

# Small files: Korea: Small files: Korea - 10

*HS L 179:186*



National Library  
of Sweden

Dag Hammar skjöld's saml.

## Korea - 53

Aug. - October

- Report by D.H. on the implementation of Gen. Assembly Resolution (711-VII "C") adopted at the 430th plenary meeting, Aug. 28, 1953
- Provisional Memo conc. rules of the Neutral Nations' Repatriation Commission... annexed to the Korean Armistice Agreement.
- P.M. from Swedish Delegation to the U.N.

Top Secret

Following is resume as received from Thimayya.

QUOTE. Reasons why Koreans cannot be produced and force cannot be used .  
Contention of Polish and Czech delegations that KPACPV have a right under Article 3 para 8 of terms of reference to carry on explanations according to their own plans and obligation of Commission to produce any prisoners required by them for explanations. Swiss and Swedes view that Commission is empowered to amend or reject any plans on grounds of feasibility. Poles and Czechs walked out when this was put to vote on the ground that inability of Commission to produce prisoners wanted by KPACPV was violation of the terms of reference and rules of procedure. Swiss and Swedes argued that withdrawal of Polish and Czech delegations was violation of terms of reference and hence illegal.

Poles and Czechs held their withdrawal as legitimate exercise of right of any representative of a sovereign State to have the possibility of opposing any matter and considered it consistent with international law and practice. That inability to produce Koreans was a reflection of a state in POW camps the continuation of which amounted to violation of terms of reference and rules of procedure. That a number of prisoners coercing other prisoners and using force to prevent them from freely exercising their right of repatriation amounted to violation of the fundamental provisions of terms of reference that no force should be used to effect or prevent repatriation. The necessity of Commission taking appropriate steps to remedy this situation. The Commission's admission that such conditions existed in Camps and had frustrated our work. The impracticability of breaking up organizations within Camps with assurance of success. The impossibility of identifying ringleaders and agents. The objection on part of Swiss and Swedish members to use of force leading to heavy casualties without which none of the above action was possible. The argument of Poles and Czechs that force is permissible if used in lawful discharge of functions that is removing ringleaders coercing others from expressing free choice. Inability of Commission to reach decision on

use of force or its extent. Necessity of both Commands being acquainted with this situation in view of explanation period running out so that they may consider this matter accordingly. UNQUOTE

2. In past few days Thimayya has seen General Shoesmith, Deputy Chief of Staff UN Command and General Harrison, Chief of Staff. Latter admitted possibility of local UN or South Korean authorities attempting to influence prisoners, and asked for evidence of UN collaboration with recalcitrant prisoners. Thimayya mentioned following instances.

(1) Signalling between prisoners and UN troops on adjoining hilltops. Harrison said he had already withdrawn ROK troops from vicinity of prisoners Camps.

(2) Smuggling of messages through South Korean nightsoil drivers. These men have since been replaced by Indian personnel.

(3) Prisoners in Southern Camps have been permitted radio sets for welfare. Escaping prisoners have stated that transmission of radio messages goes on between South Korea and POW Camps. Harrison promised to take preventive action if cases of UN complicity were detected.

3. Harrison went on to say that if Custodian Force used force in bringing prisoners before explainers his Government and all free world would oppose such a step. He agreed however that no one should oppose any action being taken in enforcing discipline among prisoners. Harrison also said that his Government was determined not to agree to any extension of period of explanation. He felt sure that success or failure of our mission would have no effect upon the Armistice Agreement but he thought KPA CPV might raise this question at the Political Conference.

- - - - -

Secretary-General.

Repatriation Commission is now working on draft detailed memorandum addressed to both Commands on present state of deadlock.

Following is resume as received from Thimayya:

\*Reasons why Koreans cannot be produced and force cannot be used. Contention of Polish and Czech delegations that KPACPV have a right under Article 3 para 8 of terms of reference to carry on explanations according to their own plans and obligation of Commission to produce any prisoners required by them for explanations. Swiss and Swedes view that Commission is empowered to amend or reject any plans on grounds of feasibility. Poles and Czechs walked out when this was put to vote on the ground that inability of Commission to produce prisoners wanted by KPACPV was violation of the terms of reference and rules of procedure. Swiss and Swedes argued that withdrawal of Polish and Czech delegations was violation of terms of reference and hence illegal.

