

**United Nations  
GENERAL  
ASSEMBLY**

SEVENTEENTH SESSION

Official Records

**SPECIAL POLITICAL COMMITTEE, 373rd  
MEETING**



Monday, 17 December 1962,  
at 11 a.m.

**NEW YORK**

CONTENTS

	Page
<i>Agenda item 31:</i>	
<i>Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (continued) . . . . .</i>	257

**Chairman:** Mr. Leopoldo BENITES (Ecuador).

AGENDA ITEM 31

**Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (A/5136, A/5214, A/5337; A/SPC/74, A/SPC/L.89 and Add.1, A/SPC/L.90, A/SPC/L.91) (continued)**

1. The CHAIRMAN announced that the general debate on the item had been completed and that speakers should henceforth confine their remarks to the draft resolutions (A/SPC/L.89 and Add.1, A/SPC/L.90, L.91). He did not wish to apply rule 116 too rigidly, and therefore asked members of the Committee to limit their replies to five minutes in view of the very short time available.

2. Mr. RIFA'I (Jordan) thanked the Chairman for his tolerance and understanding during the discussion of such an important international matter. The situation was only one factor in the whole question of Palestine. The draft resolutions before the Committee should be viewed with that in mind.

3. The proposed draft resolution A/SPC/L.89 and Add.1 amounted—intentionally or unintentionally—to annulling the sixty-eight resolutions that had been adopted so far on the question of Palestine. According to the operative paragraph, the negotiations were for the purpose of finding a solution "acceptable to all the parties concerned", which meant that the Governments concerned would have to seek an entirely new solution. The draft required the Arabs to recognize Israel as a legal party for the purpose of negotiations and gave Israel the authority to accept or reject any solution proposed. Another point to consider was the relevance of the draft resolution to the item under discussion. While the speakers in the debate had necessarily had to trace the origins of the refugee situation, there had been no mention of the territorial side of the Palestine question or similar matters. The item, it would be recalled, was entitled "Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East". How then, could the draft resolution propose the settlement of "all the questions in dispute", when those questions were not at present under consideration. One question was the diversion of the waters of the River Jordan, but it

had nothing to do with the rights of the refugees, which should take precedence over all other matters.

4. No resolutions previously adopted had made those rights conditional upon the conclusion of peace between the parties concerned or any other settlement. Besides, by some strange process of reasoning, the draft resolution suggested that even the establishment of peace between the Arab States and Israel would not solve the refugee question but would merely "do much to facilitate a solution". It would have been more appropriate to indicate that the solution of the problem of the refugees would be a step towards a peaceful settlement. That had been the approach adopted in resolution 212 (III). Moreover, the United Nations Conciliation Commission for Palestine itself had not accepted the Israel argument that to give effect to the rights of the refugees would require the solution and clarification of related problems. In its fifteenth progress report<sup>1/</sup> the Commission had expressed disagreement and disappointment with Israel's attitude. The rights of the refugees were, therefore, not negotiable and it was hardly conceivable that Members of the United Nations could accept Israel as a principal authority in negotiating those rights in any case. To adopt such a procedure would be tantamount to placing the criminal in the position of the judge. Through the greatest act of injustice ever inflicted on a nation, the people of Palestine had lost their country and their livelihood. In essence, the question of Palestine was a dispute between the Arabs and the Jews of Palestine and there was no record in the annals of the United Nations of a dispute between the Arab States and Israel, as the draft resolution seemed to suggest.

5. It was also hard to see what was to be negotiated and on what basis. Israel would hardly agree to negotiate on the basis that it did not exist as a State and that it had no right to exist on Arab soil. The Arabs, on the other hand, refused to recognize the legal existence of Israel and maintained that the Arab inhabitants of Palestine, which were the rightful owners, should return to their homes. The Israelis considered that Jews from all over the world should live in Palestine. While the Arabs considered the creation of Israel contrary to all principles of justice, right and democracy, the Israelis contended that they had been promised that land, once by God and again by Lord Balfour in his Declaration.<sup>2/</sup> There was thus no basis on which to conduct the proposed negotiations, and to force the Arabs to negotiate was both unrealistic and insulting.

6. Draft resolution A/SPC/L.90, on the other hand, asked for the minimum requirement for giving effect to the rights of the refugees, and its sponsors were

<sup>1/</sup> See Official Records of the General Assembly, Eleventh Session, Annexes, agenda item 23, document A/3199.

