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COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 31st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 18 February 1994, at 3 p.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

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GE.94-11217 (E)

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

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.4/1994/24, 25 and Add.1, E/CN.4/1994/26 and Corr.1 and Add.1, E/CN.4/1994/27-29 and Add.1, E/CN.4/1994/30-33, 88 and Corr.1, E/CN.4/1994/93 and Corr.1, E/CN.4/1994/103; E/CN.4/1994/NGO/5, 8, 10, 11, 18, 19, 21 and 25; E/CN.4/Sub.2/1993/8 and 9; E/CN.4/Sub.2/1993/23/Rev.1, 24 and Add.1-2 and 25; E/CN.4/Sub.2/1992/10; A/48/520)

1. The CHAIRMAN invited members of the Commission to continue the debate on agenda item 10.

2. Mr. WIDODO (Indonesia) said it was gratifying that the World Conference on Human Rights had underlined the importance of preserving and strengthening the system of special procedures, rapporteurs, representatives, experts and working groups of the Commission. His country had always cooperated with the rapporteurs and working groups, in particular by responding rapidly to any communications addressed to it. According to the Centre for Human Rights, the number of communications alleging human rights violations had increased significantly in 1993. It would be misleading to interpret that information automatically as indicating a rise in the number of violations, because the same cases were sometimes submitted two or even three times over. In that connection, his delegation hoped that greater coordination among the various mechanisms and procedures could be achieved with a view to making them more effective and avoiding duplication and the overlapping of mandates and tasks.

3. While mechanisms for monitoring violations of human rights were important, prevention was perhaps even more so. The role of United Nations advisory services and technical assistance was essential in that regard. The Vienna Declaration and Programme of Action was a watershed in terms of international efforts to protect human rights. It signalled the advent of a new approach emphasising cooperation and dialogue rather than allegations and accusations. That new approach was clearly reflected in the establishment of the post of High Commissioner for Human Rights.

4. Torture was indisputably one of the most serious human rights violations because, as stated in the Vienna Declaration, it destroyed the dignity and impaired the capability of victims to continue their lives and activities, and it was beginning to be realized that torture was a new form of racism and

xenophobia. His delegation was therefore somewhat disappointed to note that the report of the Special Rapporteur on the question of torture had failed to deal with that issue. It was also unfortunate that, owing to the appointment of a new Special Rapporteur on the question of torture, there had been an interruption - obvious in the report - in the processing of communications and replies. It was important to ensure that cases whose consideration had been delayed received a balanced evaluation.

5. His Government had never condoned torture as a policy. It had always endeavoured to implement the recommendations of the Special Rapporteur on torture contained in the report on his visit to Indonesia in 1991, a little over two years previously. As to whether the Indonesian Government might invite the Special Rapporteur on the question of torture to visit Indonesia again, in conformity with Commission resolution 1993/97, his delegation had already stated in 1993 that that was out of the question. Its position with regard to a possible visit by the Working Group on Arbitrary Detention was the same. Apart from those two reservations, his Government would continue to cooperate with special rapporteurs and working groups.

6. Mr. WAREHAM (International Association against Torture) drew attention to the question of police brutality towards United States inhabitants of African descent. Forty million black Americans lived in conditions of oppression and underdevelopment because, among other things, black labour was no longer necessary to the United States economy. Faced with the problems posed by the black community, United States authorities were creating conditions that led to members of that community becoming either criminals or revolutionaries, and then sending them to jail. Those authorities fostered and maintained a climate of violence in the black community. The mortality rate for blacks from 15 to 24 years of age had risen 23.9 per cent in 10 years, mainly as a result of a rise in the incidence of homicide. Moreover, homicide invariably involved two victims, namely, the person murdered and his murderer, who was often very young and ended up spending many years in prison, being transformed into a hardened criminal. Just as in South Africa, there had been an increase in violence between blacks and between blacks and Hispanics, both communities being awash with guns and drugs.

7. Militants trying to defend their rights in the United States were subjected to arbitrary arrest, detention or exile, in violation of article 9 of the Universal Declaration of Human Rights. They were, in reality, political prisoners. Geronimo Pratt, of the Black Panthers, and Leonard Peltier, for instance, had been in prison for years. The Parole Commission, which granted parole, was used as a means of prolonging arbitrary detention. Black militants such as Mumia Abu-Jamal and Gary Graham had been on death row for years, victims, like so many other people of colour, of a racist system.

