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COMMISSION ON HUMAN RIGHTS

Forty-third session

SUMMARY RECORD OF THE 34th MEETING */

(Second part)

Held at the Palais des Nations, Geneva,
on Tuesday, 24 February 1987, at 7 p.m.

Chairman: Mr. EVMENOV (Byelorussian Soviet
Socialist Republic)
later: Mr. KOLBY (Norway)

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*/ The summary record of the first part of the meeting appears as document E/CN.4/1987/SR.34

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

- (a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;
- (b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;
- (c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES (agenda item 10) (continued) (E/CN.4/1987/13, 14, 15 and Corr.1 and Add.1, 39; E/CN.4/1987/NGO/31, 36, 37 and 42; A/41/706)

1. Mr. LITTMAN (World Union for Progressive Judaism) said that his organization had submitted a written statement (E/CN.4/1987/NGO/30) on the religious authorities' implicit endorsement of hostage-taking by extremist factions in Lebanon and the precarious situation of the country's Jewish community, which currently numbered less than 100 souls. In the past two and a half years, almost 20 members of that community had been taken hostage and 8 of them killed. The Speaker of the Iranian Parliament had virtually sanctioned hostage-taking and attacks on aeroplanes, embassies and Western nationals. A brave Englishman, Terry Waite, had been taken hostage by vile men who claimed to act in the name of their religion.
2. Seven thousand Syrian troops had recently entered West Beirut at the request of Lebanese Moslem leaders, and his organization hoped that all hostages, including the Lebanese Jews, would soon be released and allowed to leave Lebanon.
3. The Commission should pass a unanimous resolution condemning the kidnapping and ill-treatment of hostages and any ideology that sanctioned such despicable acts.
4. Mr. MARTINEZ (Christian Democratic International) said that, in March 1986, his organization had received a letter, signed by 19 prisoners, complaining of ill-treatment in a Cuban prison. He also cited the case of three persons who had asked for political asylum on taking refuge in the Peruvian Embassy in Havana in 1980 and had never received a safe conduct to leave the country. Other persons in the same situation, who had left the safety of the Embassy, on the promise of safe conduct by the Cuban authorities had been imprisoned. Since 5 January 1987, the three persons in question had been on hunger strike in protest against their situation and the actions of the Cuban authorities.
5. In September 1986, a Committee for Human Rights had been founded in Havana. Ten of its founding members had been immediately arrested and charged with anti-social behaviour. Two of them had subsequently been released. The Committee had questioned the repressive and discriminatory policy of the Cuban authorities and demanded the abolition of the death penalty, the exercise of the right of habeas corpus, guarantees of fair trials, freedom to choose a profession or a job, the right to enter and leave the country freely and the right to profess a religion without harassment. The Committee's initiative confirmed that serious violations of human rights continued in Cuba. Human rights organizations were concerned that no attention was paid to that fact, and Amnesty International had called for urgent action in some cases.

6. During the years in which it had been attending the Commission, Christian Democratic International had 400 documented reports of systematic human rights violations involving the persecution and harassment of more than 1,000 persons. The number of political prisoners in Cuba was estimated at approximately 15,000. They were not recognized as such and were kept in prisons and slave-labour camps along with ordinary criminals. Since 1967, approximately 100 political prisoners who had resisted that policy had been kept incommunicado, in the harshest conditions. The vicious circle of repression was leading young people to leave the country in any sort of boat they could improvise; many of them died in the attempt. Thousands had been imprisoned for attempting to leave the country. The serious violations of human rights in Cuban prisons had prompted the Havana Committee for Human Rights to seek international lawyers to take up their defence.

7. Christian Democratic International asked that a special rapporteur should be appointed to confirm the reports in question and to verify the 560 new reports of systematic violations of the human rights of political prisoners and of the persecution and harassment of ex-prisoners and their families which constituted irrefutable evidence of the extent of the repression in Cuba.

8. Mr. RODLEY (Amnesty International) said that, according to the testimony of former detainees in Afghanistan, torture was used in security police interrogation centres, prisons and military posts, often in the presence of Soviet personnel. Methods used included regular beatings, electric shocks, burning with cigarettes and the ripping out of hair from the scalp. Prisoners might be detained for several months without access to their families or a lawyer.

9. In Chile, security forces and clandestine groups increasingly used torture on suspected members of illegal opposition groups. Common methods included electric shocks, burning with cigarettes, sexual abuse, beatings and near-drowning. Despite the existence of proof of torture, the courts were usually unwilling or unable to prosecute members of the security forces.

