UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/CN.4/1995/SR.30
23 February 1995

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 30th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 17 February 1995, at 3 p.m.

Chairman:	Mr. BIN HITAM	(Malaysia)
later:	Mr. MEGHLAOUI (Vice-Chairman)	(Algeria)

CONTENTS

GE.95-11205 (E)

CONTENTS (continued)

The meeting was called to order at 3.10 p.m.

MONITORING AND ASSISTING THE TRANSITION TO DEMOCRACY IN SOUTH AFRICA (agenda item 6) (continued) (E/CN.4/1995/L.5)

Draft resolution on monitoring and assisting the transition to democracy in South Africa (E/CN.4/1995/L.5)

1. Mr. RIMDAP (Observer for Nigeria), introducing the draft resolution on behalf of its sponsors, said that a new era was dawning in South Africa, where the Commission and the United Nations as a whole had played an historic role in dismantling apartheid. Given the positive developments in South Africa, the draft resolution took the view that the mandate of the Special Rapporteur of the Sub-Commission had been successfully concluded and decided to remove the item in question from its agenda as of its fifty-second session. It was to be hoped that the Commission would adopt the draft resolution without a vote.

2. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Australia, Austria, Bangladesh, Bulgaria, Canada, Chile, Cuba, Egypt, El Salvador, Finland, France, Germany, Italy, Japan, Malaysia, Nepal, Netherlands, Republic of Korea, Romania, Togo, United Kingdom of Great Britain and Northern Ireland and the United States of America and the observers for Belgium, Cyprus, Czech Republic, Greece, Iceland, Iraq, Ireland, Norway, Portugal, Senegal, Spain and Sweden had become sponsors of the draft resolution.

3. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution without a vote.

4. It was so decided.

5. The CHAIRMAN said that the Commission had thus completed its consideration of agenda item 6.

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (agenda item 15) (continued) (E/CN.4/1995/L.9)

Draft resolution on the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid (E/CN.4/1995/L.9)

6. Mr. JOKONYA (Zimbabwe) said it was the last time that a draft resolution was being presented on the subject. He noted with particular satisfaction that, since the last time that the Commission had considered the implementation of the Convention, the world had seen the demise of apartheid and the establishment of a non-racial and democratic South Africa, a momentous event in the history of the subregion.

7. His delegation expressed its gratitude to the United Nations and to the Commission, in particular, for the role it had played in monitoring the implementation of the Convention. Given that apartheid had been a peculiarity

found only in South African law and thus no longer existed anywhere in the world, the draft resolution also decided to suspend further meetings of the Group of Three.

8. He drew attention to a technical correction in paragraph 4, the beginning of which should read: "Decides to remove from the agenda of its fifty-third" - and not fifty-second - "session", resolutions having, in the past, been submitted on a biennial basis.

9. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Austria, Bulgaria, Chile, Ecuador, Egypt, El Salvador, France, Germany, Italy, Netherlands, Republic of Korea, Togo, United Kingdom of Great Britain and Northern Ireland and United States of America and the observers for Belgium, Greece, Iceland, Ireland, Luxembourg, Portugal, Spain, Sweden and Tunisia had become sponsors of the draft resolution.

10. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution without a vote.

11. It was so decided.

12. Mr. PETZSCH (Observer for South Africa) said that, with the adoption of the resolutions ending the mandates of the two bodies appointed by the Commission to investigate the violation of human rights in South Africa and the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Commission had closed an important chapter in its history and one that, his delegation hoped, would not be reopened. His delegation welcomed the unanimous support for those resolutions.

13. His Government attached great significance to the Commission's decision, for it was only through such a process of "slate cleaning" that the new South Africa could assume its rightful place in that body. As a new democracy, South Africa was fully committed to its responsibilities in the field of human rights. It intended to contribute as an observer and, soon, it was to be hoped, as a member of the Commission to the promotion and protection of human rights in both its own region and the rest of the world.