\*Poles and Czechs held their withdrawal as legitimate exercise of right of any representative of a sovereign state to have the possibility of opposing any matter and considered it consistent with international law and practice. That inability to produce Koreans was a reflection of a state in POW camps the continuation of which amounted to violation of terms of reference and rules of procedure. That a number of prisoners coercing other prisoners and using force to prevent them from freely exercising their right of repatriation amounted to violation of the fundamental provisions of terms of reference that no force should be used to effect or prevent repatriation. The necessity of Commission taking appropriate steps to remedy this situation. The Commission's admission that such conditions existed in Camps and had frustrated our work. The impracticability of breaking up organisations within camps with assurance of success. The impossibility of identifying ringleaders and agents. The objection on part of Swiss and Swedish members to use of force leading to heavy casualties without which none of the above action was possible. The argument of Poles and Czechs that force is permissible if used in lawful discharge of functions that is removing ringleaders coercing others

from/

from expressing free choice. Inability of Commission to reach decision on use of force or its extent. Necessity of both Commands being acquainted with this situation in view of explanation period running out so that they may consider this matter accordingly."

Confidential

I appreciate your message.

I agree we must not function on emotional plane or attempt pressures and will advise against this. However, I wonder if responsible persons in UN fully realise rapid manner situation is deteriorating.

I am continually getting long messages from Chou En Lai expressing distress, resentment and apprehension at developments and accusing Thimaya and Custodian Force of weakness. In fact he has definitely called upon India as responsible for appointing Chairman UNRC, to intervene and have energetic action taken to stop disruptive and violent activities of UN Command and Rhee agents in camps. He points out that contrary to Armistice Agreement force is being used by these agents to intimidate PsOW and prevent them from appearing for explanation.

On other side UN representatives continually protesting and insisting that no force be used by Custodian Force and stating irrevocably, that period of explanations will not be extended.

Poles & Czechs walk out.

Swiss and Swedes threaten to go home. There is complete deadlock.

Am having all messages from Korea repeated. You should see them all and communicate them to Hammarskjold for his information.

To Secy Gen.

D R A F T

REPORT BY THE SECRETARY-GENERAL ON THE IMPLEMENTATION OF GENERAL ASSEMBLY  
RESOLUTION 711 (VII) "C", ADOPTED AT THE 430th PLENARY MEETING  
ON 28 AUGUST 1953

1. The Secretary-General wishes to submit the following report on action taken in implementation of General Assembly resolution 711 (VII), pursuant to the request contained in resolution 711 (VII) "C" that he report as appropriate.
2. In accordance with the General Assembly's request, the Secretary-General communicated to the Central People's Government of the People's Republic of China and to the People's Democratic Republic of Korea the texts of resolution 711 (VII) "A", entitled "Implementation of paragraph 60 of the Korean Armistice Agreement", and resolution 711 (VII) "B". With a note dated 17 September 1953 (A/2480), the Secretary-General informed the General Assembly of his action in implementation of resolution 711 (VII) "C", and of the receipt of replies from the Central People's Government of the People's Republic of China, by cable dated 13 September 1953, and from the People's Democratic Republic of Korea, by cable of 14 September 1953. These replies were circulated as General Assembly documents numbered, respectively, A/2469 and A/2476.
3. The Secretary-General also circulated three letters addressed to him by the Representative of the United States of America on 18 and 22 September, and 8 October 1953, as General Assembly documents numbered A/2483, A/2488 and A/2498, respectively.
4. Two further communications, cables dated 10 October 1953 from the Central People's Government of the People's Republic of China and the People's Democratic Republic of Korea, have been circulated as General Assembly documents numbered A/2502 and A/2504, respectively.
5. In view of the fact that all the above-mentioned communications have been circulated as General Assembly documents, the Secretary-General does not consider

it necessary to summarize here the different views expressed therein.