8. The cycle of State-sponsored violence inevitably produced a public outcry for repression. The crime bill which was currently before Congress, reflected that conservative trend; under that bill, the death penalty would be applicable to more than 50 crimes, children of 13 charged with certain federal crimes would be prosecuted as adults, and 10 regional maximum security prisons

would be constructed. The bill thus laid the foundation for a police state, in disregard, among other things, of the International Covenant on Civil and Political Rights.

9. Chile had acquired some degree of international respectability. Yet, four years after the democratic election of Patricio Aylwin in 1990, political prisoners were still being held there. Of particular concern was the treatment inflicted on women incarcerated on political grounds in a men's prison in Santiago, despite the existence of women's prisons. The conditions in which those women were living were unacceptable according to the Standard Minimum Rules for the Treatment of Prisoners, and constituted a form a torture. His organization considered that those women should be transferred to a women's prison in Santiago.

10. The new "democratic" Government of South Korea was torturing both civilians accused of offences under the ordinary law as well as political detainees; according to reliable sources, there were more than 1,500 torture chambers in South Korea. His organization was deeply concerned by that situation, especially since there was no reason to believe that the Government planned to stop using torture as an instrument of policy.

11. In Morocco, the regime had numerous opponents, the majority of whom were from western Sahara and had "disappeared". Even though approximately 300 prisoners had been released in 1991, several hundred were still unaccounted for.

12. In Peru, the Fujimori Government continued to practise torture and to govern with death squads. Abuses of rights were so excessive that even the United States Government had been forced to criticize them. The situation in Guatemala was well known, and the independent expert on the situation in that country had reported that serious human rights violations continued to occur.

13. In the various countries to which he had referred, men and women were prosecuted and imprisoned on political grounds while those same countries made themselves out to be enlightened members of the international community. The situation in the United States, in particular, could not but have serious consequences both nationally and internationally. Pastor Martin Luther King and the black leader Malcolm X, both assassinated in the United States with the complicity of law enforcement agencies, had prophetically announced the revolt of a people whose rights were continually disregarded. The Commission on Human Rights must not fail to grasp the aptness of that warning.

14. Mr. GONZALEZ (International Indian Treaty Council) said that, unfortunately, indigenous peoples were not strangers to torture and enforced disappearance, which they had experienced only too often for a very long time. Reprisals and massacres were often the response to their struggle to defend their land and culture. The events of January 1994 in the State of Chiapas in Mexico were the most recent example. The Mexican Government must above all bear in mind that, under the Geneva Conventions, amnesty was not applicable to the crimes that had been committed. His organization hoped that the Mexican

Government would make greater efforts to control the armed forces with a view to preventing abusive treatment and the indiscriminate detention of civilians, and welcomed the Government's decision to grant compensation to victims of human rights violations.

15. It was also gratified by the speed with which human rights organizations and NGOs throughout the world had expressed their support for the indigenous populations of Chiapas in the struggle to defend their dignity and rights. The start of peaceful negotiations aimed at finding a political solution to the conflict between the Zapatista National Liberation Army and the Mexican Government was a positive step, and it was to be hoped that the dialogue would lead to profound structural changes, opening the way for greater political and economic participation in the country's affairs for the farmers and indigenous people of Chiapas and other regions of Mexico. Referring to the situation in Guatemala, he noted that more than 3,000 persons had been reported missing in that country. The actual number of disappearances was in fact even greater, since many of those who had been tortured and killed hours or days after their disappearance were not counted among the disappeared.

16. The Working Group on Enforced or Involuntary Disappearances had also reported the disappearance of indigenous persons who had resisted forced recruitment into the army or had refused to serve in the "civil defence patrols", which were in principle voluntary. In the view of his organization, enforced enrolment in an army recognized as responsible for serious human rights violations was a form of arbitrary detention and abusive treatment.

