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COMMISSION ON HUMAN RIGHTS

Fortieth session  
Item 10(b) of the provisional agenda

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF  
DETENTION OR IMPRISONMENT, IN PARTICULAR: QUESTION OF ENFORCED OR  
INVOLUNTARY DISAPPEARANCES

Letter dated 28 November 1983 addressed by the Permanent Representative  
of the Islamic Republic of Iran to the United Nations Office at Geneva  
to the Secretary-General

In the Name of God, the Almighty  
Geneva, 28 November 1983

No. 422-31/338

Dear Mr Secretary General,

I have the honour to communicate to you, for your information, the following developments regarding the disappearance of 9 405 Iranians, from both the civilian and the military sector.

It would be appreciated if this text could be circulated as an official document at the Fortieth Session of the Human Rights Commission.

1. In paragraphs 118, 119 and 120 of the Report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1983/14) it is stated that:

Para.118. "At a meeting during the eighth session the representative of the Islamic Republic of Iran referred to a letter dated 15 September 1982 which he had addressed to the Chairman of the Working Group concerning Iranian Military personnel and civilians who reportedly disappeared during the conflict with Iraq beginning in September 1980. The Representative of the Islamic Republic of Iran requested the Working Group to undertake a study of those missing persons. In a letter dated 3 December 1982 the representative of the Islamic Republic of Iran submitted the names, with some accompanying details, of 9 405 persons missing in Western Iran.

Para.119. "The Working Group has ascertained from the International Committee of the Red Cross that persons, civilian or military, who are reported missing during any international armed conflict fall within the mandate of the ICRC pursuant to the Third and Fourth Geneva Conventions of 1949. The Working Group was informed that the ICRC was in contact with the Government of the Islamic Republic of Iran and of Iraq with a view to carrying out its mandate and that facilities had been accorded to the ICRC to make visits to the various detention camps in both countries.

Para.120. "The representative of the Islamic Republic, during the Working Group's eighth session and in a letter dated 29 September 1982, pointed out that the Working Group's activities in relation to missing persons in Cyprus provided a partial precedent for the Iranian Government's request. The Working Group, however, has explained that in its view there appear to exist substantial differences between the two situations. The Commission's opinion is requested."

2. The ICRC in its memorandum of 7 May 1983 stated that:

"Tens of thousands of Iranian civilians from the Khuzistan and Kurdistan border regions, residing in areas under Iraqi Army Control, have been deported to the Republic of Iraq, in grave breach of the Fourth Geneva Convention. In the prisoner of war camps, the ICRC has registered more than a thousand civilians, including women and old men, arrested in the occupied territories by the Iraqi Army, deported into the Republic of Iraq and unjustifiably deprived of their freedom since the beginning of the conflict."

3. The Working Group on Disappeared persons at its Tenth Session which was held at the United Nations Headquarters, took the view that it was not within its competence according to its present mandate to inquire into the disappearance of these persons in the circumstances in which their disappearance was effected unless expressly directed to do so by the Commission. (Press Release HA/1382).

It is worth recalling that the present mandate of the Working Group was proposed by France purely on humanitarian grounds (!!) and was not motivated by political considerations in the context of military and political support to the Iraqi Regime which committed these crimes (E/CN.4/1983/L.28). Relatives and families of 9 405 disappeared persons are invited to understand the real value of the working group's conclusion in particular their readiness to take up this question only if "expressly directed to do so by the Commission".

4. The Iraqi Delegate in the meeting of the Human Rights Commission expressed the readiness of his Government to cooperate with the Working Group. This being the case, there is no need for the Working Group to look for a mandate. The two parties to the conflict have already expressed their readiness.

This decision goes contrary to all relevant resolutions adopted by the General Assembly and the Human Rights Commission, namely GA Resolution 2252 (ES-V) of 4 July 1967, Res. 2443 and 2452 (XXIII) of 19 September 1968, Res. 2536 (XXIV) of 11 December 1969 and Resolution 2443 (XXIII) of 1968, not to mention the Cyprus case regarding the implementation of the humanitarian law of armed conflict and specific rule of United Nations organizations. Also in the United Nations document A/34/583/Add.1 (para.174) regarding the question of the fate of missing and disappeared persons in a country it was possible for the Human Rights Commission to invoke Article 27 and Article 147 of the Fourth Geneva Convention regarding respect for life or disappearance resulting from an internal situation for establishing international responsibility and competence of the United Nations to deal with this question.