6. In accordance with Article 60 of the Korean Armistice Agreement, a political conference should take place within three months after the Armistice Agreement is signed and becomes effective. As the Armistice Agreement was signed and became effective on 27 July 1953, the political conference should begin not later than 28 October 1953. Pursuant to paragraph 5 (b) of General Assembly resolution 711 (VII) "A", the United States Government, by communication of 18 September 1953 to the Central People's Government of the People's Republic of China and the People's Democratic Republic of Korea (A/2483), expressed willingness to have the political conference meet on 15 October 1953 at San Francisco, Honolulu or Geneva, Switzerland.

7. To date, no agreement has been reached on the date for the opening of the political conference. In addition to the serious consequences that this may have in other respects, should further time elapse before such an agreement is reached, this creates difficulties of a practical nature which are of direct concern to the Secretary-General, and to which it is his duty to draw the attention of the General Assembly.

8. The Secretary-General therefore wishes to point out that, as time grows shorter, it becomes increasingly evident that he will not, for technical reasons, be able to comply with the request contained in paragraph 5 (c) of resolution 711 (VII) "A" that he provide the political conference with such services and facilities as may be feasible.

9 October 1953

PROVISIONAL MEMORANDUM CONCERNING  
RULES OF THE NEUTRAL NATIONS' REPATRIATION COMMISSION  
GOVERNING EXPLANATIONS AND INTERVIEWS

I. INTRODUCTION

Under paragraph 51 b. of the Korean Armistice Agreement, signed at Panmunjom on 27 July 1953, all prisoners of war not directly repatriated were to be handed over to the Neutral Nations' Repatriation Commission (N.N.R.C.) for disposition in accordance with Terms of Reference annexed to the Agreement.

These terms of reference, which were based on General Assembly Resolution 610 VII of 3 December 1953, provided inter alia that the Commission, after taking custody, should immediately make arrangements so that within ninety days the nations to which the prisoners of war belonged might explain their rights and inform them of any matters relating to their return to their homelands. The principles under which the explanations were to be made were set out in Paragraphs 3 and 8 of the Terms of Reference (for text of Paragraphs 3 and 8 see Annex 1). The N.N.R.C. was authorized (Paragraph 8 d.) to prescribe additional provisions governing the explanation work which would "be designed to employ" the principles enumerated in Paragraphs 3 and 8.

Rules governing explanations and interviews were prepared by the N.N.R.C. and made public on 30 September 1953 (for text see Annex 2). <sup>1/</sup> These rules have been the subject of formal objection by the United Nations Command on the basis that they will permit coercion of the prisoners of war and are not consistent with the spirit of the Armistice Agreement. It is the purpose of the present memorandum to examine these rules in the light of the relevant provisions of the Armistice Agreement to determine:

<sup>1/</sup> Only the unofficial text appearing in the New York Times for 1 October, 1953, was available when this study was prepared.

1) Are there any inconsistencies between the rules and the specific provisions of the Terms of Reference of the N.N.R.C., and

2) Are the rules consistent with the intent of the Armistice Agreement.

The memorandum reaches the following provisional conclusions:

1) While there is some reason to fear that the rules may permit pressures to be brought against the prisoners during the explanations and interviews, contrary to the provisions of paragraph 3 of the Terms of Reference, other provisions in the rules give the Commission power to prevent their use for this end. The final judgment can only be made after the rules have been applied.

2) Concerning the consistency of the rules with the intent of the Armistice Agreement, it must be observed that the relative emphasis on the right of repatriation as opposed to the right to refuse repatriation is one of the basic questions which was not fully resolved by the Agreement, and under paragraph 24 the interpretation was left to the N.N.R.C. Throughout the negotiations the United Nations Command was concerned with the right of a prisoner not to be repatriated, if he so chose, whereas the other side insisted on the right of repatriation of all prisoners. The emphasis in the interpretation of this point by the N.N.R.C. would appear to be much nearer the position of the Delegation of the Korean Peoples Army and the Chinese Peoples Volunteers than to that of the United Nations Command.

## II. CONSISTENCY OF RULES WITH SPECIFIC PROVISIONS OF THE TERMS OF REFERENCE

The first five rules set forth general principles concerning the treatment and conduct of prisoners. Rule 1 reiterates the cardinal principle in the Terms of Reference (Paragraph 3) that any act of force or threat of force to prevent or to effect repatriation of prisoners of war is prohibited. Rule 3 prohibits any action infringing upon the rights of prisoners of war under the terms of reference of the Commission.