<sup>2/</sup> Ibid., Second Session, Supplement No. 11, vol. II, annex 19.

to be commended for their determined stand in defence of justice. The so-called rules and regulations enacted to ensure Israel's expropriation of the refugees' property had been nothing but a means of facilitating usurpation. Moreover, such measures violated the provisions of resolution 181 (II) on partition, which stated that the stipulations in the declaration were recognized as fundamental laws of the State, and that no regulation or official action should conflict or interfere with them or prevail over them. Needless to say, the protection of the property and interests of the refugees had been constantly sought by the Assembly in its decisions on the question and particularly in resolution 394 (V). The appointment of a custodian was therefore an urgent necessity.

7. The third draft resolution, A/SPC/L.91, represented a serious retreat in the efforts towards a just and peaceful solution of the question. Moreover, it appeared totally to disregard the views of the Arab delegations concerning the need to carry out the provisions of operative paragraph 11 of resolution 194 (III). Contrary to the assertion of the United States representative at the 371st meeting, the draft was not a straightforward and realistic proposal best suited to the needs of the present situation.

8. In the first place, it was the first draft resolution of its kind that omitted any expression of regret for the failure to carry out paragraph 11 of resolution 194 (III). That omission suggested that the United States delegation no longer considered the situation of the refugees sufficiently serious to warrant a mention. In the second place, the draft resolution, instead of noting with regret the failure of the Conciliation Commission to achieve any progress, actually expressed thanks to that body and asked it to continue its endeavours. The delegation of Jordan could not subscribe to those sentiments, particularly as a just solution was already to hand and simply needed to be carried out.

9. The delegation of Jordan therefore, could not support operative paragraph 2 of draft resolution A/SPC/L.91. The same considerations applied to operative paragraph 3, since it was directly related to the preceding paragraph. In order to show a true spirit of co-operation, however, the delegation of Jordan was prepared to state that it would agree unconditionally to the application of paragraph 11 of resolution 194 (III). It would be glad if the other party agreed to do the same and if that acceptance could be reflected in a draft resolution so that the Assembly could determine who was genuinely concerned for justice and anxious to co-operate. His delegation was fully prepared to support the remaining operative paragraphs of the resolution but would request a separate vote on operative paragraphs 2 and 3, unless they were amended.

10. In conclusion, he appealed to the conscience and wisdom of delegates in considering the three draft resolutions. To oppose the proposal for protecting the property rights of the refugees would deprive a whole exiled people of their rightful possessions. To support the proposal for direct negotiations, on the other hand, would be an unrealistic gesture hostile to the Arab world. It was therefore to be hoped that draft resolution A/SPC/L.89 and Add.1 would be withdrawn.

11. Mr. HOOD (Australia) said that in considering the various draft resolutions before the Committee, his delegation was concerned less with taking sides

than with ensuring proper presentation of the interest of the United Nations in the matter. The three draft resolutions all reflected to some extent the wide-ranging debate that had taken place. However any draft submitted must inevitably reflect specific aspects of the debate rather than the debate as a whole. The proposals should be viewed in the light of two basic documents—the report (A/5214) of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and that of the Conciliation Commission (A/5337).

12. Viewed from that angle, the proposals contained in the United States draft (A/SPC/L.91) were appropriate and realistic. They were in keeping with the Organization's obligations at the present time and took due cognizance of the Commissioner-General's report and the efforts made by the Conciliation Commission. Australia, which intended once again to contribute to UNRWA, appreciated the need for further contributions and for an extension of the Agency's mandate. The proposed two-year period should enable the Commissioner-General to carry out the specific programmes that he had outlined in his report. Moreover, in view of the Commissioner-General's own comment that time and effort were needed in order to solve the problem of the refugees, it was appropriate to request the Conciliation Commission to continue its endeavours, as provided in operative paragraph 2. Naturally, however, it should be understood that such endeavours should be pursued within the scope of all previous General Assembly resolutions on the subject. There were surely no sinister implications to be read into operative paragraph 3, since the need for staff and facilities was implicit in the request that the Commission should continue its efforts. Australia would therefore be able to support that draft resolution.