14. The CHAIRMAN said that the Commission had thus completed its consideration of agenda item 15.

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;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(agenda item 10) (continued) (E/CN.4/1995/6-E/CN.4/Sub.2/1994/42, E/CN.4/1995/9-E/CN.4/Sub.2/1994/44, E/CN.4/1995/30, 31 and Add.1-4, 32, 33, 34 and Add.1 and Corr.1-2, 35-37, 38 and Add.1, 39-41, 100, 111 and 133; E/CN.4/1995/NGO/3, 6 and 19; E/CN.4/Sub.2/1994/22, 23 and Add.1, 24 and 33; A/49/484 and Corr.1 and Add.1)

15. Mrs. ANDREEVSKA (Observer for The former Yugoslav Republic of Macedonia) said she would focus on the need to ensure that the rights of the accused were respected. In the view of her Government, pre-trial detention should be ordered only when it was indispensable for the criminal proceedings. In her country, the Constitution and the Code of Criminal Procedure had been brought fully into line with international standards. Pre-trial detention could be authorized only by the competent court, and its duration was limited to 90 days by the Constitution. The purpose of the detention must be clear, and there was a control body to monitor its legality.

16. The Code of Criminal Procedure drew upon internationally accepted principles: election of judges, participation of citizens who were not lawyers, open trials, independence of the judiciary, the right of appeal, the right of the accused to counsel, the presumption of innocence, prohibition of torture and other inhuman and humiliating treatment or punishment, the principle of non bis in idem etc. Thus, her country guaranteed the principle of a fair trial, an indispensable condition for ensuring full protection of human and civil rights.

17. Ms. WYATT (International PEN) said that, in a number of countries, legislation was so vague that it had resulted in the arrest and imprisonment of individuals for the peaceful practice of their right to freedom of expression. A notable example was the National Security Law in South Korea, under which at least 13 writers, publishers and journalists were being held. Many of them had been accused of unauthorized contact with North Koreans. Her organization had concluded that, in most instances, such meetings had been held solely to achieve a better understanding and to hold an exchange of information. There was no evidence to show that the persons accused had used or advocated violence to achieve their aims. In July 1992, the Human Rights Committee had criticized the National Security Law and recommended that it be phased out, but no substantial changes had been made to date.

18. In Ethiopia, more than 40 journalists had been detained since August 1993 under the Press Law of October 1992, including several who had been sentenced to prison terms for "disseminating false news" or "inciting the public". The Press Law allowed for sentences of up to three years in prison and heavy fines for those found guilty of contravening article 10, which stated that press publications should "not discuss issues pertaining to the national defence force which had been established by the [Transitional Government's] Charter". Those restrictions on the freedom of the press went far beyond the national security or public order concerns set out in article 19 of the International Covenant on Civil and Political Rights.

19. In Turkey, article 10 of the Anti-Terror Law had been used to imprison writers and journalists for the peaceful expression of their views. The article in question stated that: "written and oral propaganda and assemblies, meetings and demonstrations with the aim of damaging the indivisible unity of the State of the Republic of Turkey ... are prohibited, regardless of the method, intention and ideas thereof. ... The responsible editors of these periodicals shall receive prison sentences of between six months and two years, and a fine half that imposed upon the owner".

20. More than 60 writers had been sentenced under that legislation, some to more than 30 years' imprisonment, and many more were still facing charges. Some of them had been sentenced for discussing ways of finding a peaceful solution to the Kurdish question or for using the word "Kurdistan". There was also concern that writers who had been acquitted under that article had been retried and found guilty, whereas others had been sentenced for the second edition of books when they had already served prison terms for the first edition.

21. Her organization called upon the Commission to urge Governments to ensure that legislation was in all cases formulated in such a manner as to eliminate the possibility of individuals being detained solely for the practice of their rights as guaranteed under article 19 of the Universal Declaration of Human Rights.

22. Mr. Meghlaoui (Algeria), Vice-Chairman, took the Chair.

23. Ms. BALLANTYNE (Women's International League for Peace and Freedom) said she wished to alert the Commission to the situation of foreigners who had been refused asylum or were awaiting deportation for other reasons, particularly in the case of Germany, where some of the forced detentions and deportations were being conducted in ways that violated basic human rights. Deportees were not criminals, yet detaining them prior to deportation was legal in many countries. They often lived in conditions and suffered treatment that, even for ordinary criminals, would be considered unacceptable and detention was often unnecessarily prolonged.

24. Since the tightening of the asylum laws in Germany, the number of deportations had risen dramatically; from 5,500 cases in 1989 to 36,000 in 1993. A number of Palestinian and Kurdish asylum-seekers had been held in custody in Berlin for as long as seven months. In Kessel, 39 deportees from Morocco, Algeria and Poland had revolted to protest against the length and conditions of their detention.