Rules 2, 4 and 5 prohibit prisoners from committing acts of violence against other prisoners, acts derogating from or obstructing the authority of the Commission, or impeding the work of explanation and interview. Express authority for these rules is found in Paragraph 7 of the Terms of Reference which provides that nothing in the Agreement shall be construed as derogating from the authority of the N.N.R.C. to exercise its legitimate functions and responsibilities for the control of the prisoners of war under its temporary jurisdiction.

Other rules fill in the details for the work of explanations which are not specifically provided in the Terms of Reference, and for which the Commission was authorized to prescribe additional provisions. It is with respect to the rules falling in this category that objections have been raised by the United Nations Command.

The exceptions which have been taken to individual rules would seem to be the following:

- 1) Rule 7 permits explanations and interviews to individual prisoners as well as to groups.
- 2) Rule 7 also makes attendance at the explanations and interviews compulsory.
- 3) Rule 8 permits several explanations and interviews to the same group or individual.
- 4) Rule 22 permits explanations to be carried on eight hours a day for six days a week.
- 5) Rule 14 does not permit representatives of the detaining side to raise objections during the explanation session.

Apart from the question of coercion under Paragraph 3 discussed below, it does not appear to be the position of the United Nations Command that these

rules violate specific provisions of the Terms of Reference. Their position is rather that, taken together, they permit coercion contrary to the Agreement and show an emphasis on the right of repatriation over the right not to be repatriated contrary to the spirit of the Agreement. The latter contention will be examined in Section III of this memorandum.

At this point it should be observed that a number of possibilities were open to the Commission, and that it had of necessity to choose among the possible procedures. No provision in the terms of reference specifically permitted or prohibited explanations to an individual, or several explanations to the same prisoner. It was for the Commission to make additional provisions covering these points in accordance with Paragraph 8.d. and the provisions which it made, taken severally, cannot be said to violate any specific requirement of the Terms of Reference.

The rule concerning the duration of the sessions falls within the limits prescribed by Paragraph 8.b. of the Terms of Reference. This paragraph provides that the hours in which the Explaining Representatives shall have access to the prisoners shall be determined by the N.N.R.C. and generally shall be in accord with Article 53 of the Geneva Convention relative to the treatment of prisoners of war. Article 53 of the Convention specifies, with respect to duration of labour, that it shall not be excessive, that a rest of not less than one hour in the middle of the day shall be permitted, and twenty-four consecutive hours of rest be afforded once a week. The period provided for explanations by Rule 22 does not exceed the maximum allowed by Article 53 of the Geneva Convention.

With regard to compulsory attendance, it may be noted that Paragraph 8 of the Terms of Reference provided that the nations to which the prisoners of war belonged should have freedom and facilities to send representatives to the locations where such prisoners of war are in custody to explain their

rights to all prisoners of war depending upon these nations. The New York Times of 5 October, 1953 quoted neutral sources as arguing that "if 95 per cent of the prisoners refused to hear the 'explanation' the terms of the prisoner agreement would be meaningless". The question might be raised whether compulsory attendance invokes a use of force contrary to paragraph 3 of the Terms of Reference. The specific prohibition in Paragraph 3 is that no force or threat of force shall be used against the prisoners of war to prevent or effect repatriation. While it is an arguable point, the right of the Commission to require compulsory attendance at explanations is probably covered in the authority of the Commission to control the prisoners which is recognized in Paragraph 7 of the Terms of Reference.

With respect to the representative of the detaining side, it might be argued that Paragraph 8.c. of the Terms of Reference contemplates a more positive role for him than that afforded in Rule 14. This argument would be based on the fact that Paragraph 8.c. of the Terms of Reference provides that explanations and interviews shall be conducted in the presence of a representative of each member nation of the N.N.R.C. and a representative from the detaining side, whereas Paragraph 1 speaks of a right of representatives of both sides to observe operations of the Commission, including explanations and interviews. While a formal difference is recognized by the rules between the role of the "observer of either side" and the role of the "representative of the detaining side", it would seem that the Commission, in permitting the latter to make objections only at the end of the session, has removed any substance from this distinction. However, the role envisaged for the representative of the detaining side is not expressed clearly enough in the Terms of Reference to justify a conclusion that the N.N.R.C. has departed from these terms.