13. The proposal contained in draft resolution A/SPC/L.90 was by no means new and gave rise to the same objections as in the past. In the first place, it did not fit into the previous General Assembly resolutions, which contained adequate provisions for the protection of Arab property in conformity with the legal situation in the State of Israel and the authority of the United Nations in the matter. Lists of property and assets had been drawn up by the Conciliation Commission in keeping with those provisions, and the General Assembly had duly expressed its appreciation for those measures. It was therefore hard to see the need for appointing a United Nations custodian. Moreover, such a proposal amounted to casting doubt on the sovereignty of a State. Up to the present time the United Nations had done all in its power to protect the property of the refugees, and any further action should be in the form of applying the relevant Assembly resolutions. The Australian delegation considered the proposal in draft resolution A/SPC/L.90 both redundant and improper, and would accordingly vote against it.

14. The proposals in draft resolution A/SPC/L.89 and Add.1 were also very similar to a proposal that had been made at the previous session.<sup>3/</sup> The draft did not relate sufficiently to the specific matter confronting the Committee, and although in some respects it amounted to an over-simplification, in others it went too far. The appeal contained in the

<sup>3/</sup> *Ibid.*, Sixteenth Session, Annexes, agenda item 25, document A/SPC/L.80.

operative part would result in little practical assistance, and it was unlikely that it would be heeded by all parties concerned. The Committee's real task was to indicate what practical steps the United Nations could take to help the refugees. As the proposal injected a new element into the business of the Committee and was unlikely to achieve results, the Australian delegation would be unable to support it.

15. Mr. ADEBO (Nigeria) said that his country shared the concern expressed with regard to the danger to world peace and security caused by the state of tension existing between Israel and the Arab States and had concluded that the United Nations must redouble its efforts to find a satisfactory solution to the dispute in order to avoid an explosion in the Middle East which might develop into a world conflict. The previous efforts to find a solution had been inadequate because emotions had reached such a pitch on both sides that it was difficult for the parties to assess suggestions objectively and with the prevailing atmosphere all efforts to settle the issue would be in vain.

16. In the circumstances, the appeal in draft resolution A/SPC/L.89 and Add.1, though inspired by the worthiest of motives, was inopportune and his delegation would vote against it. It was obvious that direct negotiations were impractical in view of the extreme attitudes taken by the parties. Some practical suggestions for a solution had, however, emerged from the debate, but in the prevailing atmosphere there was little chance that they would be given dispassionate consideration. For that reason, his delegation would suggest a period of "cease-fire", in which the parties would refrain from exchanging charges and counter-charges and all countries of goodwill which were not involved in the dispute would bring pressure on them to create an atmosphere in which proposals could be given an objective hearing. His country was willing to co-operate to the fullest in bringing about a respite from the wrangling and to facilitate an earnest search for a solution, which might be acceptable to the parties.

17. His delegation would support draft resolution A/SPC/L.91 because it was not incompatible with its view of what a comprehensive settlement should be and it maintained the status quo.

18. Mr. COMAY (Israel) said that, before turning to the draft resolutions before the Committee, he wished to answer the charges made during the general debate that Brother Daniel had been a victim of racial and religious persecution in Israel. According to a press interview which had appeared on 16 December 1962 in The Jerusalem Post, Brother Daniel had said that he considered that his trial had been scrupulously fair and had been surprised to learn that Israel had been attacked as a racist State. Brother Daniel had said that his rights as a future subject of Israel had not been affected by the outcome of his case, that any exploitation of that case was totally unwarranted, and that he would remain in Israel unless his Order transferred him elsewhere, which he did not expect.

19. The sponsors of draft resolution A/SPC/L.89 and Add.1 maintained friendly relations with both sides in the Arab-Israel conflict, refrained from supporting one against the other and appealed to them to settle their differences by peaceful negotiation, but the sponsors of draft resolution A/SPC/L.90 maintained relations only with the Arab States and supported Arab policies against Israel. Since they

refused to recognize the State of Israel, it was only logical that they would submit a proposal that would strike at its sovereignty. Their draft resolution, therefore, was a partisan proposal by countries which had made themselves partisans in the Arab-Israel conflict. That fact threw light on the nature of the proposal itself. That proposal was, however, a United Nations draft resolution, and Israel was a sovereign Member State of the United Nations. The sponsors had been unable to find any justification for their proposal in the Charter, or in the precedents or resolutions of the United Nations, and had therefore tried to manufacture a justification. In the preambular paragraph of the draft resolution, therefore, they had misquoted operative paragraph 2, sub-paragraph (c), of resolution 394 (V), which had said, not that the United Nations Conciliation Commission for Palestine had been directed to take measures for the protection of the rights, property and interests of the Palestine Arab refugees, but that the Commission should continue consultations with the parties concerned regarding measures for the protection of the rights, property and interests of the refugees. Operative paragraph 2, sub-paragraph (c), of resolution 394 (V) therefore clearly meant that there must be consultations between the Conciliation Commission and the Government of Israel, and such consultations had in fact taken place. According to the revised version used in the draft resolution, the Conciliation Commission would no longer be required to consult with anyone but would simply take measures on its own accord. That effort to twist the sense of a paragraph in a previous resolution revealed the hollowness of the whole proposal, for without that misquotation the draft resolution fell to the ground.

