

RESTRICTED
SR/214
1 May 1951
ORIGINAL: ENGLISH

SUMMARY RECORD OF THE TWO HUNDRED AND FOURTEENTH MEETING

held at Government House, Jerusalem,
on Tuesday 1 May 1951, at 4 p.m.

Present:

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| Mr. Palmer | (United States) | - Chairman |
| Mr. de Boisanger | (France) | |
| Mr. Aras | (Turkey) | |
| Mr. de Azcarate | | - Principal Secretary |

Telegram from the Secretary-General

The CHAIRMAN opened the meeting by reading a telegram which he had received from the Secretary-General following his visit to Government House, in which Mr. Lie expressed his good wishes for the success of the Commission's work and his thanks for the hospitality extended to him and Mrs. Lie.

It was decided that the Chairman should send an appropriate reply to the Secretary-General's telegram.

Note from the Egyptian Government dated 19 April 1951 concerning blocked accounts (AR/43)

The PRINCIPAL SECRETARY informed the Commission that, in view of the fact that the manner in which the question of blocked accounts was presented in the Egyptian Note could not be regarded as accurate or unbiased, the Secretariat was preparing some comments on the Note for the information of the members of the Commission.

It was agreed that these comments would be considered by the Commission at a later meeting.

Definition of the term "refugee" under the General Assembly resolution of 11 December 1948 (W/61)

After an exchange of views, it was agreed that a general discussion should take place regarding the definition of a "refugee", following which the legal adviser would be able to reply to any questions raised.

Mr. de BOISANGER (France) wished to ask the legal adviser why so much importance was attached in his draft to the question of ethnical origin. The General Assembly resolution of 11 December 1948 placed no such restriction on the term "refugee", and he wondered why a certain ethnical origin should be considered a condition to being a refugee.

Mr. ARAS (Turkey) said that the mass of refugees of Palestinian nationality who had left Palestine could be divided into two main categories: those of Arab origin and those of non-Arab origin. Some refugees in the latter category might not wish to resettle in Arab countries. Some of them would perhaps take a new nationality, as they were free to do in view of the fact that their former country of nationality - Palestine under British Mandate - had ceased to exist.

The Commission would have to decide whether those persons of non-Arab origin were to be included in the general definition of refugees. If it decided against such inclusion, some special procedure would have to be established for dealing with their claims for compensation for abandoned property. The Commission might perhaps suggest to the Government of Israel that they be treated in the same way as other refugees with respect to compensation payments. Alternatively, in the case of those who had applied for a new nationality, the Governments of their countries of nationality might discuss with the Government of Israel the settlement of their compensation claims.

Mr. Aras wished to mention another point, to which Mr. Ammoun, Director-General of the Ministry for Foreign Affairs of Lebanon, had drawn his attention recently. A number of the refugees had never had Palestinian nationality; although normally resident in Palestine they had been citizens of Lebanon, Syria, Egypt, etc., and therefore could not be defined as refugees as when they fled from Palestine they had merely returned to their countries of nationality. Mr. Ammoun had suggested that this category of absentees would be treated in the same way as other refugees for purposes of compensation payment. Mr. Aras had

assured Mr. Ammoun that he would draw the Commission's attention to this point, but had explained that the Commission was bound by its instructions from the General Assembly. He had expressed his personal opinion that the property of those refugees who were citizens of one of the Arab States should be the subject of negotiations between Israel and their own Government at the time of a peace treaty.

Mr. Aras wondered whether the Commission might not eventually wish to request instructions from the Assembly in connection with that category of refugees, as he felt that the problem was an important one, involving quite a considerable number of people, and would constitute an obstacle in the way of the Commission's efforts to achieve peace if it were left unsolved.

The CHAIRMAN, speaking with reference to the second point raised by Mr. Aras, thought that the term "absentee" was perhaps a more suitable one for the purpose of defining a person entitled to compensation. In his opinion, the definition of a refugee, when considered as a person towards whom the Commission had a special obligation in relation to compensation, might well extend beyond persons of Palestinian nationality. Otherwise the whole concept of evaluation would have to be revised, as some of the largest refugee property owners were not of Palestinian nationality. The Chairman felt that if the Commission wished to establish a definition of a refugee which could apply for purposes of both repatriation and compensation, it would have to study the question extremely carefully.

Finally, the Chairman pointed out that in the resolution of 11 December 1948 there was no reference to either nationality or ethnical origin.

Mr. de BOISANGER (France) wished to ask the legal adviser to clarify two points. In the first place, he referred to the last paragraph of page 4 of document W/61 concerning persons (numbering 21,555) of Palestinian citizenship who were neither Jews nor Arabs but of various other origins, and who, according to that document, could not be considered as refugees. If those persons were permitted by the Government of Israel to return to their homes, they would present no problem. On the other hand, if the Government of Israel would not allow them to return, the Commission could not refuse to include them in its compensation arrangements, especially as no other Government could protect them.