THE ISSUE OF COERCION

As noted above, the one point on which the United Nations Command believe that a specific provision of the Terms of Reference has been violated is that of coercion contrary to Paragraph 3. The points in the rules which it is believed by the United Nations Command will permit undue pressure to be brought against the prisoners of war to induce them to accept repatriation have been mentioned above. An examination of the rules also shows provisions which were intended as safeguards against coercion during the explanations and interviews. Rule 12 provides that written explanations have to be duly examined by the Commission or its subordinate body prior to distribution. Rule 14 permits the Representative of the detaining side, at the end of each explanatory session, to bring to the notice of the Chairman of the N.N.R.C. or its subordinate body any matter which may be construed as a violation of the Terms of Reference. Rule 15 provides for concurrent interpretation of explanations and interviews to the N.N.R.C. Representative(s) present. Rule 16 provides that a prisoner must be warned of his right not to answer questions if he thinks, or if the N.N.R.C. or its subordinate body thinks, that the answers to the questions may be used to threaten or coerce him directly or indirectly. Rule 17 states that if, in the opinion of a Member of the Subordinate Body in charge of the supervision of explanations, an explainer infringes upon the Terms of Reference or present rules, or also in any case of disturbance or any major incident, the session shall be immediately suspended; the subordinate body will then without delay examine the situation brought about by such an incident and state the conditions under which the session shall be resumed and/or report to the Commission. Rule 23 provides that each day's plan of work of the explaining representatives shall be in the hands of the secretariat of the N.N.R.C. one day in advance.

Should the explanations and interviews be used to exert pressure rather than to explain to the prisoners their rights and inform them of matters relating to their return to their home lands, this would be contrary to Paragraph 3 of the Terms of Reference, which provide:

No force or threat of force shall be used against the prisoners of war..... to prevent or effect their repatriation, and no violence to their persons or affront to their dignity or self-respect shall be permitted in any manner for any purpose whatsoever.

The concept of coercion involves judgments concerning complex situations which are hardly capable of exact demonstration in the abstract. Whether the rules will in fact, despite the safeguards noted above, permit pressure to be brought on the prisoners during explanations and interviews can only be determined with any degree of exactness after they have been applied in practice.

Spokesmen for the neutral nations on the Commission have stated to the press that coercion or "brain washing" of prisoners would not be permitted. General Thimayya, Chairman of the N.N.R.C., has indicated in press interviews that N.N.R.C. representatives could stop a session when a man became tired. He added that he thought five or ten minutes was not too long to ask a prisoner to listen to an explanation. He expressed the opinion that time would not permit repeated sessions for the same men. Finally, he suggested that the rules might be changed if it were found necessary.

While uneasiness on the part of the United Nations Command that pressures against the prisoners will be possible under the rules is not unreasonable, other considerations show that the Commission has it within its power to prevent their use for this end. The ultimate test will be the way that the rules are applied by the Commission.

### III. CONSISTENCY OF THE RULES WITH THE INTENT OF THE ARMISTICE AGREEMENT

The second question may now be examined: are the rules consistent with the intent of the Armistice Agreement? Spokesmen for the United Nations Command have taken the position that the spirit of the Armistice Agreement requires that arrangements made by the N.N.R.C. should not assume that the prisoners desire repatriation, and should not exert any influence on them to be repatriated.

Thus, on 29 September, the New York Times reported that the United Nations Command had filed a protest against a letter which the N.N.R.C. had distributed to the prisoners. The protest stated that the "over-all influence (of the letter) is unmistakably one of emphasis on the desirability of repatriation rather than on the principle of free choice."

On 3 October the New York Times reported a spokesman for the United Nations Command as stating that the rules governing explanations specifically encouraged prisoners to seek repatriation, rather than permitting them to exercise a free choice. For example, Rule 9 specifically states that prisoners may apply for repatriation at any time and at any place and that the N.N.R.C. will ensure that every prisoner of war has the opportunity to do so without any fear; while on the other hand there is no rule specifically dealing with the right of freedom of choice not to be repatriated.