25. German officials had themselves admitted that conditions were unacceptable in certain deportation prisons: the Minister of Justice of North-Rhine Westphalia had admitted that in some cases, two persons had to share cells measuring eight and a half square meters for as long as 150 days. It had been officially acknowledged that 15 asylum-seekers had died in police custody or during deportation procedures since October 1990, most of them by committing suicide. Yet the Government had failed to take adequate measures to address the problem. The Government of Nigeria had recently protested to the Government of Germany about the deaths over the past three years

of 25 Nigerian asylum-seekers awaiting deportation in police custody. The German Government must put an end to such appalling human rights abuses.

26. Mr. ANDREU (International League for the Rights and Liberties of Peoples) said that, as provided for in the relevant international instruments, the right to effective and appropriate remedies included the right to be tried by an independent and impartial judiciary. The existence of such a judiciary ensured the application of human rights standards and helped prevent individuals from violating human rights with impunity. Moreover, courts must not only be objectively impartial and independent but must also be seen to be so.

27. The use of military courts to try cases of alleged human rights violations by military personnel undermined the principle of the independence and impartiality of the judiciary. Military criminal codes often granted wide jurisdiction to military courts, authorizing them to try not only strictly military offences but also offences under ordinary law which had little to do with military activities, thus subverting the essentially disciplinary nature of those courts.

28. Some codes of military justice classified civil or ordinary offences as military offences. In Venezuela, Peru and Colombia, for example, military courts were competent to try serious violations of human rights owing to the way in which certain offences were classified. In Colombia, military courts were competent to judge offences of torture and forced disappearances, in violation of the Declaration on the Protection of All Persons from Enforced Disappearance. Some military courts considered that any offence committed by military personnel fell within their jurisdiction and that had led in certain cases to total impunity for the perpetrators of serious human rights violations.

29. Military courts were not independent of the executive authority and thus could not be impartial. Military judges were subordinate to their country's ministry of defence and their allegiance to that ministry tended to justify and even give legitimacy to various violations. Similarly, in cases where civilians were tried before military courts, the latter simply represented the legal arm of the military and dispensed retaliation rather than justice. That situation had been dramatically illustrated by the trials by Israeli military courts of civilian members of the resistance movement against the occupation of southern Lebanon. Among the 44 Lebanese prisoners brought before those courts, nine had not been released after having served their sentences.

30. Military courts were hierarchically structured and members of the court were obliged to obey the orders of their superiors. All too often, the military judge in a particular case was the same person who, in his capacity as a commander, had ordered his subordinates to carry out arrests and torture.

31. Historically, military courts had been created not for the purpose of settling disputes between members of the armed forces and private citizens but to maintain discipline within the armed forces.

32. In situations involving violations of human rights, the executive had other more subtle ways of interfering with the functioning of the judiciary.

One striking example was the trial of the Grupos Antiterroristas de Liberación (GAL) in Spain, a para-police group responsible for 36 attacks between 1983 and 1987 which had caused 28 deaths. In December 1994, some former antiterrorist-policy-makers and other members of the Government party had been indicted. High-ranking officials of that party had then attempted to hinder the work of the judge in the case, who had had to appeal to the General Judicial Council to intervene. It was also a matter of concern that the case, in which the question of State-sponsored terrorism arose, was being heard by a special court - the National High Court - which represented a continuation of the special courts established under the Franco regime.

33. Mr. LOREDO (International Association for the Defence of Religious Liberty) said that his organization was concerned at the repeated and systematic violations of the human rights of persons subjected to detention and imprisonment in various parts of the world. In that connection, it appreciated the efforts of the Special Rapporteur on the situation of human rights in Cuba, in spite of the lack of cooperation from that country's Government.

34. The spontaneous protest demonstration that had taken place on 5 August 1994 in Cuba had met with a violent reaction on the part of Government forces: protesters had been beaten and some deaths had occurred. Among those arrested had been a large number of human rights activists, some of whom had not even been at the site of the protest. Many detainees had been taken to a high-security prison. Since that time, there had been an increase in repressive measures against political dissidents and those arrested during the disturbances had received harsh sentences.

35. For its population of 11 million inhabitants, Cuba had at least 250 prisons, including 45 military prisons and 27 women's prisons. Some of the women's prisons had been cited for incidents of ill-treatment, beatings and solitary confinement. According to reports, there had been no medical treatment for recent outbreaks of tuberculosis among the prisoners. Beatings and other abuses were frequent in Cuban prisons. Political prisoners were held in the same cells as ordinary criminals.