10. Amnesty International continued to receive frequent reports of the use of torture in El Salvador to extract confessions from those suspected of subversive activities. In his most recent report (E/CN.4/1987/21), the Commission's Special Representative on El Salvador had noted evidence suggesting that up to 20 per cent of detainees were subjected to torture or torture-like practices; it was difficult to see how he could then conclude that torture was not widespread. After many requests from Amnesty International, the Government of El Salvador had agreed to authorize a visit to the country in March 1987, although definite arrangements had still not been made.

11. Although torture was prohibited by law in Ethiopia, it appeared to be used systematically to force people to confess to involvement in political opposition and to obtain information about political opponents of the Government. Some political prisoners were alleged to have been secretly "sentenced" to imprisonment or execution by a special Government committee. Torture was alleged to have been used on schoolchildren as young as 13 or 14 years old.

12. Amnesty International continued to receive complaints that people suspected of both political and criminal offences had been subjected to torture while in police custody. In many cases, it was alleged that no official investigations had been initiated, despite Government assurances to the contrary.

13. In the People's Democratic Republic of Yemen, there appeared to have been widespread and systematic use of torture following the fighting in January 1986. People had been tortured for suspected allegiance to the former head of State or simply because of their place of origin. Methods of torture included beating, flogging with wires, burning with metal rods and forcing the victim into a heated metal barrel containing hot tar. In some cases, torture had reportedly led to the death of the victim.

14. In attempting to reduce the incidence of torture, the Commission should call for speedy and universal ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without reservations, particularly in respect of article 20, under which a future Committee against Torture could inquire into allegations of such practices. The mandate of the Special Rapporteur against Torture should be extended and he should be allocated adequate resources and allowed to visit the countries under investigation.

15. His organization expressed its support for the Working Group on Enforced or Involuntary Disappearances, which had tried to work in an evenhanded and impartial manner. The Working Group had renewed its efforts to investigate unclarified cases of "disappearances" in Mexico. The Commission should resist any attempt to burden the Working Group with procedural obstacles which might interfere with its activities.

16. Ms. BANDETTINI DI POGGIO (International League for the Rights and Liberation of Peoples) said that violence and oppression by the security forces in South Korea affected the entire population. At the end of January 1987, a demonstration had been held to protest at the death from torture of a 21-year-old student. For the first time, the Government had admitted that someone had been tortured to death by investigators. However, that had not been the first such case. Since 1980, 47 political prisoners had been executed or tortured to death, and 38 workers and students had burnt themselves to death in protest against exploitation at work and the repression of democratic movements.

17. The penalties inflicted on political prisoners, of whom there were reliably reported to be several thousand in South Korea, were the most severe in the world, and torture was systematically used. One prisoner had been so badly tortured that his own mother had not recognized him. Political prisoners were often detained long beyond their original terms of imprisonment.

18. Human rights violations affected all segments of South Korean society. More than 30 democratic organizations had been dissolved in November 1986. Protests by students, farmers and miners had been ruthlessly suppressed.

19. Her organization called upon the Commission to appoint a Special Rapporteur to investigate human rights violations in South Korea, and urged the Commission to call upon the South Korean Government to refrain from arrest and torture and to release all political prisoners.

20. Ms. BARNES DE CARLOTTO (International Movement for Fraternal Union Among Races and Peoples) said that the movement which she represented wished to express its solidarity with the peoples of Paraguay, Chile, Equatorial Guinea and Namibia in their struggle to regain their fundamental human rights and appealed to the international community to call for the immediate release of 8,000 child prisoners in South Africa.

21. As a member of the Grandmothers of the Plaza de Mayo, she drew attention to the fact that, even after three years of constitutional government in Argentina, the tragedy of the thousands of missing persons remained unresolved. Nearly all those who had been responsible for State terrorism and the crimes of the previous Government had escaped punishment, and in the public trials which were still being held, no one had been convicted of the abduction of minors.

22. In the course of 10 years of investigation, her organization had traced 39 children; the statistics showed that there was no clear Government policy for the return of such children to their families. Although some children had been returned, six of those located by her organization had been again abducted by their former kidnapers.

23. Act No. 23.492 of 24 December 1986 had virtually amnestied all armed forces, police and prison personnel who had committed offences during the period of repression from 1976 to 1983.

24. Her organization called on the international community to help to find the abducted children, to ascertain the truth of what had happened to their parents and to ensure that those responsible for kidnapping or killing them be brought to justice. Her organization was anxious that a veil should not be drawn over the tragic period of Argentinian history which had seen the disappearance of 30,000 persons.