Some of the formulations in the Armistice Agreement might appear to indicate a certain emphasis on repatriation. Thus the Commission is entitled the Neutral Nations Repatriation Commission. The first paragraph of the terms of reference states that the Commission is established "to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated following an Armistice". However, the spokesmen for the United Nations Command would presumably argue that the entire plan embodied in the Annex to the Armistice Agreement rested on the assumption that each prisoner would be equally entitled to choose to be repatriated or to decline repatriation.

The United Nations Command appears to take the position that there are errors of emphasis both in positive provisions of the rules noted above, and in omissions on the part of the Commission. Thus, General Mark W. Clark, United Nations Commander, had proposed that the N.N.R.C., in order to remove doubts concerning the sincerity with which the prisoners oppose repatriation, should take advantage of its terms of reference and that the prisoners "be encouraged to state their views directly to the N.N.R.C. and its subordinate bodies, on the situation as they see it."

This would appear to be a reference to paragraph 9 of the terms of reference, which is as follows:

" 9. Prisoners of war in its custody shall have freedom and facilities to make representations and communications to the N.N.R.C. and to representatives and subordinate bodies of the N.N.R.C. and to inform them of their desires on any matter concerning the prisoners of war themselves, in accordance with arrangements made for the purpose by the N.N.R.C."

It will be recalled that a wide divergence of view between the parties over prisoners of war not directly repatriable had deadlocked the Armistice discussion for a prolonged period. The Agreement finally reached did not in fact resolve these differences so fully as to preclude disputes on the interpretation of even the basic intent of the Agreement.

On the one hand, on the point that force or threat of force shall not be used to prevent or effect repatriation the Agreement is precise. The only room for interpretation relates to the determination of what constitutes force or threat of force.

On the other hand, the relative emphasis on the right of repatriation as opposed to the right to refuse repatriation is one of the basic questions which was not fully resolved by the Agreement, and under paragraph 24 the interpretation was left to the N.N.R.C. Throughout the negotiations the United Nations Command was concerned with the right of a prisoner not to be repatriated, if he so chose, whereas the other side insisted on the right of repatriation of all prisoners. The emphasis in the interpretation of this point by the N.N.R.C. would appear to be much nearer the position of the Delegation of the Korean People's Army and the Chinese People's Volunteers than to that of the United Nations Command.

ANNEX I

PARAGRAPHS 3 and 8 OF THE TERMS OF REFERENCE FOR THE  
NEUTRAL NATIONS REPATRIATION COMMISSION ANNEXED TO THE  
KOREAN ARMISTICE AGREEMENT

Paragraph 3

"No force or threat of force shall be used against the prisoners of war specified in Paragraph 1 above to prevent or effect their repatriation, and no violence to their persons or affront to their dignity or self-respect shall be permitted in any manner for any purpose whatsoever (but see Paragraph 7 below). This duty is enjoined on and entrusted to the Neutral Nations Repatriation Commission. This Commission shall ensure that prisoners of war shall at all times be treated humanely in accordance with the specific provisions of the Geneva Convention, and with the general spirit of that Convention."

- - - - -

Paragraph 8

" The Neutral Nations Repatriation Commission, after having received and taken into custody all those prisoners of war who have not exercised their right to be repatriated, shall immediately make arrangements so that within ninety (90) days after the Neutral Nations Repatriation Commission takes over the custody, the nations to which the prisoners of war belong shall have freedom and facilities to send representatives to the locations where such prisoners of war are in custody to explain to all the prisoners of war depending upon these nations their rights and to inform them of any matters relating to their return to their homelands, particularly of their full freedom to return home to lead a peaceful life, under the following

provisions:

a. The number of such explaining representatives shall not exceed seven (7) per thousand prisoners of war held in custody by the Neutral Nations Repatriation Commission; and the minimum authorized shall not be less than a total of five (5);

b. The hours during which the explaining representatives shall have access to the prisoners shall be as determined by the Neutral Nations Repatriation Commission, and generally in accord with Article 53 of the Geneva Convention Relative to the Treatment of Prisoners of War;