20. Another curious and revealing feature of the draft resolution was that there was no connexion between its preamble and its operative part, which deliberately avoided even mentioning the Conciliation Commission. The reason was obvious: the task of the Conciliation Commission was to conciliate; it must therefore consult the Governments directly concerned and try to facilitate agreement between them. To overcome that difficulty, therefore, the sponsors of the proposal had simply omitted any mention of the Commission in the operative paragraphs and instead asked the Secretary-General to appoint a custodian, who would report directly to the General Assembly. But if the Conciliation Commission could not ignore Israel's sovereignty, neither could the Secretary-General, nor an official appointed by him, nor the General Assembly itself. Although the draft resolution might seem to be short and innocent, it was in fact carefully designed to gloss over the principle of sovereignty, which was the very cornerstone of the United Nations Charter. If the United Nations could not send an official to take over and administer property within any of the other 109 Member States, it could not do so within Israel.

21. Faced with that fact, the Arab spokesmen had been driven to propound a weird doctrine: that Israel's sovereignty was limited, qualified or restricted in some special way which did not apply to the other Members of the United Nations. Article 2 of the Charter gave a flat and uncompromising reply to that doctrine. The Arab representatives based that extraordinary theory on three arguments, each devoid of substance. The first was the misquoted paragraph from resolution 394 (V). The second was that, under resolution 181 (II) on partition, the Jewish and Arab

States would have made reciprocal declarations undertaking to limit to public purposes the expropriation of lands owned by an Arab in the Jewish State or by a Jew in the Arab States. It was clear from the context that that provision was meant as a reciprocal guarantee for minority rights in both States and would have had no relevance to land abandoned and left derelict by residents of the Palestine Mandate who had left the territory of the future State of Israel and had never become citizens of that State. That declaration, however, had never come into existence because events had taken quite another turn. The Arabs had rejected resolution 181 (II) *in toto*, had declared it illegal and invalid and had tried to frustrate it by force. The Palestine Arab State which was to have made the reciprocal declaration had never come into existence. In the areas of western Palestine which had been taken over by Jordan in 1948, all the Jewish inhabitants had been removed and their property confiscated without any compensation whatever. The State of Israel had been proclaimed and admitted to membership in the United Nations without any restrictions on its sovereignty other than those imposed by the Charter. In the light of the Arab refusal to recognize the legality of the resolution and their refusal to implement it, the reasons for the reciprocal declaration had ceased to be relevant. It was ironical that Arab spokesmen should now try to invoke a sentence in a resolution which they had denounced as invalid. Israel's sovereign prerogatives with regard to property legislation within its territory could not be qualified by any non-existent declaration.

22. The third argument was that Israel was not entitled to deal with property within its territory because of the General Armistice Agreements it had signed with the neighbouring States in 1949,<sup>4/</sup> but those Agreements had not referred to property, did concern Israel's jurisdiction over its internal affairs and were therefore of no relevance to the present question.

23. The fact was that Israel's position was no different from that of any other State and its rights to legislate on property were like those of any other State, governed by three general principles of law: first, that property rights within the borders of a sovereign State were exclusively subject to the municipal laws of that State and that the right of the State to regulate and dispose of property within its territory was beyond question; secondly, that the United Nations had no competence to intervene in the regulation of property rights under the laws of any State; and thirdly, the situation was not altered by the fact that the individual claimants in question happened to be refugees. Individual States had, for various reasons, taken over private property with or without compensation, yet no international body had ever claimed the right to take possession of such property against the will of the State involved and there had never been a case of an international property custodian. If that were not the case, the United Nations would find itself in an impossible situation, for in connexion with the refugee problems alone, it would be involved in private claims in behalf of tens of millions of persons in scores of different countries. Moreover, a number of judicial decisions had also upheld the rights of individual States with regard to property within their territories.