36. On 13 March 1994, a tugboat carrying Cuban passengers had been deliberately and cruelly attacked and 42 of those aboard had been killed. Many of the survivors had been arrested and ill-treated in order to prevent them from testifying about their experience. He called upon the Special Rapporteur to investigate that situation.

37. Cuban refugees were being detained in various camps in the Caribbean. The entire situation was the result of a massive exodus of Cubans fleeing a repressive society. The United States had for the past 30 years condemned the Cuban regime for its oppression and its restrictions on travel ....

38. Mr. CURBELO CASTELLANOS (Cuba), speaking on a point of order, said that the speaker was deviating from the agenda item under consideration. His statement was thus out of order.

39. Mr. LOREDO (International Association for the Defense of Religious Liberty) said that, in recent years, an increasing number of Cubans had been fleeing their country ....

40. Mr. PEREZ NOVOA (Cuba), speaking on a point of order, said that the speaker was not addressing the agenda item under consideration. He should thus not be allowed to continue his statement.

41. The CHAIRMAN, having read out the full title of agenda item 10, said that, since the speaker persisted in addressing matters which did not fall under that agenda item, he would have to yield the floor.

42. Ms. BARNES DE CARLOTTO (International Movement for Fraternal Union among Races and Peoples) said that the children and grandchildren of Argentine mothers had been subject to enforced disappearance or had been kidnapped and held in clandestine detention camps during the military dictatorship of 1976 to 1983. Although democracy had reigned in her country for 11 years, those enforced disappearances and the question of responsibility for them remained unresolved. The road to democracy had been strewn with contradictions, and hopes that the Government would mete out appropriate punishments had diminished over the years in the face of various State measures which had interfered with the course of justice.

43. In 1989 and 1990, President Menem had pardoned those most responsible for State-sponsored terrorism. The people of Argentina were thus obliged to live with all those who refused to admit to their crimes and were likely to repeat them. In recent statements, the President of Argentina had justified the actions of the armed forces and security forces, thereby failing to recognize the violations of national and international standards that had taken place during that dark period.

44. At the same time, the Government of Argentina had acknowledged the existence of the period of State-sponsored terrorism by various measures designed to provide compensation to the victims and their families, including the granting of pensions to families of persons who had disappeared, compensation for former political prisoners and the exemption from military services for children of disappeared persons.

45. In the framework of those contradictory attitudes, the judiciary was deciding whether the minors in question had the right to have their identities restored and to return to their families. In the most dramatic cases, the children of victims of enforced or involuntary disappearances were veritable hostages of the judicial system. Delays and obstructions to the judicial process were common. In the case of Emiliano Carlos Castro Tortine, who had disappeared with his mother in 1977 at the age of eight months the Attorney-General had refused to authorize immunogenetic analyses to resolve the question of the child's identity. In fact, the individuals who had victimized those children were being granted the same impunity as had been accorded to the murderers of the children's parents.

46. Denial of the right to identity was not only a violation of a fundamental human right but also a breach of ethics and justice which undermined society

as a whole. The State was itself endeavouring to throw a mantle of oblivion over the crimes of recent history.

47. Her organization would be reporting the case of Emiliano Carlos Castro Tortine to the United Nations and other bodies concerned with the promotion and protection of human rights. There were many other legal cases where the identity of kidnapped children remained unresolved and the judicial process was stagnating.

48. In one case, however, justice had clearly triumphed. A young girl had been fraudulently adopted at the age of eight months after she had disappeared together with her mother. A number of years later, the child had been restored to her maternal grandmother and, very recently, the Supreme Court of Justice of Buenos Aires had definitively annulled the adoption, having taken note of the interests of the child and the Convention on the Rights of the Child.

49. She wished also to express her profound concern over the war between the fraternal peoples of Peru and Ecuador and urged the Governments of those two countries to resolve the conflict by peaceful means.