17. He condemned the torture of the combatants of the Guatemalan National Revolutionary Unit, who were held in clandestine prisons, and the impunity accorded members of the civil defence patrols, the armed forces, the police and paramilitary groups who were engaged in repressing the Guatemalan people. In view of the situation in that country, his organization requested the appointment, under agenda item 12, of a special rapporteur on the situation in Guatemala.

18. Many indigenous persons were being held as political prisoners in prisons throughout the United States. Even as the Commission met, 500 indigenous persons and their supporters were making their way across the United States in a march to obtain recognition for the rights of more than 100 indigenous political prisoners. The case of Leonard Peltier had become symbolic: an American Indian convicted of a crime he had not committed, he had been in prison for 17 years. Notwithstanding numerous requests for his release by members of Congress, NGOs and public figures the world over, the United States Government was continuing his arbitrary detention; that case in itself sufficed to belie the commitment to human rights on the part of the United States.

19. Mr. LIONG (Liberation) said that Indonesia had been systematically and persistently committing human rights violations for decades; the armed forces bore a very heavy responsibility in that regard. Performing a dual function, the military was present at both political and social levels. Military policy was based on a security doctrine that bordered on obsession. The Commission was familiar with that doctrine's effects in the regions of East Timor, Aceh and West Papua (Irian Jaya), where enforced disappearances and torture were

commonplace. Following the Santa Cruz killings in East Timor in November 1991, the thousands of involuntary disappearances in the Aceh region had become a source of concern to the Commission. Indonesian security forces were a daily reality in the three above-mentioned regions.

20. That doctrine and impunity were closely intertwined, as shown by the tragic events that had occurred during the previous 10 years in various parts of the country. In 1993, Indonesian police and security forces had used force and violence on a number of occasions against persons suspected of committing offences; 87 such cases had been counted in January 1993. The perpetrators of those crimes had gone unpunished, as had those responsible for the killing of four members of a religious sect in western Java in July 1993. Another four persons had been killed in Nipah on the Island of Madura when security forces had opened fire on peaceful demonstrators protesting the construction of a dam. In May, a young labour activist, Marsinah, who had been leading a strike in a factory, had been murdered in eastern Java. Most social conflicts, which had been growing steadily in numbers in recent years, had been resolved by the use of violence. The security forces enjoyed impunity because the judiciary in Indonesia was not independent or impartial. But demonstrations - an expression of freedom of opinion - were growing more numerous and many demonstrators had been arrested and arbitrarily detained by the security forces. The Working Group on Arbitrary Detention should investigate those cases; 21 persons were awaiting trial, and it was widely acknowledged that political trials in Indonesia failed to meet internationally recognized standards of fairness. Earlier events, such as the massacre of participants in a peaceful Muslim demonstration in Tanjunk Priok (the port of Jakarta) in September 1984, the killings in Lampung (southern Sumatra) in 1989 of dozens of innocent villagers, and the two massacres in Dili showed that enforced and involuntary disappearances, summary and arbitrary executions and impunity were very widespread in Indonesia, where quite often the victims were never found or the perpetrators punished. It was clear, however, that most of those violations had been the work of Indonesian security and military intelligence services, whose powers were virtually unlimited.

21. Concluding with an expression of gratitude to the Special Rapporteurs on the question of torture and on extrajudicial, summary or arbitrary executions for referring to Indonesia in their reports, he said that Indonesia, as a member of the Commission and as current chairman of the non-aligned movement, could not evade its international responsibilities. Liberation therefore asked the Commission to consider appointing a special rapporteur on the human rights situation in that country.

22. Mr. SILK (Robert F. Kennedy Memorial Center for Human Rights) drew the Commission's attention to the human rights violations committed in many countries under the authority of national security legislation. Many Governments misused the possibility offered to them in international human rights instruments to restrict human rights on grounds of violation of national security or public order. Of particular concern were the abuses committed in States that had recently held multi-party national elections. In Kenya, for example, where multi-party elections had been held in December 1992, the Government continued to use laws that had been in force during the heyday of single-party rule to arrest members of the opposition, charging them with seditious or illegal activities, to prevent them from

holding processions, and to harass representatives of the media. For example, 21 opposition members of Parliament had been arrested and detained for nearly two weeks in 1993, as well as journalists, notably the publisher of a magazine that had criticized the President and who had been detained for three weeks. That Kenya's Attorney-General should have given his consent to prosecute clearly indicated the Kenyan Government's intention to apply its sedition laws to those who dared exercise their right to freedom of expression. The Government's response to criticism over ethnic clashes that had resulted in 1,500 deaths since 1991 had been to issue a decree making the Rift Valley Province a "security zone" under the authority of the Preservation of Public Security Act.

