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COMMISSION ON HUMAN RIGHTS

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Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND
OTHER DEPENDENT COUNTRIES AND TERRITORIES

Preliminary report by the Special Representative
of the Commission, Mr. Andrés Aguilar, appointed
pursuant to resolution 1984/54, on the human
rights situation in the Islamic Republic of Iran

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. LETTER OF TRANSMITTAL DATED 28 JANUARY 1985 FROM MR. ANDRES AGUILAR, SPECIAL REPRESENTATIVE OF THE COMMISSION ON HUMAN RIGHTS, TO THE CHAIRMAN OF THE COMMISSION		2
II. MANDATE AND ACTION TAKEN BY THE SPECIAL REPRESENTATIVE	1 - 7	3
III. RELEVANT INFORMATION AVAILABLE TO THE SPECIAL REPRESENTATIVE	8 - 11	5
A. Information contained in documents published by organs or bodies of the United Nations system	8	5
B. Information received through the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva	9	7
C. Information concerning alleged violations of human rights in the Islamic Republic of Iran	10 - 11	7
IV. GENERAL OBSERVATIONS OF THE SPECIAL REPRESENTATIVE	12 - 21	8

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I. LETTER OF TRANSMITTAL DATED 28 JANUARY 1985 FROM MR. ANDRES AGUILAR,
SPECIAL REPRESENTATIVE OF THE COMMISSION ON HUMAN RIGHTS, TO THE
CHAIRMAN OF THE COMMISSION

I have the honour to transmit herewith my preliminary report under Commission on Human Rights resolution 1984/54 entitled "Human rights situation in the Islamic Republic of Iran".

As you are aware, I was appointed Special Representative under this resolution on 19 October 1984. The time available to me did not permit me to make the thorough study requested by the Commission in its resolution.

In view of the primary importance that the co-operation of the Government concerned holds in such exercises, I have endeavoured to establish dialogue and co-operation with the Government of the Islamic Republic of Iran. My report, therefore, should be seen in this context. I have also used the time available to me to go through the considerable material on the subject.

In the last part of the report I make some general observations that I find are particularly appropriate in this case.

I would sincerely hope that, should my mandate be extended, the Government of the Islamic Republic of Iran will see fit to give me its fullest co-operation.

II. MANDATE AND ACTION TAKEN BY THE SPECIAL REPRESENTATIVE

1. At its fortieth session, on 14 March 1984, the Commission on Human Rights adopted resolution 1984/54 on the human rights situation in the Islamic Republic of Iran. By that resolution the Commission requested the Chairman to appoint, after consultation within the Bureau, a special representative of the Commission whose mandate would be to establish contacts with the Government of the Islamic Republic of Iran and to make a thorough study of the human rights situation in that country based on such information as he might deem relevant, including comments and materials provided by the Government, containing conclusions and appropriate suggestions, to be presented to the Commission at its forty-first session. The Commission further requested the Government of the Islamic Republic of Iran to extend its co-operation to the Special Representative of the Commission and decided to continue its consideration of the situation of human rights and fundamental freedoms in the Islamic Republic of Iran at its forty-first session.
2. Pursuant to resolution 1984/54, the Chairman of the Commission on Human Rights, on 19 October 1984 designated Mr. Andrés Aguilar as Special Representative of the Commission.
3. On 22 October 1984 the Special Representative addressed a letter to the Foreign Minister of the Islamic Republic of Iran as follows:

"I have the honour to refer to Commission on Human Rights resolution 1984/54 concerning the human rights situation in the Islamic Republic of Iran, the text of which is attached, and to inform Your Excellency that I have been designated by the Chairman of the Commission on Human Rights as Special Representative of the Commission, under the terms of that resolution.

In accepting to serve as Special Representative of the Commission on Human Rights on the issue under consideration, I am fully aware of the important and demanding responsibilities with which the Commission has entrusted me. I would like to assure Your Excellency that I intend to carry out my mandate in the most impartial and objective manner. I shall endeavour to base my report on the most precise and accurate information.

While I have taken note of the position of Your Excellency's Government as stated at the fortieth session of the Commission on Human Rights, Your Excellency should know that I would be most grateful if I were to receive the co-operation of Your Excellency's Government in order to ensure that the Commission is presented with a comprehensive picture of the human rights situation in the Islamic Republic of Iran.

In order to discharge my responsibilities, it would of course be most important to establish direct contacts with the authorities concerned. In this connection, I would wish, with the co-operation of Your Excellency's Government, to visit the Islamic Republic of Iran as soon as possible and would like to suggest that such a visit take place some time prior to the forty-first session of the Commission on Human Rights which is scheduled to open on 4 February 1985. I would, therefore, be most grateful if Your Excellency could utilize his good offices in facilitating arrangements for such a visit. I would hope to discuss the modalities of my visit and matters pertaining to its itinerary either with Your Excellency or with representatives of the Permanent Mission of the Islamic Republic of Iran in Geneva."