50. Ms. BECK (World Movement of Mothers) said that, as an apolitical organization, the World Movement of Mothers did not concern itself with the political structures of the States members of the Commission but wished to express the concern of mothers throughout the world about the difficult situation faced by large numbers of people, especially women and children. Mothers did not bring their sons into the world for them to be cut down in the flower of their youth as the foot soldiers of hate, rivalries and the ambitions of irresponsible and unscrupulous Governments. It was time to try negotiation instead of war to settle such issues as the independence of a people or their continuation within a federation of States. The mothers of the world had had enough of deadly and fratricidal conflicts which caused destruction and death and killed the soul of a country. Her organization thus called upon the Commission to give priority to efforts to put out the fires of hatred and rivalry by opposing all wars and demanding respect for human rights everywhere.

51. Mr. CIURLIZZA CONTRERAS (Andean Commission of Jurists) said that the advent of constitutional regimes in the Andean countries, while representing a step towards the consolidation of the rule of law, had failed to achieve full respect for fundamental human rights and democratic institutions. Reforms in the administration of justice had been partial and were largely concerned with the depoliticization of the procedures for the appointment of judges and the strengthening of the independence of the judiciary. New judges, however, were soon caught up in the slow, inefficient and often corrupt judicial machinery which failed to satisfy citizens' expectations for justice.

52. The failure genuinely to strengthen the independence of the judiciary was largely due to the objective dependence of that branch on the political power. One symptom of the crisis was the inadequate material resources allocated to the judiciary by the other branches of the State which were usually hostile to strong and independent judicial systems.

53. The strengthening of the administration of justice in the region required a strengthening of democratic institutions. His organization was concerned, in particular, to help strengthen the offices of Ombudsman which had been set up in various Andean countries.

54. Arbitrary detention was another major problem facing the region. Large numbers of people were affected by the legislation adopted under states of emergency and by the gradual expansion of the discretionary powers of branches of the State, particularly the security forces. The situation was made worse by the failure to observe the principle of proportionality between the gravity of the measures adopted and the situation which those measures sought to combat and by the excessively vague definition of crimes against the security of the State.

55. Another widespread phenomenon in the Andean region was the problem of impunity, which corrupted democratic institutions and was linked to grave violations of human rights. That phenomenon should be carefully assessed by the Special Rapporteurs on the subject, since not only were legal mechanisms being used to ensure de facto impunity but formal policies were also being adopted to preserve the unlawful competence of the military courts.

56. The use of torture and ill-treatment as an element of repression by security forces affected to different extents all the Andean countries. It was therefore essential that the recommendations of the Special Rapporteur on the question of torture be given high priority by States and guide the work of the specialized organs of the United Nations system, particularly those that investigated and provided advisory services on matters relating to the principles with which law-enforcement agencies should comply.

57. In 1994, enforced disappearances continued to occur in Colombia, Peru and, to a lesser extent, Venezuela. The responses of the Governments of the region varied from that of the Government of Chile, which had made commendable efforts to locate the victims of the practice and compensate their relatives, to those of Peru and Colombia which had yet to take any appropriate action. In that regard, the adoption of the Declaration on the Protection of All Persons from Enforced Disappearance was an important step towards the elimination of the phenomenon, but mechanisms had to be elaborated to ensure the implementation of the Declaration and to require Governments to report periodically on the legislative measures taken by them in compliance therewith.

58. Lastly, his organization supported the extension of the mandates of the various working groups and special rapporteurs, in view of their valuable contribution to the protection of fundamental freedoms throughout the world.

59. Mr. GILANI (World Society of Victimology) said that the report of the Special Rapporteur on the question of torture (E/CN.4/1995/34) provided evidence that the Indian Security Forces were subjecting the target population of Kashmir to systematic torture. According to official Indian sources, 10,000 lives had been lost, while conservative local estimates put the figure at nearly 40,000. There were known to be 65 torture cells operating in Kashmir and the Indian Security Forces had carved out an underground torture

cell in the hills of Badami Bagh in Srinagar to practise the "aeroplane" torture.

60. On the question of the "proximity of the parties" tendering evidence for and against the practice of torture in Kashmir, the Commission should attach the greatest weight to the report of the Special Rapporteur on the question of torture, the report of the Secretary-General to the General Assembly at its forty-ninth session, the reports of the United Nations military observers stationed on both sides of the cease-fire line in Kashmir, and the reports of non-governmental organizations and other parties concerned with the human rights and dignity of the human person.