Another point which Mr. de Boisanger thought required clarification was the reference in the same paragraph of document W/61 to the provisions of the General Assembly resolution of 29 November 1947 concerning minority rights in the Jewish State. He wished to know in what measure that resolution could be considered to be still in force, and to what extent refugees could avail themselves of the protection afforded to minorities under its terms.

At the request of the Chairman, Mr. ERIM (Legal Adviser) replied to the questions raised by the members of the Commission, which he thought could be summarized as referring to (i) the criterion of ethnical origin; (ii) nationality; and (iii) the validity of the General Assembly resolution of 29 November 1947.

As a preliminary remark, the legal adviser stated that the Commission was endeavouring to decide which of the persons who had left Palestine had a right to the protection of the Conciliation Commission under the provisions of paragraph 11 of the resolution of 11 December 1948 and under the resolution of 14 December 1950 - that is, those who had a right to repatriation or, alternatively, a right to be compensated for property abandoned in Israel.

With reference to the first point raised - that of ethnical origin - he pointed out that the origin of the problem had been a political conflict between Jews and Arabs, that is, a conflict between two races. At the time when the resolution of 29 November 1947 was passed there were no refugees. It was only as a result of the political conflict and the hostilities which ensued that the problem of the refugees arose. If that resolution and other United Nations resolutions, of the General Assembly and the Security Council, were examined in the context of the political conflict between Jews and Arabs in Palestine, it would appear that the refugees were above all of a definite ethnical origin, i.e. of Arab origin. Another conclusion was that non-Arab absentees of Palestinian nationality could not be regarded as refugees. It was true that the General Assembly resolution of 11 December 1948 did not specifically refer to any ethnical origin in connection with refugees. That, however, was not necessary. The Commission should take into consideration all relevant aspects which might affect eligibility for compensation as provided by paragraph 11 of the same resolution. He stressed in this connection that in most of the previous international conventions relating to refugees, ethnical origin had been a primary factor in the determination of a refugee.

The legal adviser then referred to the second point raised, that of nationality. In the first place, those persons who had been

residing in Palestine and who possessed another nationality prior to 29 November 1947 could not be considered as refugees, even if some of them were now living in refugee camps. It was for the governments of their countries of nationality to undertake their protection.

With respect to the 21,555 non-Arabs of Palestinian nationality referred to in the last paragraph of page 4 of document W/61, those persons might be of Greek, Turkish or Armenian origin and have no ethnical affinity with the Arabs themselves. Therefore, although they might today be living in refugee camps, they were not "réfugiés" in the sense of the resolutions of the General Assembly. The Commission was not responsible for the protection of all ethnical minorities, which were adequately covered by the provisions of the resolution of 29 November 1947. Moreover, the Arab States might not have the same interest in refugees who were not of Arab origin.

In connection with the third question to which the legal adviser wished to refer - that of the validity of the General Assembly resolution of 29 November 1947 - it was his opinion that the resolution was still in force, in so far as its provisions had not been modified by subsequent resolutions, and therefore the clauses of that resolution which related to the protection of minorities might be considered as still valid.

Mr. ARAS (Turkey) subscribed to the suggested definition as a whole, with the reservation that the Commission could not refuse its protection to the 21,555 non-Arabs of Palestinian citizenship referred to above, unless some other solution were found for that category of absentees.

Mr. de BOISANGER (France) was not convinced that it was appropriate to apply the criterion of ethnical origin in establishing the definition of a refugee. The question of ethnical origin was an extremely delicate one, and he felt it should not be invoked unless absolutely necessary. He doubted whether it would be possible at all times and in all cases to establish ethnical origin without any doubt. It seemed to him to be highly desirable for the Commission first to be informed as to the manner in which the Israel Government regarded refugees of non-Arab origin. For those reasons Mr. de Boisanger wished to reserve his position on this point.

The CHAIRMAN also wished to reserve his opinion until he had had an opportunity to give further study to the question. What the Commission was trying to determine was which of the people now outside the State of Israel and who formerly resided in that territory were entitled to United Nations protection, both with regard to repatriation and with regard to compensation, and he felt that no hasty decision could be reached in view of the exceptionally complex nature of the problem.

It was therefore agreed to postpone further examination of this question until after the arrival of Mr. Andersen.

Consideration of document W/62 concerning blocked accounts

It was decided to postpone consideration of this document until a later meeting, when it might be discussed together with the Secretariat's comments on the Egyptian Note dealing with the same question.

The meeting rose at 6 p.m.