c. All explanations and interviews shall be conducted in the presence of a representative of each member nation of the Neutral Nations Repatriation Commission and a representative from the detaining side;

d. Additional provisions governing the explanation work shall be prescribed by the Neutral Nations Repatriation Commission, and will be designed to employ the principles enumerated in Paragraph 3 above and in this Paragraph;

e. The explaining representatives, while engaging in their work, shall be allowed to bring with them necessary facilities and personnel for wireless communications. The number of communications personnel shall be limited to one team per location at which explaining representatives are in residence, except in the event all prisoners of war are concentrated in one location, in which case, two (2) teams shall be permitted. Each team shall consist of not more than six (6) communications personnel."

ANNEX II

RULES OF THE NEUTRAL NATIONS REPATRIATION

COMMISSION GOVERNING EXPLANATIONS AND INTERVIEWS

(Text from New York Times,  
1 October, 1953)

I. General Provisions

1. Any act of force or threat of force to prevent or to effect repatriation of prisoners of war is prohibited.
2. No prisoner of war shall commit an act of violence against another prisoner of war.
3. Any action infringing upon the rights of prisoners of war under terms of reference of the commission is prohibited.
4. Any acts of prisoners of war which have the effect of derogating from or obstructing the authority of the commission to exercise its legitimate functions and responsibilities are prohibited.
5. Any act on the part of prisoners of war impeding the work of explanations and interviews is prohibited.
6. As soon as the custody of prisoners of war has been assumed by the Neutral Nations' Repatriation Commission, through the custodian force, India, the commission shall insure that the prisoners of war are acquainted with the provisions contained in the preceding paragraphs 1 to 5.
7. Explanations and interviews can be given to groups of or individual prisoners of war as requested by the explaining representatives of the nation to which the prisoners of war belong. Every one of the prisoners of war shall attend the explanations and interviews.

8. Several explanations and interviews to the same group of prisoners of war or the same individual prisoner are permissible within the time prescribed in Article 8 of the terms of reference of the commission.

9. Prisoners may apply for repatriation at any time and at any place. The Neutral Nations Repatriation Commission will insure that every prisoner of war has opportunity to do so without any fear.

10. At the time of the explanation, there shall be present the Neutral Nations' Repatriation Commission or its subordinate body, along with one representative each of the two sides to observe the operation and one representative of the detaining side.

11. A sufficient number of subordinate bodies, not exceeding thirty-five, composed of one representative from each member nation on the Neutral Nations' Repatriation Commission, shall be established to attend all the work of explanations and interviews and to determine the validity of applications for repatriation.

12. The explaining representative shall have the right to distribute to the prisoners of war written explanations in accordance with the provision of Article 8 of the terms of reference, having duly been examined by the commission or its subordinate body.

13. At no time during the explanations and the interviews shall the observer of either side be permitted to interfere with the work of explanation, the sole function being to observe.

14. The representative of the detaining side shall not participate in the work of explanation or interfere with it in any way. He may, however, bring to the notice of the Chairman of the Neutral Nations' Repatriation Commission or its subordinate body, at the end of each explanatory session, any matter

which may be construed as violation of the terms of reference.

15. In the process of explanations and interviews, interpretation to the Neutral Nations' Repatriation Commission representative present shall, without obstructing the work of explanations and interviews, be concurrent and shall not interrupt the explanations and interview work.

16. The explaining representatives may ask the prisoners of war any relevant questions provided the latter is warned of his right that he need not answer the questions if he thinks, or the Neutral Nations' Repatriation Commission or its subordinate body thinks, that the answer to the questions may be used to threaten or coerce him directly or indirectly.

17. If, in the opinion of a member of a subordinate body in charge of the supervision of explanations, an explainer infringes upon the terms of reference or present rules, or also in any case of disturbance or any major incident, the session shall be immediately suspended; the subordinate body will then without delay examine the situation brought about by such an incident and state upon the conditions under which the session shall be resumed and/or report the case to the commission.

## II. Arrangements and Facilities

18. The sites for explanations and interviews, whether to individuals or to groups, shall be so constructed as to insure that the work of explanations and interviews be free from any interference or obstruction.