23. In the Republic of Korea, despite the inauguration of a civilian President, cases of arbitrary detention under the National Security Law had grown more numerous. More than 80 persons - human rights and reunification activists, professors, students and others - had been arrested under the National Security Law in 1993. Although the Human Rights Committee had recommended that the Republic of Korea should make a serious attempt to phase out the National Security Law, which the Committee perceived as a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights, it was clear that the Republic of Korea's President and National Assembly had no plans to act upon that recommendation or to re-examine the cases of more than 100 prisoners convicted under the previous regime by virtue of that law after trials that had probably not conformed to international standards.

24. The use of national security laws to restrict fundamental human rights was no less serious in countries and regions in which multi-party elections had not yet been held. One example was Irian Jaya, where members of 250 distinct indigenous groups which lived in that region and refused to cede their lands to Indonesians who exploited them for their mineral and forest resources in the name of development were victims of persecution and were often accused of subversion. Local human rights organizations which attempted to protect them had themselves experienced intimidation and threats by the Government, which accused them of damaging Indonesia's good name.

25. National security laws were also regularly invoked by the Chinese Government in Tibet, where in November 1989, a monk charged with counter-revolutionary activity and undermining national security had been sentenced to 19 years' imprisonment for printing a Tibetan translation of the Universal Declaration of Human Rights, advocating a system for Tibet based on Buddhist principles and publishing the number of Tibetans killed by police at a demonstration.

26. Those examples made it clear that legislation allegedly protecting national security and public order was nothing more than an instrument of political repression; it inhibited freedom of expression and the right of all citizens to participate in political and economic activities, which were fundamental in a democratic society. The Robert F. Kennedy Center for Human Rights urged the Commission to ask the Sub-Commission to examine the issue of human rights violations under national security laws and related legislation, and in particular to interpret more clearly references thereto in the relevant provisions of international human rights instruments, define the legitimate

extent of their application and undertake a study of the question in order better to identify the effects of such legislation on the enjoyment of basic rights.

27. Mr. TEITELBAUM (American Association of Jurists), underscored the complexity of the task facing the Working Group on Arbitrary Detention and expressed his concern about some of its aspects. He would begin by considering the question of courts of special jurisdiction, and military tribunals in particular. In the view of the American Association of Jurists, the competence of a military court must be strictly limited to violations of military discipline, the ordinary courts being, in the case of other offences, the only bodies that guaranteed the impartiality and independence needed for the smooth administration of justice as set forth in article 14 of the International Covenant on Civil and Political Rights. The decision by a military tribunal to detain a civilian was therefore always arbitrary. That was also the tenor of the relevant international instruments and competent bodies, whether the Declaration on the Protection of All Persons from Enforced Disappearance, the draft declaration on the independence and the impartiality of the judiciary, the Universal Declaration on the Independence of Justice or the Inter-American Commission on Human Rights, the Special Rapporteur on the question of torture or the Working Group on Enforced or Involuntary Disappearances. As to the Human Rights Committee, cited by Mr. Chernichenko and Mr. Treat in their report (E/CN.4/Sub.2/1991/29), it was found that a military appeal process did not constitute a court within the meaning of article 9 (4) of the International Covenant on Civil and Political Rights. According to the Chairman of the Working Group on Arbitrary Detention, Mr. Joinet, the Human Rights Committee considered that the exceptional character of a court was essentially a function of the guarantees it provided pursuant to the requirements set out in article 14 of the Covenant. The American Association of Jurists, which had not been apprised of that opinion, preferred the "theory of appearances" elaborated by the European Court on Human Rights, according to which certain appearances, even if they did not correspond to reality, might create a legitimate doubt in the eyes of justiciable persons as to the independence and impartiality of the court. The American Association of Jurists therefore asked the Commission to advise the Working Group on Arbitrary Detention to follow prevailing international opinion and consider that the detention of a civilian decided by a military court was arbitrary in all cases.