<sup>4/</sup> Official Records of the Security Council, Fourth Year, Special Supplements Nos. 1 to 4.

24. The steps proposed in draft resolution A/SPC/L.90, therefore, would be a complete negation of the sovereignty of a Member State of the United Nations, would be contrary to the Charter, and would be without foundation or precedent in international law. Moreover, there was not the slightest prospect that the Israel Government would agree to property administration in Israel being taken away from its own officials and vested in an international official.

25. The factual situation regarding the abandoned Arab properties had been misrepresented during the debate. Those properties had been taken over many years ago by Israel under special legislation and had been vested in an Israel custodian, subject to Israel's voluntary offer to pay compensation for them. The object of that legislation had been to ensure the utilization of abandoned property and the development of the economy of the country. The figures produced by Arab spokesmen about the extent of Arab land-holdings in Israel were completely misleading. Most of the area of Israel had been State Domain or Crown Lands under the Mandatory régime and had thus *ipso facto* become vested in the Israel Government after independence. It was also not true that the Israel Government was collecting vast revenues from the properties of the Arab refugees; as the Israel Minister for Foreign Affairs had said at the sixteenth session (318th meeting), great sums had been expended on those properties without any profit in the ordinary sense. It should also be remembered that the Israel Government had been co-operating voluntarily with the Conciliation Commission on a number of matters concerning the abandoned property. Nearly \$10 million of blocked refugee accounts in Israel banks had been released; millions of dollars of safety deposits and valuables had been turned over; and the Israel authorities had rendered the officials of the Conciliation Commission every assistance in the long task of identifying and evaluating property. The demand for a United Nations custodian had not, therefore, been put forward as a constructive practical step but merely as a part of the general political attack on Israel's statehood.

26. Since his delegation's general position on draft resolution A/SPC/L.89 and Add.1 had been stated at the Committee's 370th meeting he would merely deal with several arguments which the Arab representatives had advanced against the proposal. Their main points were that the issue of the Arab refugees lay outside the scope of negotiations; that the Arab States were not the parties with whom negotiations should be conducted; and that the demand in resolution 194 (III) for negotiations applied only to the General Armistice Agreements. United Nations documents, records and practice rendered all those arguments invalid. From the Security Council resolutions of 16 November 1948,<sup>5/</sup> and 11 August 1949<sup>6/</sup> and General Assembly resolutions 194 (III), 394 (V) and 512 (VI) it was clear, first, that the General Armistice Agreements were not the final objective of the negotiations but only an interim stage on the road to peace; secondly, that the aim of the negotiations was a final peace settlement covering all outstanding issues; thirdly, that the primary responsibility for the negotiations rested with the Governments concerned; and

<sup>5/</sup> *Ibid.*, Third Year, Supplement for November 1948, document S/1080.

<sup>6/</sup> See Official Records of the General Assembly, Fifteenth Session (Part II), Plenary Meetings, 993rd meeting, foot-note 2, document S/1376, II.

fourthly, that the Conciliation Commission was to assist the Governments in reaching a settlement.

27. On the basis of operative paragraph 11 of resolution 194 (III), the Arab representatives alleged that the question of the refugees had been excluded from the scope of the negotiations. There were several weaknesses in that argument. First, paragraph 5 of that resolution read "with a view to the final settlement of all questions outstanding between them" and gave no hint that the refugee question was to be excluded. Secondly, paragraph 11 stated that the refugees should be permitted to return to their homes under certain circumstances, which meant that permission must be obtained from the Government of the country concerned since there was no other authority which could permit anyone to enter its territory. In other words, the question of the entry of a refugee into Israel must be a subject for negotiation with the Israel Government. Thirdly, paragraphs 11 and 6 made it clear that the Conciliation Commission had from the outset been designed to be a United Nations instrument for the achievement of a negotiated settlement. Fourthly, that the outstanding questions to be negotiated included the question of the refugees had been understood and accepted at that time by all concerned, namely Israel, the Arab Governments and the Conciliation Commission. Moreover, negotiations had actually taken place at Lausanne between Israel on the one hand and Egypt, Jordan, Syria and Lebanon on the other and the agenda had included the refugee problem.<sup>7/</sup> The Arab delegations had not said that the subject was outside the scope of the negotiations but that it should be given priority. The Conciliation Commission itself had stated in its eighth progress report<sup>8/</sup> that it did not consider it possible to separate any one problem from the rest of the peace negotiations or from the final peace settlement.

