any of the protected persons from the occupied territory.

We had expected that Israel would not heed or respect Security Council resolution 605 (1987), which was adopted on 22 December 1987. Let me recall that the representative of Israel said this to the Council at that time:

"Israel therefore objects to this draft resolution in its entirety"

(S/PV.2777, p. 6)

So Israel had let it be known that it would not respect the decision by the Security Council.

Reference has been made to some legal recourses. One would think that the basis for any legal recourses must be found in the Fourth Geneva Convention. Now, article 47 of the Convention states:

(Mr. Terzi, Palestine
Liberation Organization)

"Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory".

Hence, article 47 of the Geneva Convention makes very clear the obligations of the occupying Power.

It has been stated that the occupying Power is enforcing the laws that existed in the country before occupation. Now, those laws were enacted before 1949. Reference has been made here to the Defence Emergency Regulations of 1945 - four years before the Fourth Geneva Convention was adopted - which were applied by the mandatory Power against Zionist terrorists who were killing allied troops by hanging them from trees and had blown up the headquarters of the Civil Administration in Palestine. In those circumstances, the mandatory Power decided to promulgate and introduce the Defence Emergency Regulations. But that was a mandatory Government, not an occupying Power. And may I recall here that a distinguished Palestinian Jew who was a member of the Supreme Court of Palestine described those Regulations as being worse than the laws imposed by the Nazis under their regulations. Apparently, the neo-Nazis who are in Tel Aviv now are re-adapting those laws and saying, "This is the law of the country". But that is nonsense.

(Mr. Terzi, Palestine
Liberation Organization)

The Security Council has been told that it has never before dealt with the issue of deportation or expulsion. I would only recall that the Council indeed addressed itself to this issue in resolution 468 (1980), adopted on 8 May 1980, and resolution 484 (1980), adopted on 19 December 1980. It is therefore nothing new for the Council to assume the responsibility of addressing itself to the issue of deportation.

In regard to criminal acts, I would say that there is nothing worse than acts committed by means of State terrorism. Here, I would refer to Security Council resolution 471 (1980), adopted on 5 June 1980, in which the Council condemned

"the assassination attempts against the Mayors of Nablus, Ramallah and Al Bireh"

and called for

"the immediate apprehension and prosecution of the perpetrators of these crimes". (resolution 471 (1980), para. 1)

Unfortunately, the perpetrators of those crimes were active members of the occupying Power. They were apprehended, but we do not know what legal process was applied to those criminals.

A statement was just made here in the form of a threat - namely, that Israel would apply the means "as we see fit" (supra, p. 17) in the areas under Israeli control. We believe that this statement makes us confront not the eventuality but the fact that Israel will persist in its iron-fist policy, in its complete disregard of its obligations under the Geneva Convention. What is at stake at this moment is the fate of nine Palestinians, whose names are - and I am afraid I must

(Mr. Terzi, Palestine
Liberation Organization)

read them out: Hassan Mohammad Khader, from Nablus; Baheer Al Khayri, from Ramallah; Jibreel Al Rajoub, from Dura/Hebron; Adel Hamed, from Qalandiah; Jamal Muhammad Jebara, from Qalqilya; Muhammad Samarah, from Gaza; Hasan Muhammad Al Shaqra, from Khan Yunis; Freij Muhammad Al Khayri, from Gaza; and Khalil Al Toga, from Gaza.

(Mr. Terzi, Palestine
Liberation Organization)

We believe that the Council, after having adopted this resolution unanimously, will see to it that the fate and destination of those nine Palestinians will be guaranteed and that they will not be deported from the territories to anywhere else. If the Israeli courts can bring them to trial for any specific crime, then of course we will not interfere with the process of justice - if justice can really be done under occupation.

However, again - and finally - do we really have to come to the Council every time there is a violation, every time there is brutality, or does the Council really feel that it is in duty-bound to consider addressing the causes of the problem? The Council has before it from the General Assembly a plan for a comprehensive peace approach under United Nations auspices. Why cannot the Council really assume the responsibility of addressing that issue?

The PRESIDENT: I thank the Permanent Observer of the Palestine Liberation Organization for his kind words to me.

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on the agenda.

The meeting rose at 7.10 p.m.