19. Facilities shall also be provided for the conduct of the work of explanations and interviews to sick, wounded and injured prisoners of war.

20. Prisoners of war who applied for repatriations, those who have been given explanations but have not submitted their applications for repatriation and those who have neither been given explanation nor applied for repatriation should be kept separated in custody.

21. Each enclosure for the conduct of individual or group explanations shall have two exits to be used separately by the prisoners of war; one for those who apply for repatriation and the other for those who have not, in accordance with Paragraph 8 of the terms of reference.

22. The work of explanation shall be carried out each day of the week, except Sundays, from 0730 hours to 1630 hours, with a lunch interval of one hour.

23. The explaining representatives of the nations to which the prisoners of war belong shall forward to the secretariat of the Neutral Nations' Repatriation Commission plans one day in advance from day to day regarding the method of explaining work. They should reach the secretariat not later than 1000 hours on the day previous to the date on which the plan is to be put into operation.

Strängt förtroligt.

P.M.

Utrikesdepartementet meddelade i telegram den 28 oktober följande:

I. Enligt telegram från beskickningen i Peking hade kinesiska regeringen tillställt schweiziska regeringen svar å dess aide mémoire den 19 oktober angående repatrieringskommissionens svårigheter, vilka anses bero på kommissionens ovilja att stävja Rhee- och Chiang-agenternas verksamhet. Vissa representanter hade kullkastat tidigare beslut att "use compulsory mean to segregate agents from prisoners". Resultat kunde bli "utterly impossible for commission to fulfil mission and responsibility". Kommissionens "terms of reference" hade kränkts genom förhandlingarna med dessa agenter. "Lawful reasonable means" enligt par. 1, 3, 7 och 8 borde användas. Kineserna uttrycka "deep regret at approval given by Swiss Government to unfair unreasonable attitude taken by Swiss Representative". Kommissionens regler måste strängt iakttagas.

Den 27 oktober hade Europachefen överlämnat en kopia av meddelandet, som icke delgivits de indiska och schweiziska beskickningarna och icke avsåges offentliggöras i Peking, med anhållan om vidarebefordran till svenska regeringen, "enär den svenske representanten hade intagit en liknande hållning."

II. Enligt telegram från beskickningen i Delhi övervägde man<sup>där</sup> enligt vad den indiske generalsekreteraren upp-lyst ~~där~~ att klarare än hittills framhålla inför offentlig-

heten att repatrieringskommissionens svårigheter ej främst gällde maktmedel av bevakningstrupperna inför kommissionen utan förekomsten av våld inom själva fånglägren för att hindra inställelse eller motverka bevakningstruppernas uppdrag.

Enligt indisk uppfattning vore det ur neutral synpunkt viktigt att svårigheterna ej oförskyllt härleddes ur beslut av kommissionen utan hänfördes till de reella faktorerna.

New York den 29 oktober 1953.

The Secretary-General of the United Nations has asked me to convey to you his acknowledgement of receipt of your reply to his cable of 28 August. As you know the General Assembly is seized with the question and your reply has been circulated as an Assembly document. The Secretary-General will see to it that records of the proceedings in the United Nations on this matter are currently mailed to you for your information

The Secretary-General of the United Nations has asked me to convey to you his acknowledgement of receipt of your reply to his cable of 28 August. As you know the General Assembly is seized with the question and your reply has been circulated as an Assembly document. The Secretary-General will see to it that records of the proceedings in the United Nations on this matter are currently mailed to you for your information

The Secretary-General of the United Nations has asked me to convey to you his acknowledgement of receipt of your reply to his cable of 28 August. As you know the General Assembly is seized with the question and your reply has been circulated as an Assembly document. The Secretary-General will see to it that records of the proceedings in the United Nations on this matter are currently mailed to you for your information

The Secretary-General of the United Nations has asked me to convey to you his acknowledgement of receipt of your reply to his cable of 28 August. As you know the General Assembly is seized with the question and your reply has been circulated as an Assembly document. The Secretary-General will see to it that records of the proceedings in the United Nations on this matter are currently mailed to you for your information