25. Ms. PARKER (Human Rights Advocates) said that, when a state of siege or emergency was declared, it was essential to determine whether the régime was entitled to suspend the non-derogable human rights and, if so, whether those suspensions were in accordance with international law.

26. In Pakistan, there had been a situation of de jure or de facto emergency rule since 1977; the actions taken under emergency powers were designed not to protect Pakistan as a State, but to protect the rule of General Zia. Amendments to the Constitution in November 1985 had succeeded in institutionalizing martial law under the guise of civilian government. In August 1986, a call for free elections had led to the banning of political meetings and the arrest of over 10,000 political leaders, including Ms. Benazir Bhutto. Thousands of persons had been detained under harsh conditions and tried by military courts, in violation of international standards of justice. Long periods of torture were common, resulting in death or serious physical and mental deterioration.

27. Paraguay had been under an almost uninterrupted state of emergency for 24 years. Under article 59 of the Constitution, the President could simply order people to be detained, charges were rarely brought and lawyers attempting to represent detainees were likely to be arrested themselves.

28. The situations in El Salvador, Guatemala and Sri Lanka clearly corresponded to a state of civil war as defined by the Geneva Conventions of 1949. However, the Governments of those countries continued to violate the rights of civilian detainees and prisoners of war.

29. In El Salvador, civilian detainees were tried by military tribunals, which was inadmissible even at times of grave national crisis. The situation of prisoners of war had improved somewhat, although their numbers were suspiciously low, given the duration and scale of the civil war. Her organization called upon the parties to the conflict to abide by their recent agreement on the rights of wounded combatants.

30. In Guatemala, 23 army officers had been appointed as appeals court judges in October 1986. Her organization called upon the Commission to condemn such militarization of the judiciary, particularly in light of the role played by the Guatemalan army in the violation of all basic human rights.

31. In Sri Lanka, civilians could be detained for lengthy periods with no judicial recourse. In addition, the country had not conformed to minimum detention standards for prisoners of war.

32. Mr. ZAPATA (Centre Europe - Tiers Monde) said that his organization denounced the systematic violation of human rights in Colombia. Its information came from eye-witness accounts and documents prepared by various human rights groups in that country, particularly the independent Standing Committee for the Defence of Human Rights, which received direct information from relatives and organizations, verified it and drew up lists in order to request clarifications from the Attorney-General and international organizations. Of the 534 cases of missing persons reported to the Commission's Working Group on Enforced or Involuntary Disappearances, 497 remained unsolved.

33. Despite the peace policy of the previous Government and the truce made with three revolutionary organizations, a wave of official violence was spreading through Colombia. The Attorney-General under the Betancur Government had publicly denounced illegal raids and trials, exaggerated sentences, physical and mental torture, and mysterious disappearances. He had not reported on the murders of hundreds of members of the political opposition; the notorious slaughter in the Law Courts, which had come to the ears of the entire world, was the most brutal evidence of just how far State violence could go.

34. His organization possessed figures for official violence showing that, between 1981 and 1986, 2,747 political murders had taken place, over 8,000 persons had been arrested only some of whom had subsequently been released, and 2,028 persons had been tortured and injured. Between 1980 and 1986 a total of 926 persons had disappeared. The Permanent Representative of Colombia to the United Nations had persisted in asserting that there were no gross violations of human rights in Colombia and specifically no disappearances brought about by agents of the Government, while the Attorney-General had, on several occasions in 1986, denounced the frightening scale of human rights violations. It might well be asked who was telling the truth.

35. In the opinion of his organization, the extrajudicial executions and enforced disappearances were not isolated cases, but were part of a plan to wipe out armed insurrection, neutralize political opposition and silence civil disobedience through an anti-subversive "dirty" war.

36. The "dirty" war was a combination of three elements: the political participation of the armed forces in governing the State, military action to annihilate the armed rebels, and an overall methodology for crushing civil obedience. The first phase of that repressive methodology involved illegal arrest of civilians, torture, the use of force and terror. In its second phase, it progressed to extrajudicial executions and enforced disappearances. It was used by the military, the police, State security bodies and Colombia's 42 para-military organizations. Recently, neo-Nazi death squads had appeared for the purpose of exterminating marginal social groups, beggars, prostitutes and drug addicts. The former Attorney-General, Jimenez Gomez, had said that there were two Constitutions - one for the people and one for the private use of the armed forces.

37. His organization asked the Commission to throw light on the situation in Colombia so that the whereabouts of the missing persons could be determined, and the perpetrators of more than 2,000 political murders could be identified and punished.

38. He himself feared for his life on his return to Colombia. One of his associates, Antonio Hernandez Hifo, had been found tortured to death after having been missing for four days.