28. It was in any case utterly unrealistic to think that the four Arab countries could dissociate themselves from any negotiations on the issue, which was deeply embedded in the conflict between Israel and its Arab neighbours and was deeply affected by their policy towards Israel. Any solution of the refugee problem involved questions of Israel's security, the integration of the refugees in the economic life of the area, and peace and stability in the Middle East. Those were matters which could only be dealt with between the States concerned. The Government of Israel could consider the attitude and policy it would adopt on the refugee question only with regard to the situation as a whole, and that situation included the state of the relations between Israel and its Arab neighbours. That was why draft resolution A/SPC/L.89 and Add.1 rightly envisaged a process of discussion and negotiation between the Governments concerned; there could be no other realistic path to a settlement.

29. It was true that the Arab States were unwilling to take that path. But there were only two courses: either to leave the refugee dispute unsolved, maybe for decades to come; or to allow the situation to drift again into renewed warfare.

30. His delegation would comment on draft resolution A/SPC/L.91 at a later stage.

31. Mr. RIFA'I (Jordan) said, in the exercise of his right of reply, that the Israel representative's statement that all Jewish inhabitants had been removed from the areas of western Palestine taken over by Jordan in 1948 was incorrect. Some Jews living in the old part of Jerusalem had left the city during the fighting but they had been very few and had left no property. Those Jews who had not taken part in the fighting had remained in Jordan, where they were at the present time. They constituted the oldest Jewish community in the world and the Jordanian people maintained very brotherly relations with them.

32. The Israel representative had also referred to the status of Jews in Arab Palestine. He owed him no explanation, but would state that there was a national entity and unity between the two parts of Jordan which would continue until the Arab peoples of Palestine were able to return to their lands under Israel occupation.

33. Mr. PACHACHI (Iraq) said that although he was opposed to the draft resolution in document A/SPC/L.89 and Add.1 he would not, as the Israel representative had done in the case of draft resolution A/SPC/L.90, cast aspersions on its sponsors. It was deplorable that any delegation should cast aspersions on the motives and integrity of the delegations of other Member States.

34. He would like to make one observation in reply to the Israel representative's remarks about the case of Brother Daniel.

35. Mr. COMAY (Israel), on a point of order, recalled that he had mentioned Brother Daniel's own statement simply because it had been dragged into the debate, to which the case was irrelevant, by the representatives of the Arab States; he hoped that the Chairman would consider the matter closed and rule out any further reference to it.

36. Mr. PACHACHI (Iraq) said that the brief comment which he wished to make concerning the case of Brother Daniel was simply that although the latter had been born a Jew the legislation of Israel had accorded him different treatment from that which it accorded to other Jews for the sole reason that he had adopted the Christian faith. That discrimination showed that the principle on which the so-called State of Israel was based was dubious, to say the least.

37. With regard to the sponsors of draft resolution A/SPC/L.89 and Add.1, Iceland had correctly stated that the rights of the Palestine refugees must be respected, the Ivory Coast had said that the Arab community had rights in Palestine and Liberia had recognized that the dispute was between Israel on the one hand and the Palestine refugees, not the Arab States, on the other. The fact that they had nevertheless drawn the wrong conclusion, as embodied in their proposal, was due in part to a misunderstanding of the facts. Their draft resolution called for negotiations with a view to finding a solution for all the questions in dispute, whereas the Committee had not before it Arab-Israel relations but the report of the Commissioner-General of UNRWA (A/5214), and anything outside the scope of the report was therefore out of order. His own remarks would be addressed exclusively to matters relating to the report. The Israel representative would have the Committee believe that negotiations as called for in paragraph 5 of General Assembly resolution 194 (III) had not been conducted; that was untrue, for it had been expressly

<sup>7/</sup> *Ibid.*, Fourth Session, Ad Hoc Political Committee, Annex, vol. II, document A/927.

<sup>8/</sup> *Ibid.*, Fifth Session, Supplement No. 18.

stated in paragraph 5 that the Governments and authorities concerned were called upon to extend the scope of the negotiations provided for in the Security Council's resolution<sup>9/</sup> of 16 November 1948. The fact was that direct negotiations had been carried out in the first half of 1949 and had led to the conclusion of the General Armistice Agreements. In any case, the General Assembly had not intended the questions of the Holy Places, Jerusalem and the refugees to be included among the questions to be negotiated under the terms of paragraph 5 but had made them the subjects of separate paragraphs to indicate the way in which they were to be settled, namely paragraphs 7, 8 and 11. In other words, those three questions were not subject to negotiation. The Conciliation Commission itself had signified its agreement with that interpretation when it had stated in its first progress report<sup>10/</sup> that in addition to its general functions of conciliation it had received under paragraphs 7, 8 and 9 of resolution 194 (III) specific and clearly defined directives about the Holy Places, Jerusalem and the refugees.