4. On the same day, the Special Representative addressed a letter to the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva as follows:

"I send you herewith a copy of a letter I have addressed today to His Excellency Dr. Ali Akbar Velayati, Foreign Minister of the Islamic Republic of Iran, concerning my mandate under Commission on Human Rights resolution 1984/54.

You may recall that on 2 October 1984, Mr. Peter H. Kooijmans, Chairman of the United Nations Commission on Human Rights at its fortieth session, had conveyed to Your Excellency, through Mr. Shahabi Sirjani, First Secretary of your Permanent Mission, that he had designated me as Special Representative of the Commission on Human Rights under the aforementioned Commission resolution.

I am currently attending meetings in Geneva and expect to be here until 9 November 1984 and during this period I remain available for any contact that you may wish to establish. Thereafter I may be contacted in Caracas through the Centre for Human Rights."

5. On 7 November 1984, the Special Representative addressed a letter to the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva as follows:

"You may recall that on 23 October 1984 I transmitted to you a copy of a letter that I had addressed to His Excellency the Foreign Minister of the Islamic Republic of Iran in regard to the implementation of my mandate under Commission on Human Rights resolution 1984/54.

By that letter I informed you that I was attending meetings in Geneva up to 9 November 1984 and that during that period I remained available to you for any contact that you might wish to establish with me.

My commitments necessitate that I leave Geneva in the afternoon of 9 November 1984 but I should like to emphasize that I do remain available for any contact which Your Government may wish to establish with me through you or through any other representative. Although I shall be in Caracas, I can always be contacted through the Centre for Human Rights, Palais des Nations, Geneva.

I should like to take this opportunity to assure you, and through you Your Excellency's Government, that I shall naturally carry out the tasks entrusted to me by the Commission on Human Rights in the most impartial and objective manner. It is with this in mind that I look forward to receiving the co-operation of the Government of the Islamic Republic of Iran to which, as you know, I attach great importance. May I, therefore express my sincere hope that I shall receive in due course a favourable response to the letter I have addressed to His Excellency the Foreign Minister of the Islamic Republic of Iran on 23 October 1984."

6. On 4 January 1985, the Special Representative addressed a cable to the Foreign Minister of the Islamic Republic of Iran as follows:

"I have the honour to refer to my letter of 22 October 1984 by which I informed Your Excellency that I had been designated by the Chairman of the Commission on Human Rights as Special Representative of the Commission, under the terms of resolution 1984/54, a copy of which was attached to my letter.

In that letter I assured Your Excellency that I intended to carry out my mandate in the most impartial and objective manner, and expressed the hope of receiving the co-operation of Your Excellency's Government in order to ensure that the Commission was presented with a comprehensive picture of the human rights situation in the Islamic Republic of Iran.

I should like to take this opportunity to reiterate my belief that the establishment of direct contacts with Your Excellency's Government is most important and to express my sincere hope that I shall receive the co-operation of Your Excellency's Government as requested in my above-mentioned letter."

7. The Special Representative wishes to express his hope that, although no reply to his letters has been received yet, the full co-operation of the Government of the Islamic Republic of Iran will be extended to him in order for him to carry out the tasks entrusted to him by the Commission on Human Rights. In this connection, the Special Representative notes with appreciation that on 22 January 1985 he received, through the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva, a number of documents, referred to in paragraph 9 below.

III. RELEVANT INFORMATION AVAILABLE TO THE SPECIAL REPRESENTATIVE

A. Information contained in documents published by organs or bodies of the United Nations system

8. In the context of the preparation of this report the Special Representative had before him the following documents published by agencies or bodies of the United Nations system:

Economic and Social Council

Commission on Human Rights

Report of the Secretary-General prepared pursuant to paragraph 4 of Commission on Human Rights resolution 1982/27 (E/CN.4/1983/19)

Report of the Secretary-General prepared pursuant to paragraph 3 of Commission on Human Rights resolution 1982/27 (E/CN.4/1983/52)

Report of the Secretary-General prepared pursuant to paragraph 4 of Commission on Human Rights resolution 1983/34 (E/CN.4/1984/28)

Report of the Secretary-General on direct contacts prepared pursuant to paragraphs 3 and 4 of Commission on Human Rights resolution 1983/34 (E/CN.4/1984/32)

Report by the Special Rapporteur, Mr. S. Amos Wako, appointed pursuant to Economic and Social Council resolution 1982/35 (E/CN.4/1983/16)

Report by the Special Rapporteur, Mr. S. Amos Wako, appointed pursuant to Economic and Social Council resolution 1983/36 (E/CN.4/1984/29)

Summary records of the 33rd, 36th, 51st to 55th and 59th meetings of the Commission at its thirty-eighth session (E/CN.4/1982/SR.33; E/CN.4/1982/SR.36; E/CN.4/1982/SR.51/Add.1; E/CN.4/1982/SR.52 to SR.55 and E/CN.4/1982/SR.59).

