

UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE
GENERAL COMMITTEE

RECORDS
INDEX UNIT

13 DEC 1950

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COM/GEN/16

22 June 1950

ENGLISH

Original: FRENCH

Analysis
of paragraphs 4, 5 and 6
of the General Assembly's Resolution
of 11 December 1948

The General Assembly ...

"4) REQUESTS the Commission to begin its functions at once, with a view to the establishment of contact between the parties themselves and the Commission at the earliest possible date;

"5) CALLS UPON the Governments and authorities concerned to extend the scope of the negotiations provided for in the Security Council's Resolution of 16 November 1948 and to seek agreements by negotiations conducted either with the Conciliation Commission or directly with a view to the final settlement of all questions outstanding between them;

"6) INSTRUCTS the Conciliation Commission to take steps to assist the Governments and authorities concerned to achieve a final settlement of all questions outstanding between them".

The objective of these paragraphs is to define the Conciliation Commission's task within the framework of the Palestine problem.

This task consists in helping the Governments concerned to reach a final settlement of all questions outstanding between them.

- "... final settlement". These words indicate the Assembly's wish to see a permanent settlement substituted for a temporary stage such as an armistice agreement. The state of final peace could be reached:

- either through a formal agreement signed by the parties;
- or via a de facto situation expressing such understanding.

In this connection, it is interesting to recall the statement made by the United Kingdom representative during the debate which preceded the adoption of the resolution:

"A formal act of agreement was not the only way in which the principle of consent could find expression. In the present situation in Palestine, where high feeling had been aroused on both sides and direct relations between the leaders were precarious, if not impossible, the possibility should not be overlooked that a settlement might be arrived, based upon the passive acquiescence, rather than upon the active participation of the parties involved".

- "of all questions". This phrase completes the foregoing provisions. The settlement mentioned by the Assembly's resolution concerns the whole of the Palestine problem. Negotiations will have to be conducted with a view to reaching a general agreement, while the parties remain at liberty to determine the order in which they will discuss matters at issue.

Consequently, the Commission could not, even if asked to do so by one of the parties, limit its mediating activity to the search for an agreement on one specific point only.

- "outstanding between them". The questions here to be solved are those still outstanding between one Government and another and not those outstanding between Israel on the one hand and all the Arab States of the other. This interpretation is confirmed by the fact that armistice negotiations were later conducted separately by Israel and each of the Arab States.

The Conciliation Commission's actual task

According to the terms of paragraph 6 of the resolution, the Commission is instructed to assist the Government concerned to achieve a final settlement. The Commission is not an executive body; it is vested with no power enabling it to enforce a solution. It must facilitate contacts, promote the inauguration of negotiations and suggest solutions, but its mission is to assist, not to arbitrate.

This mission has various aspects:

- According to paragraph 4 of the Resolution, the Commission must, first of all, establish contact with the parties and facilitate the establishment

of contact between the parties themselves. These contacts may vary in character. Between the Commission and the parties, contacts must be direct, since there is no available intermediary, but it may be either personal or by correspondence. In the case of the parties themselves, contact may be established either directly or indirectly through the intermediary of the Commission.

- The main task of the Commission is nevertheless to facilitate the achieving of an agreement and that agreement, under paragraph 4 of the resolution, should be the outcome of negotiations, which may be of two kinds: direct or with the Commission.

a) Direct negotiations are those which the parties conduct themselves, without the presence of the Commission and without its participation, whether the Commission has promoted them or not.

b) Negotiations with the Commission are those in which the Commission co-operates with the parties in the search for a solution. This would include negotiations between the parties themselves in the presence of the Commission.

The debates which preceded the adoption of the resolution show that the first draft of paragraph 5 contained the phrase "negotiations conducted through the Conciliation Commission". That phrase was of a restrictive nature; it limited the Commission's role to that of an intermediary entrusted with assuring a sort of liaison between the parties. The substitution of "with" for the above-mentioned phrase, judging from explanations given during the debate on this point and more particularly from the statement of the Canadian delegate, indicates that the Assembly's intention was to extend the Commission's role within the framework of its mission, and to give it considerable latitude in the choice of ways and means to reach a final settlement of the whole problem,

- whether the Commission promotes the inauguration of negotiations and limits itself to presiding over them;
- whether it takes part in the negotiations by suggesting a solution or even by submitting a proposal;

- whether it adopts any other method which it will deem more helpful.

This active part to be taken by the Commission is embodied in paragraph 6 of the resolution, which instructs the Commission "to take steps to assist the Governments to achieve a final settlement".

Commenting upon that phrase, Mr. PEARSON (Canada) stated at the meeting of Committee 1 on 3 December 1948: "The insertion of the words 'to take steps' gives the Commission the right to take the initiative without waiting to be asked for help".

The British representative expressed himself in the same sense when, at the plenary meeting on 11 December, he expressed the wish that the Conciliation Commission should be free to use all powers of persuasion at its disposal to obtain the consent of Jews and Arabs to any form of settlement which would seem reasonable and opportune to the members of the Commission. Mr. McNEIL added that "the United Kingdom Government would welcome and encourage any hope which might appear of direct negotiations conducted under the auspices of the Conciliation Commission."

From these remarks, it appears that the intention of the General Assembly was to give the Commission the greatest possible latitude in the choice of a method which would bring Arabs and Israelis to a final settlement in case direct negotiations between the parties did not bring forth an agreement.