38. It was not true that no negotiations had taken place after the conclusion of the General Armistice Agreements, for the negotiations conducted through the intermediary of the Conciliation Commission had followed that event. Nor was it true that the Arab States had agreed to negotiate the question of the refugees: what they had told the Commission was that they would negotiate through it only after Israel had declared its acceptance of paragraph 11 of resolution 194 (III).

39. Israel's argument that for security reasons it could not absorb large numbers of Arab refugees was refuted by the statement in paragraph 16 of the Conciliation Commission's third progress report<sup>11/</sup> that in the summer of 1949 Israel had expressed its willingness to accept the entire Arab population of the Gaza Strip, both indigenous inhabitants and refugees, as Israel citizens, provided that that territory was incorporated into Israel. At the time the Arabs in question had numbered 350,000 and the Jewish population of Israel had totalled only about 1 million. That immoral proposal surely required no comment.

40. Thus it was clear that the settlement of the refugee issue was not among the aspects of the Palestine affair as a whole which were subject to negotiation under paragraph 5 of resolution 194 (III). He did not see how the General Assembly, after repeatedly reaffirming the provisions of that resolution over a period of fourteen years, could now go back on its commitment to the refugees and decide that they were not entitled to freedom of choice, after all, but that their future was a matter to be negotiated between Israel and a group of States which was not one of the primary parties to the dispute. The representatives of the Palestine Arab community had told the Committee that it was that community which was entitled to accept or reject any proposed solution. The Arab States respected that position and considered that they themselves had not the right to impose a solution on the refugees. Thus draft resolution A/SPC/L.89 and Add.1, in addition to dealing with a matter which was outside the scope of the agenda item, was addressed to a party which had neither the power nor

the moral right to barter away the refugees' rights. The acceptance of such a draft resolution, which totally ignored the existence of the Palestine Arab community, would mean that the Committee had decided that that community no longer existed. No Arab State could be expected to agree to a course of action which carried that implication.

41. He wished to pay a tribute to the sponsors of draft resolution A/SPC/L.90. He noted that the Israel representative had made a reference to the provision in paragraph 2, sub-paragraph (c), of General Assembly resolution 394 (V) for consultations regarding measures for the protection of the rights, property and interests of the refugees. Such consultations had taken place but with no results, for Israel had never given an unambiguous reply as to the extent to which it was prepared to apply paragraph 11 of resolution 194 (III). According to the Conciliation Commission's fifteenth progress report,<sup>12/</sup> on 9 October 1953 Mr. Eban had addressed a letter to the Commission stating that the Government of Israel was engaged in preparatory work under its policy of offering compensation for abandoned Arab property in Israel; on 1 August 1954 the Commission's representative at Jerusalem had been informed, after inquiring about the matter, that the Israel Government would make known its views and findings at the earliest opportunity. Finally, on 2 February 1956,<sup>13/</sup> two and a half years after Mr. Eban's first letter, the Commission's representative had been informed in reply to a further inquiry that the problem of compensation could not be considered in disregard of the general context of relations between Israel and the Arab States. In the light of that record it was hardly surprising if the Arab States insisted that they could not leave the matter to be settled by further consultation.

42. When he referred to the declaration provided for in resolution 181 (II) on partition the representative of Israel had significantly omitted the second sentence, which stated that in all cases of expropriation full compensation should be paid before dispossession. That provision had never been carried out. Israel had also claimed that the declaration no longer held good since the Arab State of Palestine had not come into existence and the Arabs had abandoned their property in Palestine while the Mandate was still in force. That was the first time that the Israelis had frankly admitted that the refugee situation had originated before the entry of the Arab armies into Palestine and by that admission they demolished the whole basis of their argument that the Arab States were responsible for the creation of that dispute. As for the argument that because no Arab State of Palestine had been established that part of the declaration could not be implemented, the reason why such a State had not been established was precisely that the Jewish armed forces had succeeded in carrying out a carefully laid plan to drive as many Arabs as possible out of Palestine before the proclamation of Israel's statehood and to seize as much as they could of the territory intended for inclusion in the Arab State. It would have been impossible to establish a viable state on the small amount of land left unoccupied by Israel. General Assembly resolution 273 (III), admitting Israel to membership in the United Nations, had recalled resolution 181 (II) on partition.