61. In that connection, the continued refusal of the Indian authorities to allow the Special Rapporteur on the question of torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions to travel to Kashmir established a prima facie case of engaging in torture and summary execution against the State of India. Moreover, while that country had the right to rebut any allegations of torture, its practice of labelling as enemies parties tendering evidence of torture in Kashmir could not be condoned. In that regard, the linkages which some non-governmental organizations sought to establish between Indian practices in Kashmir and human rights abuses in Pakistan prejudiced a fair hearing for the Kashmiris before the Commission.

62. Ms. DAURE-SERFATY (Movement against Racism and for Friendship among Peoples) said that the situation in Algeria was deteriorating daily. The State responded to the murderous terrorist actions of armed Islamist groups by resorting to summary executions and the arrest and detention without trial of thousands of persons.

63. In Tunisia, where police custody was in theory limited to 10 days, itself an extremely long period, the police falsified the date of arrest in order to hold detainees for several weeks, which constituted a period of disappearance for the victims.

64. No information had been provided by Libya on the fate of Mr. Mansour Kikhia, a former Minister for Foreign Affairs of that country, who had been kidnapped in Cairo in December 1993.

65. The Government of Mauritania had still not acknowledged the 500 victims of summary executions perpetrated in November 1990, mainly black African soldiers, and, while those responsible had been granted amnesty, the families of the victims had still not been compensated. In addition, nearly 50,000 black African Mauritanians, who had sought refuge in Senegal and had been in the care of UNHCR since 1989, had had their property stolen and their identity papers destroyed, and had thus been reduced to the status of disappeared persons.

66. The case of Morocco was particularly disappointing, since there had been some earlier signs of progress towards greater respect for human rights. However, some 30 persons regarded as political detainees by Moroccan human rights organizations were still in prison. Moreover, the amnesty granted in July 1994 was partial only and did not cover all detainees and political

exiles. Large numbers of people continued to be the victims of a systematic practice of enforced disappearance. No information had been provided on the fate of other groups of disappeared persons, which she had herself reported to the Commission at its fiftieth session.

67. Behind the good will of those who sought truth and justice, there were still those responsible for the disappearances. Indeed, no progress on that issue was possible as long as those responsible for the gravest violations of human rights remained unpunished. Thus, in November 1994, Morocco had included in its delegation to that year's session of the United Nations Committee against Torture Mr. Yousfi Kaddour, who had been director of the clandestine torture centre of Derb Moulay Sherif in Casablanca. She had herself been interrogated by him in 1974. Among his hundreds of victims had been Abraham Serfaty, whom she had married in prison in 1986, and a young teacher of philosophy named Abelaatif Zeroual who had died during interrogation.

68. Ms. AULA (Pax Christi International) said that she wished to draw attention to some particularly serious cases of human rights violations. In Burundi, violence and murder was being regularly perpetrated by Tutsi and Hutu extremists - armed groups and militias which refused to accept any compromise political solutions. She urged the international community to take the following steps to prevent any further deterioration in the situation: increase substantially the number of United Nations observers, in accordance with the agreements concluded between the Organization of African Unity and the Government of Burundi; provide the Burundi authorities with lawyers and judges to ensure the legality of judicial proceedings; and organize an international conference on Rwanda and Burundi with a view to establishing peace in the region.

69. The continuing occupation by Israel of southern Lebanon had resulted in the illegal detention of hundreds of persons in camps on Lebanese territory. Despite an agreement concluded between Israel and the International Committee of the Red Cross (ICRC), the latter had not been permitted to visit the detention centres and evaluate the state of health of the detainees. Israel had also made the release of 5,000 Palestinian prisoners conditional on the signing of a pledge to abstain from all acts of terrorism and violence and to support the peace process. Such a demand was clearly not in conformity with earlier agreements and had a psychologically negative effect on the Palestinian population. Moreover, in order to visit individuals held in prisons in the Negev, their families had to cope with difficult administrative requirements and make long journeys.

70. Her organization was also concerned about violations of the human rights of Albanian prisoners in Kosovo. More than 1,000 political and human rights activists had been incarcerated and had been subjected to various forms of torture in order to force them to make statements of guilt, which were then used as the sole proof for a condemnation. Prisoners had been beaten, tied up, forced to remain in cold rooms and prevented from sleeping. Six prisoners had died and another had committed suicide.

71. Bangladeshi security forces were carrying out arbitrary arrests, detention, torture and extrajudicial executions of the Jumma people in the

Chittagong Hill Tracts. Having failed to ratify the International Covenants on Human Rights and the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Government of Bangladesh was certain that it could continue to violate human rights with impunity.