28. Concerning habeas corpus petitions, the American Association of Jurists agreed with the Chairman of the Working Group on Arbitrary Detention that that was a non-derogable right. It also concurred with Mr. Joinet about the responsibility of armed groups, except that only groups which met the criteria specified in article 1 of the Protocol Additional to the Geneva Conventions (Protocol II) should be so considered, namely, they must be under responsible command, they must exercise control over a part of the territory and they must be able to carry out sustained and concerted military operations. Needless to say, the American Association of Jurists unreservedly supported any initiatives that the Working Group might take to intervene in cases of arbitrary detention and its efforts to coordinate its work with that of other United Nations bodies.

29. Turning to the question of the admissibility of cases submitted to the Working Group on Arbitrary Detention when they were under consideration by other bodies, a question on which the Commission, in resolution 1993/36, had invited the Working Group to take a position, the American Association of Jurists believed that those cases did not fall under the principle of non bis in idem, as Mr. Joinet had put it, but were cases of "lis alibi pendens" and that, given the humanitarian nature of the Working Group's mandate, that question did not concern it. Moreover, it would not arise if, instead of the words "decides" or "declares", the Working Group were to use the terms "believes" or "considers" in issuing its opinions. Otherwise, it ran a twofold risk: firstly, it might be unable to intervene because the case was being considered by a judicial or quasi-judicial body - such as the Human Rights Committee - whose procedures were quite long, whereas the Working Group's main virtues were the speed and the humanitarian nature of its action. Irrespective of the inherent injustice of arbitrary detention, the latter usually went hand in hand with ill-treatment, and rapid action might protect the victim. That was the attitude the Working Group on Enforced or Involuntary Disappearances had adopted, as stated in its report (E/CN.4/1988/19).

30. The other risk incurred by the Working Group if the question of lis alibi pendens arose was that, if it considered a case or took a decision on it and the victim or his representatives wanted to appeal to a quasi-judicial or international or regional judicial body - which they had the right to do - the adversary might challenge its admissibility by invoking the "pending case" principle. The American Association of Jurists believed that the Commission should advise the Working Group to abandon the legal formulation of its decisions, to stop focusing on the problem of lis alibi pendens and to base itself solely on the facts and any legal elements in the complaints when deciding on the admissibility of cases submitted to it. Before closing, he pointed out that the mandate of the Special Rapporteur on the question of torture covered not only physical torture but also ill-treatment of a more general nature, notably that inflicted in prisons, such as incommunicado detention for prolonged periods.

31. Mrs. DE CASABIANCA (Reporters without Borders-International) explained that her organization was an NGO for the defence of freedom of the press in the world whose goal was to alert international public opinion to the numerous violations of the right to information and the right to exercise the profession of journalist. It organized campaigns to exert pressure on States responsible for those violations in order to obtain the release of journalists who had been imprisoned merely for doing their job. Reporters without Borders therefore welcomed the appointment of a special rapporteur on the promotion and protection of the right to freedom of opinion and expression, which thus covered freedom of the press, a fundamental right that was regularly flouted. There were at present at least 114 journalists in prison or under house arrest around the world.

32. In China, for example, at least 21 journalists, including Wang Juntao and Chen Ziming, who published the Economic Weekly, were in detention, one of them having been detained for nearly 13 years. In Turkey, 18 Kurdish journalists had been imprisoned merely for having publicly mentioned Kurdistan. In Burma, six journalists had been detained for having incurred the displeasure, between

1988 and 1990, of the military junta in power. Two of them, Win Tin and Nay Min, seriously ill, did not receive any care. In Cuba, four journalists, including Indamiro Restano Diaz, sentenced to 10 years' imprisonment, were paying for their dissent with their freedom. In Iraq, nine journalists were in prison, including Azia Al-Syed Jasim, arrested for refusing to write a book on Saddam Hussein and said to be ill. In Iran, at least three journalists, including Manouchehr Karimzadeh of the newspaper Farad, were being held behind bars. Lastly, in Sudan, where three reporters were imprisoned, the authorities could at any time and without any due process arrest and detain opponents for months on end in detention centres known as "ghost houses". Other countries in which journalists were imprisoned for their opinions included Algeria, Angola, Benin, Bosnia and Herzegovina, Ethiopia, Haiti, India, Indonesia, Kuwait, Libya, Peru, Rwanda, South Korea, Syria, Tajikistan, Tunisia, Turkmenistan, Ukraine and Viet Nam.