<sup>9/</sup> See footnote 5.

<sup>10/</sup> See Official Records of the General Assembly, Fourth Session, Ad Hoc Political Committee, Annex, vol. II, document A/819.

<sup>11/</sup> Ibid., document A/927.

<sup>12/</sup> Ibid., Eleventh Session, Annexes, agenda item 23, document A/3199, para. 11.

<sup>13/</sup> Ibid., para. 12.

That meant that at the time of Israel's admission the partition resolution and the declaration contained therein had still been valid, regardless of the fact that, because of Israel's action, it had not been possible to establish the Arab State. In other words, Israel, having nullified one part of the resolution by the exercise of its armed might, was now claiming that another part was accordingly invalid.

43. In view of all those considerations it was evident that the Committee had no alternative but to seek a means of ensuring the enforcement of the measures called for by the United Nations in its earlier resolutions.

44. The expression of thanks to the Conciliation Commission in operative paragraph 2 of draft resolution A/SPC/L.91 was premature since the efforts of that body had so far borne no fruit. The other paragraphs were not objectionable but it was to be noted that the draft entirely omitted the expression of regret in previous resolutions at the failure to apply paragraph 11 of resolution 194 (III).

45. In conclusion he quoted a passage from the 1937 report of the Palestine Royal Commission (Peel Commission,<sup>14/</sup> that in the words of an exponent of the Arab case the Arabs had never harboured anti-Jewish sentiments and that no decent-minded person would refuse to do everything possible to relieve the distress of the Jews of Europe, provided that it was not at the cost of inflicting corresponding distress on other peoples. It was unfair of delegations such as that of Denmark (364th meeting) to accuse the Arabs of "indecent" in equating Zionism with nazism and he wished to express his delegation's strong disapproval of the Danish representative's words. Until 1814 Denmark had denied Jews the exercise of civil rights. Perhaps Denmark and the other European countries suffered from a monumental guilt complex because of the barbarous way they had treated the Jews in past centuries. The Arabs, on the other hand, had no reason to feel such guilt, for they had always protected the Jews, and Jewish civilization and philosophy had reached their peak under Arab rule.

46. Mr. COMAY (Israel), in the exercise of his right of reply, stated with reference to the case of Brother Daniel that in a hearing before the High Court of

Justice at Jerusalem the Attorney-General of Israel had made a statement on behalf of the Ministry of the Interior to the effect that if Brother Daniel applied for Israel citizenship under the appropriate law it would be granted to him and that Brother Daniel had accordingly made such an application.

47. With regard to the Iraq representative's statement about Israel's offer to absorb the Arabs in the Gaza Strip, he would have thought it was self-evident that it would be one thing to admit a certain number of Arabs to Israel as part of a peace settlement and quite another to allow refugees to return when the States in which they were now living regarded themselves as being at war with Israel.

48. As for the argument that draft resolution A/SPC/L.89 and Add.1 was addressed to the wrong parties, he recalled that in paragraph 6 of the third progress report of the Conciliation Commission<sup>15/</sup> it had been stated that the Arab delegations had insisted from the beginning that the Palestine question was of equal concern to all Arab States and that the Commission should look on them as a single party carrying on all discussions and negotiations "en bloc".

49. Finally, he had not suggested that the declaration provided for in the partition resolution was no longer valid; all he had meant was that it was a declaration which was to have been made at a future date but had never actually been made, so that the question of its validity did not arise.

50. Mr. PACHACHI (Iraq), in reply to the Israel representative's statement about Brother Daniel, said that the point he wished to make was not that Brother Daniel could not obtain Israel citizenship but that he could not obtain it under the same law as a Jew who had not changed his religion.

51. With regard to the Israel representative's second point, the fact remained that Israel had expressed willingness to agree to the return of a certain number of Arab refugees only when it had thought there was a prospect that in doing so it would acquire additional Arab territory. That was indicative of the kind of negotiations the Israel delegation had in mind.

The meeting rose at 1.35 p.m.

<sup>14/</sup> Palestine Royal Commission: Report, Command Paper 5479 (London, His Majesty's Stationery Office, 1937).

<sup>15/</sup> See footnote 11.