72. Tibetans continued to be detained, tortured and often executed for expressing their political beliefs and their faith in the leadership of the Dalai Lama and the Government in exile. In the last three years, more than 500 Tibetans had been arrested as a result of their participation in peaceful demonstrations or in human rights groups. Chinese officials routinely tortured Tibetan political prisoners.

73. While proclaiming its support for human rights, the Indonesian Government was likely to detain arbitrarily and torture anyone in East Timor who dared criticize it. Independent observers were barred from visiting detention centres in the territory.

74. Ample evidence had been gathered on the brutal bombings and the ill-treatment by the Russian forces of the people of Chechenya. Special police units were torturing and brutalizing the population of Grozny. Russia had tried several times to prevent the delivery of humanitarian and medical assistance. The Commission on Human Rights must condemn those acts.

75. Mr. TARRE MURZI (Venezuela) said that it was a very serious state of affairs when the humanitarian activities of the United Nations could be described in the mass media as increasingly ambiguous, rhetorical and basically useless. The Secretary-General of Médecins sans frontières had recently observed that, in the so-called "global village" of instant mass communications, it had been possible to eliminate between half a million and a million people without the slightest international reaction. As human rights continued to be flouted throughout the world, there was no wonder that people were moved to condemn diplomatic hypocrisy and the flagrant contradictions of a world order in which humanitarian activities had to be balanced against the complex workings of the United Nations and the interests of the major Powers.

76. Latin America was no exception to the pattern of human rights violations, which were largely due to political shortcomings and faltering social and economic development. His own country was still struggling to consolidate the rule of law and civil liberties. The situation had begun to improve after the 1993 elections which had brought President Caldera to power with the backing of a combination of political forces. Although certain constitutional guarantees had been suspended because of the country's financial and economic crisis, human rights were being respected and opposition parties and trade unions operated freely.

77. The allegations made by the representative of the Andean Commission of Jurists were thus very surprising. That speaker's information was obviously out of date and had no relevance whatever to the current state of affairs. Although a rise in crime had affected the quality of life, especially in the capital, the Government had not reacted excessively. There had been no cases of torture in prisons or of ill-treatment of persons in police custody. When a revolt of common-law prisoners in the west of the country had been put down

with undue severity, the Government had urged the courts to prosecute the prison officials responsible.

78. Press freedom, the normal functioning of Parliament - which was controlled by the opposition parties - and the independence and impartiality of the judiciary ensured that the rule of law prevailed in his country.

79. His delegation was wholeheartedly in favour of the early adoption of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

80. Mr. DU Zhongxing (China) said that the optional protocol to the Convention should be drafted in such a way as to enhance the role played by the international community in promoting and protecting human rights while, at the same time, respecting State sovereignty. The mechanism envisaged under the protocol should abide by the principles of non-selectivity, impartiality, objectivity, transparency and universality. The operation of the mechanism should be based on prior consent by the State concerned and should take its legal provisions into account. The State should also be given an opportunity to express its views.

81. His Government had been working steadily to improve legislation with a view to prohibiting torture and enhancing its enforcement. The Constitution prohibited unlawful detention and deprivation or restriction of personal freedom by other means. Penal legislation prohibited unlawful surveillance, ill-treatment and the extortion of confessions through torture.

82. The Prison Act of 1994 and other legislation regarding prison education safeguarded the rights and interests of prisoners: the right to appeal and to defence; the right to lead a normal life and to physical health and the right to complain to the courts and the public authorities against illegal acts involving physical abuse by prison officials. The Prison Act also provided for prisoner reform through education. The Interim Regulations on Rewarding and Punishing Judicial Officials provided for a range of disciplinary measures, including dismissal and criminal prosecution, against officials found guilty of ill-treatment. A system of monitoring units had been established in prisons to oversee the conduct of officials. Deputies from the People's Congress and the Political Consultative Conference made unscheduled visits to such establishments to see how the law was being implemented. Letter-boxes for complaints were installed in prisons and law-enforcement officials were given intensive training to enhance their legal awareness and improve their performance. A complete account of the treatment of prisoners in China had been given in a white paper issued by his Government.

83. Mr. HASHIM (Bangladesh) said that societies defined the concept of freedom of opinion in such a way as to guarantee that the freedom of others was not curtailed. Even societies that considered themselves advanced and tolerant attempted to set limits to absolute freedom. The possibility of universalization or even mainstreaming of values was a matter that called for urgent reflection and action. Mainstreaming carried the risk of endowing primacy to certain cultures and marginalizing others.