Summary records of the 41st to 44th, 46th to 48th and 52nd meetings of the Commission at its thirty-ninth session (E/CN.4/1983/SR.41; E/CN.4/1983/SR.42 and Add.1; E/CN.4/1983/SR.43, SR.44 and SR.44/Add.1; E/CN.4/1983/SR.46 and Add.1; E/CN.4/1983/SR.47; E/CN.4/1983/SR.48; E/CN.4/1983/SR.52 and Add.1)

Summary records of the 43rd to 49th, 54th and 58th meetings of the Commission at its fortieth session (E/CN.4/1984/SR.43 to SR.49; E/CN.4/1984/SR.54 and E/CN.4/1984/SR.58)

Sub-Commission on Prevention of Discrimination and Protection of Minorities

Summary records of the 27th and 34th meetings of the thirty-seventh session (E/CN.4/Sub.2/1984/SR.27 and E/CN.4/Sub.2/1984/SR.34)

International Covenant on Civil and Political Rights (Human Rights Committee)

Summary records of the 364th, 365th, 366th and 368th meetings of the sixteenth session (CCPR/C/SR.364 to SR.366 and CCPR/C/SR.368)

Report of the Human Rights Committee, Official Records of the General Assembly, thirty-seventh session, Supplement No. 40 (A/37/40)

(It may be recalled in this context that the report submitted by the Government of the Islamic Republic of Iran to the Human Rights Committee at its sixteenth session, in 1982, is the most recent one submitted by that country)

General Assembly - Third Committee

Statement delivered by the representative of the Islamic Republic of Iran, His Excellency Dr. Said Rajaie-Khorassani, Ambassador, Permanent Representative, in the Third Committee of the General Assembly on 7 December 1984

International Labour Office

230th report of the Committee on Freedom of Association; Official Bulletin, vol. LXVI, 1983, Series B, No. 3

234th report of the Committee on Freedom of Association (GB.226/5/18)

Report of the Committee on the Application of Conventions and Recommendations (International Labour Conference, Provisional Record, sixty-ninth session, Geneva, 1983, No. 31)

Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 4 A) (International Labour Conference, sixty-ninth session, 1983)

Report of the Committee on the Application of Conventions and Recommendations (International Labour Conference, Provisional Record, seventieth session, Geneva, 1984, No. 35)

Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 4 A) (International Labour Conference, seventieth session, 1984)

B. Information received through the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva

9. As already mentioned in paragraph 7 above, the Special Representative received, through the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva, four documents, published by the Public Relations Department, Ministry of Foreign Affairs, Islamic Republic of Iran, dealing mainly with what the documents describe as terrorist activities in Iran.

C. Information concerning alleged violations of human rights in the Islamic Republic of Iran

10. The Special Representative has received from various sources, including non-governmental organizations in consultative status with the Economic and Social Council, communications and documents containing information on alleged violations of human rights in the Islamic Republic of Iran. The Special Representative, due to his recent designation and to the lack of direct contact with the authorities of the Islamic Republic of Iran, has not yet been in a position to evaluate the information received from these sources and the allegations contained therein. However, the Special Representative noted with great concern the number and gravity of the alleged violations of human rights, and, in particular, those related to the right to life - as laid down in article 6 of the International Covenant on Civil and Political Rights; the right to freedom from torture or cruel, inhuman or degrading treatment or punishment (article 7); the right to liberty and security of person and to freedom from arbitrary arrest or detention (article 9); the right to a fair trial (article 14); the right to freedom of thought, conscience and religion and to freedom of expression (articles 18 and 19, respectively) and the right of religious minorities to profess and practise their own religion (article 27).

11. It may be recalled in this context that Iran, on 4 April 1968, signed the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It ratified both Covenants on 24 June 1975. It may further be recalled that Iran also signed and ratified the following international instruments in the field of human rights: the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Prevention and Punishment of the Crime of Genocide; the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery; the Convention and the Protocol relating to the Status of Refugees. It also signed the Slavery Convention of 1926 and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

IV. GENERAL OBSERVATIONS OF THE SPECIAL REPRESENTATIVE

12. In its resolution 1984/54 which established the mandate of the Special Representative, the Commission on Human Rights was expressly guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights. The Commission further reaffirmed that all Member States had an obligation to promote and protect human rights and fundamental freedoms and to fulfill the obligations they had undertaken under the various international instruments in that field.