39. Mr. Kolby (Norway) took the Chair.

40. Mr. von der WEID (Anti-Slavery Society for the Protection of Human Rights), speaking also for the International Commission of Jurists, International Federation of Human Rights, Human Rights Advocates, International League for the Rights and Liberation of Peoples, World Student Christian Federation, Centre Europe - Tiers Monde, Pax Christi International, Pax Romana, World Conference on Religion and Peace International, Disabled People's International and the International Youth and Student Movement for the United Nations, said that the situation in Sri Lanka was so grave that both Governments and non-governmental organizations were extremely anxious about the physical insecurity and suffering to which the civilian population was subjected. The situation warranted exceptional and urgent consideration by the Commission, and all essential steps must be taken to uphold international human rights and humanitarian law. The International Committee of the Red Cross (ICRC) and other organizations should undertake a programme of assistance and protection for those in the affected areas. He called upon the Sri Lankan Government to invite the ICRC into the country to perform its humanitarian work. His appeal was made exceptional by reason of the urgency of the situation and the number of non-governmental organizations which had joined together to make it.

41. Mr. DLOVA (Observer, Pan Africanist Congress of Azania) said that, on the South African authorities' own admission, more than 2,000 people had been killed during the civil unrest in South Africa in 1986 alone, and more than 10,000 people were still under detention. Torture was used systematically, not only to extract information but also to punish those who were suspected of resistance to the apartheid system. The police could detain suspects

indefinitely, provided that they followed the established procedures; for instance, more than two-thirds of those who had died as a result of torture since 1960 had been held under the notorious Section 6 of the Terrorism Act. The same powers of detention had now been extended to the army, although it had not been trained to deal with civilians.

42. The President of the Pan Africanist Congress of Azania, Mr. Mothupeng, had been in prison almost continuously since 1960. He had been offered his freedom if he would "renounce violence". However, Mr. Mothupeng had stated that he could not renounce a policy of violence which he had never espoused; instead, he had called upon the South African leader, Mr. Botha, to renounce the régime's policy of violence against the African people. Mr. Mothupeng was still in prison and his health was deteriorating rapidly. The Pan Africanist Congress of Azania appealed to the Commission to intensify its campaign for the release of Mr. Mothupeng and other political prisoners. The Commission could do much to increase public awareness and bring pressure to bear on the racist authorities to stop the practice of torture in prisons and detention camps.

43. Mr. HELDRING (Observer for the Netherlands) expressed appreciation for the work done by Mr. Kooijmans, Special Rapporteur on questions of torture, and his secretariat colleagues. The Netherlands delegation deplored the fact that the Governments of Bahrain, Iran, Paraguay, South Africa, Suriname and Zimbabwe had failed to respond to the Special Rapporteur's urgent appeals, and hoped that the Governments in question would begin to co-operate as soon as possible. His delegation welcomed the Special Rapporteur's willingness to carry out on-site observations, and supported his recommendation that a Committee of Experts should undertake periodic visits to prisons and detention centres.

44. Chapter III of the Special Rapporteur's report (E/CN.4/1987/13), on the role of medical personnel in torture, was particularly valuable. It was to be hoped that relevant new facts and international standards would be included in the following report. It was encouraging to note that the medical profession itself was concerned about the problem; the International Commission of Health Professionals had been set up to defend the human rights and independence of health workers.

45. It was essential to make everyone realize that torture was a truly unacceptable practice. There should be a notice in every place of detention stating that the Government did not condone torture and would prosecute those who condoned or practised it. No one would then be able to justify acts of torture by quoting orders from above or government policy. The Netherlands was in the process of ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and hoped to complete the necessary legislation as soon as possible.

46. The report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1987/15 and Add.1) described almost 14,000 cases of missing persons. Many of the cases went back several years, and it was becoming less likely that the people involved would ever be found. It was essential that Governments should respond to enquiries as swiftly as possible: at the very least, they should give some response to telegrams sent under the urgent action procedure. It was distressing to note that some governments did not respond at all to such telegrams. His delegation fully supported the Working Group's methods of work, and regretted the reduction in its support staff.