84. On the question of the independence and impartiality of the judiciary, it was essential to seek standardization of substance rather than of form. In the event of an encroachment on the independence of the judiciary, legal mechanisms should be available to check the encroachment and restore independence.

85. The question of impartiality was even more delicate, because a probe by any party other than a constitutional authority could be tantamount to contempt of law. He therefore cautioned against the tendency of special reports to include authoritative pronouncements on national or international law. Any judgement or even hint of judgement in such reports needed to be based on due respect for the science and laws of evidence. It was too serious a matter to be left to experimentation, much less to the subjective perception of individuals.

86. He thus questioned the extent of the competence of the Sub-Commission on Prevention of Discrimination and Protection of Minorities with regard to the practical implementation of United Nations standards in the administration of justice and human rights. States had their own judiciaries and legal processes for redress, and civil and criminal codes were based on the value systems of the societies concerned.

87. In the case of Bangladesh, core norms and principles of international instruments to which the country was a party effectively formed part of the municipal code. An aggrieved party could always resort to the available legal remedies. He therefore failed to see how a Centre situated thousands of miles away could short-cut the system of macro-management of law and justice and thereby advance the cause of human rights. It was to be feared that there would eventually be a special rapporteur under the human rights umbrella for every country, every society and every theme.

88. The only municipal code or system that did not have moral authority was that imposed by one nation on another, for example under colonial role or foreign occupation, since the society in which the system was operational had no say in its codification and its ethos was not reflected therein.

89. International standards could be relevant only if they had been recognized by States and by the people and culture they represented. Conversely, no State could be judged in the light of standards contained in instruments to which it was not a party.

Statements in exercise of the right of reply

90. Mr. NGUYEN VAN SON (Observer for Viet Nam) said, in response to the allegations by a non-governmental organization, that the only persons imprisoned in Viet Nam were those guilty of offences against the law. A campaign of falsification and denigration had been launched by individuals who were nostalgic for the former South Vietnamese regime. The person who had spoken the previous evening on behalf of the International Federation of Human Rights had also distorted the facts concerning the working visit to Viet Nam by the Chairman-Rapporteur of the Working Group on Arbitrary Detention in 1994. He was sure that nobody would welcome that attempt to denigrate the results of the visit.

91. Mr. OMAR (Ethiopia) said that he wished to respond to the allegation by the representative of International PEN that article 10 of the Press Law of Ethiopia restricted press freedom in a manner incompatible with article 19 of the International Covenant on Civil and Political Rights. Article 10 of the Press Law prohibited the publication of materials which endangered the safety of the State or of the national defence force; defamed or falsely accused individuals, nationalities, people or organizations; criminally instigated one nationality against another or incited conflict between peoples; agitated for war; incited one religion against another; or breached the accepted norms of society. Those provisions in no way contradicted article 19 of the Covenant, which Ethiopia had recently ratified.

92. The representative of International PEN had alleged that 40 journalists had been detained in Ethiopia whereas in fact only a limited number of individuals were in custody, by court order, for violating the Press Law. No action had been taken against those independent journalists who operated in harmony with the letter and spirit of the Law. The journalists detained had acted in an irresponsible manner by disseminating false information prohibited by law and had been brought before an independent court whose decisions should be vigorously enforced, since it was essential to foster the responsible exercise of freedom of expression. The individuals concerned had the right to appeal their sentences to a higher court.

93. The Transitional Period Charter had recognized the individual rights laid down in the Universal Declaration of Human Rights. The Press Law adopted by the Transitional Government had also abolished censorship and guaranteed the freedom of expression. Most importantly, the new Constitution of the State contained extensive articles on human rights which guaranteed freedom of thought, opinion and expression without interference, prohibition or censorship and provided for access to information of public interest.

94. Ethiopia was about to hold democratic general elections which would further strengthen the efforts being made to protect and promote full respect for all human rights.

95. Mr. QUAYES (Bangladesh) said that the representative of Pax Christi International had referred to arbitrary arrests in Bangladesh but had given no details or references to back up her allegations. His delegation was concerned that certain non-governmental organizations were making unsubstantiated statements and thus wasting the Commission's time.

The meeting rose at 5.55 p.m.