5. The Working Group does not, therefore, have any room for doubt regarding its competence and the visit to the prisoners of war is not exclusively the right of the ICRC. The Iraqi Government requested the Secretary General to send a commission of inquiry to investigate the situation of Iraqi prisoners of war in Iran. I quote from a report of the United Nations Secretary General to the Security Council:

"May I now refer to another relevant development of which, I believe, some members of the Council might already be informed. The Government of Iraq has requested me to despatch a commission of inquiry to investigate the situation of Iraqi prisoners of war in Iran. The Iraqi Permanent Representative has stated that his Government would have no objection to the proposed Commission investigating the condition of Iranian prisoners of war in Iraq. I have told him that I am having this request carefully studied in all its aspects, and in particular for its legal implications. This is essential because of the special status of the ICRC in this respect under the Third Geneva Convention of 1949. If necessary, I shall consult the ICRC itself and, at an appropriate time, the Government of Iran. I shall keep the Council informed of further developments (Statement of the Secretary General to the Security Council of 22 June 1983).

Taking into account the fact that both parties explicitly recognized the competence of the United Nations organization to instigate and monitor respect of the Geneva Convention especially regarding prisoners of war, and the fact that the United Nations has already been involved in the whole question of the implementation

of the Geneva Convention in this conflict, we think that this new development demands reconsideration of the whole question of the 9 405 disappeared Iranian prisoners.

6. Summary of information and evidence regarding systematic disappearance of Iranian prisoners of war.

(i) Concerning the case of ten prisoners of war, who had been issued with an ICRC card and who disappeared from the Mosul Camp, it is important to quote from the letter from the protecting power.

"In any case the authorities let it be known that as far as they were concerned the affair was settled and that they would not follow up any further initiatives on the part of the ICRC"

(ii) In the case of the disappearance of family members from the Mosul Camp, it is stated as follows:

"As in all previous visits, many prisoners of war reported that they had been captured together with other Iranian civilians and soldiers who never reached Mosul and Ramadi Camps. ICRC had not been notified of such captures, and had not received permission to visit the places where such prisoners were kept. In four particularly tragic cases, sons of prisoners of war kept in Mosul had disappeared some time after being captured with their fathers and mothers".

(iii) A note was sent by the Foreign Ministry to the ICRC Delegate in Tehran (dated 19 December 1980) together with a list of prisoners of war who had sent messages through the Radio Baghdad Persian Programmes. On taking note of these names it was established that 68 of them do not appear on the ICRC list of prisoners of war.

(iv) A note was sent by the Foreign Ministry to the ICRC Delegate in Tehran with the list of 133 prisoners of war who had sent messages through Radio Baghdad whose names did not appear on the list of the ICRC.

(v) Two other similar notes were sent.

(vi) A letter was sent on 19 August 1981 by the ICRC stating that:

"The ICRC has gained the conviction that there exist other places of detention in Iraq and that a number of Iranian prisoners of war have been placed beyond the reach of the ICRC delegates visit.

The evidence for the existence of such camps has been borne out by the fact that in recent months ICRC Delegates have registered a number of Iranian prisoners of war who had been captured at the beginning of the conflict but who had arrived only recently in the camps of Ramadi and Mosul."

(vii) During the visit of Mr. Hoker to Baghdad, the Iraq Agency INA said that Iraq is prepared to give a list of all Iranians who have been captured or detained to the ICRC. This was in November 1982, two years after the beginning of the war and until now they have not established such a list.

(viii) The Iraqi authorities have recently agreed to the visit of the ICRC to the Mosul Camp No.2 whose existence they had denied since the beginning of the war.

(ix) 33 letters have been addressed by the Foreign Ministry to the ICRC Delegates in Tehran during 1980-1981 regarding the disappearance of thousands of Iranians with the names of the disappeared persons.

(x) A note was sent by the Permanent Mission of the Islamic Republic of Iran (1 October 1982) to the ICRC concerning the existence of 16 camps in Razaze in Iraq to which the ICRC do not have access.

(xi) A note was sent by the Foreign Ministry regarding the presence of 300 Iranian prisoners of war in a camp in Zobir Stadium, in Basrah, to which the ICRC has no access and, furthermore, the detaining authorities of this camp had been transferred to an unknown locality.

(xii) A military order was sent to an Iraqi unit to the effect that Iranian Revolutionary Guards must be regarded as war criminals and be shot on the spot.

(xiii) A letter was sent by the ICRC on 8 October 1982 regarding the killing of two Iranian prisoners of war and the injury of twelve others on 25 July 1982 in Mosul.

Please be assured, Mr. Secretary General, of my highest consideration.

Nasrollah KAZEMI KAMYAB  
Ambassador