47. In its response, one country had pointed out that it was difficult to track down specific cases because detainees often failed to give their real names when interrogated. The Working Group might suggest ways in which the United Nations or non-governmental organizations could be of assistance, for instance by issuing lists of detainees with photographs and personal details.
48. Mr. de SILVA (Sri Lanka), speaking in exercise of the right of reply, supported the suggestion made by the previous speaker that the photographs and physical details of missing persons should be circulated. The Commission should note that the large number of cases in Sri Lanka described in the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1987/15, paragraphs 79 to 85) merely indicated the situations which were being investigated by the Working Group and the Sri Lankan Government, and were not proven cases of disappearances.
49. The representative of Human Rights Advocates had stated that those detained under the Sri Lankan Prevention of Terrorism Act had no means of recourse: in fact, an advisory board of three lawyers, including one Tamil, had been established to examine detainees' complaints. The Prevention of Terrorism Act was not aimed mainly at Tamils, as the representative had suggested, but at all terrorists, including Singhalese, Tamils and others. Detention orders issued under the emergency regulations were valid for one month only and detainees could not, therefore, be held indefinitely. Any improper use of the emergency regulations could be investigated by the courts. The principle of habeas corpus was upheld even during the state of emergency. He challenged the representative of Human Rights Advocates to cite any occasion when Sri Lanka had derogated from non-derogable human rights. On the few occasions when Sri Lanka had derogated from certain human rights, it had acted in accordance with the provisions of the International Covenants and duly informed the Human Rights Committee.
50. Sri Lanka had no prisoners of war: all those in prison had violated the law of the country and were treated in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners.
51. Mr. KHORAMIAN KERMANCHAH (Observer for the Islamic Republic of Iran) said that the propaganda directed against his country by the United States of America was nothing new. His country condemned the barbarous and inhuman practice of torture, which was banned under the Constitution.
52. A certain non-governmental organization had claimed that the Islamic Republic of Iran condoned terrorism. In fact, his country condemned all acts of terrorism and all States which supported or sheltered terrorists. His country sympathized deeply with the liberation struggle of the people of Lebanon, but did not finance any acts of terrorism in support of that cause.
53. Mr. HEREDIA (Cuba), speaking in exercise of the right of reply, said that he had become aware of the sudden emergence of an anti-Cuba campaign. According to the documents before the Commission, none of the rapporteurs seemed to consider the situation in Cuba to be serious. The campaign was politically motivated, without a shred of evidence of the repression to which it referred. Yearly, hundreds of thousands of persons - tourists, sportsmen, scientists and workers - visited Cuba and could attest to the freedom of movement which was the right of both nationals and aliens. In addition, there were dozens of diplomatic missions from various countries of the world in

Cuba. Cuba's prisons had been visited by United Nations officials, as well as lawyers, scientists and other experts who had seen for themselves that human rights were not violated there.

54. The anti-Cuba campaign encouraged people to leave Cuba, but those who sponsored it did not give them visas once they arrived at their destination. It was also self-contradictory to state that many persons had left Cuba and that people were not allowed to leave. It was a well-known fact that Cuba maintained a policy of solidarity with third world countries and that thousands of people entered and left the country every year.

55. Mr. PALLARES (Guatemala), speaking in exercise of the right of reply with reference to comments made by the representative of Human Rights Advocates, said that the suspension of rights was a constitutional device employed in many countries to deal with a situation of emergency. The rights of citizens of Guatemala had not been suspended since the establishment of the civilian Government and the promulgation of the Constitution.

56. With reference to the appointment in October 1986 of 23 army officers as appeals court judges and the so-called "militarization" of the judiciary, he said that it was not his place to point out to an organization of international lawyers the difference between military courts and civil courts which had their own jurisdiction.

57. Mr. BAISSA (Observer for Democratic Yemen), speaking in exercise of the right of reply, noted that some speakers had referred to violations of human rights in connection with the events that occurred in his country in January 1986. His people were not proud of that episode which had been forced upon them and in which a large number of citizens, cadres and political leaders had lost their lives. The people had been deprived of the security and stability that they had formerly enjoyed, and even the country's sovereignty had been exposed to foreign interference. However, with the assistance of its friends, his country had been able to recover within a relatively short time.

58. The Government, seeking to protect the country and its people, had regained control of the situation a few days after the tragic events and had taken comprehensive and decisive measures to restore order, preserve national unity, and ensure a return to normality. In March 1986, the Government had decreed a general amnesty which had been extended twice, to enable all persons wishing to do so to return to their normal occupations. Detainees had been released, with the exception of the few who had planned and brought about the events in question, most of whom were currently appearing at public and fair trials which were being fully covered by the information media. Arrangements were being made to ensure the security and compensation of all persons injured and to care for the families of those who had lost their lives. All the requisite decisions and measures had been taken to ensure internal reconstruction and overcome the adverse effects of the events to which Democratic Yemen had been subjected. Citizens were again exercising their rights, and elections to local people's councils, the Supreme People's Council and trade-union organizations had been held.

59. His country therefore rejected all unfounded and false allegations intended to besmirch its international reputation.