13. This position of principle, as expressed in the above-mentioned resolution, is in line with the Charter of the United Nations of which Iran is an original member. The purposes of the United Nations as spelled out in Article 1, paragraph 3, of the Charter expressly include the achievement of international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. Moreover, under Article 56 of the Charter all Member States pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55 which in turn includes the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

14. The Universal Declaration of Human Rights gave expression to the human rights principles contained in the Charter of the United Nations. The Universal Declaration is thus an emanation of the Charter providing as it does common standards of achievement for all peoples and all nations. Through practice over the years, the basic provisions of the Universal Declaration of Human Rights can be regarded as having attained the status of international customary law and in many instances they have the character of jus cogens. This is, for example, the case with the right to life, freedom from torture, freedom of thought, conscience and religion and the right to a fair trial.

15. Such fundamental guarantees of the Universal Declaration of Human Rights cannot be open to challenge by any State as they are indispensable for the functioning of an international community based on the rule of law and respect for human rights and fundamental freedoms.

16. States of all political, economic, social, cultural and religious persuasions participated in the drafting of the Charter, the Universal Declaration of Human Rights and the International Covenants on Human Rights. The Universal Declaration of Human Rights and the International Covenants thus contain norms which, distilled from the collective experience and the common heritage of the world's peoples, represent universal standards of conduct for all peoples and all nations.

17. Within the framework of the International Covenants on Human Rights, States of all religious, cultural or ideological persuasions co-operate in the implementation of universal standards of human rights in their respective countries. The General Assembly has repeatedly emphasized the importance of the strictest compliance by States parties with their obligations under the International Covenants and has further stressed the importance of uniform standards of implementation of the International Covenants. 1/

1/ See General Assembly resolutions 32/66, 33/51, 34/45, 35/132, 36/58, 37/191, 38/116 and 39/136.

18. Therefore it must be concluded that no State can claim to be allowed to disrespect basic, entrenched rights such as the right to life, freedom from torture, freedom of thought, conscience and religion, and the right to a fair trial which are provided for under the Universal Declaration and the International Covenants on Human Rights, on the ground that departure from these standards might be permitted under national or religious law.

19. It is the firm conviction of the Special Representative that the following fundamental principles are applicable to the situation in the Islamic Republic of Iran as indeed to the situation, present or future, in any other country:

(a) States members of the United Nations are bound to abide by universally accepted standards of conduct in so far as the treatment of their population is concerned, particularly as regards the protection of human life, freedom from torture and other cruel, inhuman or degrading treatment or punishment, freedom of thought, conscience and religion and the right to a fair trial;

(b) In so far as the basic rights and freedoms of the individual are concerned, the Universal Declaration of Human Rights gives expression to the human rights principles of the Charter of the United Nations and essential provisions such as those referred to above represent not only rules of international customary law but rules which also have the character of jus cogens;

(c) The International Covenants on Human Rights give added conventional force to those provisions of the Universal Declaration of Human Rights which already reflect international customary law. Since the Islamic Republic of Iran is a party to the International Covenants on Human Rights, the latter's provisions in their entirety are legally binding upon the Government of the Islamic Republic of Iran. They must be complied with in good faith.

20. The Islamic Republic of Iran has certainly passed through a difficult period. Its people and its leaders, like the people and the leaders of any other nation, share the universal aspiration for justice to which the Charter of the United Nations gives such eloquent expression. In a revolutionary or post-revolutionary situation there are understandably debates about the philosophies, principles and doctrines which should guide the reconstruction of society in a spirit of justice and equity. These are issues which require reflection and discussion, but the community of nations cannot accept that one State should isolate itself to the extent of denying the validity of a system of law which has developed through universal acceptance and remains one of the most important elements in the relationship between States, forming the backbone of the community of nations as it exists in the world today. International law in general and human rights law in particular are certainly not static notions. They are evolving and the Commission on Human Rights itself has, over the years; initiated many new developments, some of which are still in an embryonic stage. However, it has to be borne in mind that it is the community of nations, through its organs and through concurrent practice, which develops international law. A single State cannot disassociate itself from this process and deny the validity of the norms created by common understanding.

21. The Special Representative appeals therefore to the Government of the Islamic Republic of Iran to co-operate in good faith with him and the Commission and to open a dialogue. The Special Representative would then be in a position to submit a more complete report to the Commission at a later stage, should his mandate be extended.