33. In addition, more than 50 journalists were murdered every year because of their opinions or in the exercise of their profession. In 1993, at least 59 reporters had been the targets of military personnel, guerrillas, death squads or the mafia. That was the case in Algeria, Russia, Bosnia and Herzegovina, where the representatives of the media were regularly taken as targets by one or the other opposing factions, and Turkey, where seven journalists of the pro-Kurdish newspaper Ozgür Günden had been killed since its creation on 31 May 1992. Many journalists had also been murdered in Angola, Azerbaijan, Colombia, Congo, Georgia, Great Britain, Guatemala, India, Italy, Lithuania, Mexico, Peru, the Philippines, Rwanda, Somalia, South Africa, Tajikistan, Turkey and Venezuela.

34. Reporters without Borders had forwarded details on all those cases to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and would continue to do so as other information arrived. The Commission must support the work of the Special Rapporteur by providing him with the material and human resources needed to fulfil his mandate, which was of the greatest importance for the defence of human rights.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS RELATING TO AGENDA ITEMS 5 AND 14

Draft resolution E/CN.4/1994/L.12/Rev.1 (agenda item 5) (Situation of human rights in South Africa)

35. Ms. MREMA (Observer for the United Republic of Tanzania), introducing draft resolution E/CN.4/1994/L.12/Rev.1 on behalf of the African Group and 30 other sponsors, said that it acknowledged the positive political developments taking place in South Africa following the multi-party negotiations on the holding of elections on 27 April 1994, but also noted that many obstacles to the complete eradication of apartheid remained, and in particular that violations of human rights, including the right to life, continued, as described in the report of the Ad Hoc Working Group of Experts (E/CN.4/1994/15). The status of the inhabitants of the "homelands" remained unclear despite the efforts to integrate them with the other inhabitants of South Africa. Kwazulu and Bophuthatswana in particular had threatened to boycott the April elections. It was therefore essential for the South African authorities to take the necessary action to ensure that the

elections were truly free and fair and for the international community to continue to monitor the situation closely until a genuinely democratic regime was established in South Africa.

36. In the draft resolution the Commission therefore called upon the South African authorities effectively to maintain law and order, to stop the violence threatening the democratization process, and to protect all citizens, irrespective of their political affiliation. It also urged all the parties to participate in the elections and called upon the South African authorities to expedite the necessary legal and administrative measures to abolish all the remaining "homelands", reincorporate them in South Africa, ensure that their populations could freely participate in the elections without fear of intimidation, and seriously address the problem of landlessness in order to create an atmosphere of lasting stability in South Africa. It also urged the authorities to repeal the remaining discriminatory apartheid laws in order to correct the entrenched socio-economic inequalities still affecting education, health, housing, social welfare and domestic and farm work. To achieve those goals the Commission called upon the international community to support, through appropriate measures, the fragile and critical process of transition under way in South Africa, to respond generously and positively to the appeal by the people of South Africa for assistance in the economic reconstruction of the country, and to ensure that the new South Africa began its existence on a firm economic basis. Lastly, the Commission welcomed the invitation addressed by the Government of South Africa to the Ad Hoc Working Group of Experts to visit South Africa to gather information about the human rights situation in that country.

37. She drew attention to a minor mistake in the sixteenth preambular paragraph, where the term "Minister of Justice and Order" should be replaced by "Minister of Law and Order". She hoped that the draft resolution would be adopted by consensus.

38. Mr. LEBAKINE (Deputy Secretary of the Commission) announced that Australia, Iceland, Ireland, Finland, Norway, Swaziland and Sweden had become sponsors of the draft resolution. He added, in connection with the draft resolution's administrative and financial implications and its implications for the programme budget, that it was not possible to state at present what would be the nature of the services that the Centre for Human Rights was requested to provide to the Government and people of South Africa in paragraph 24, and whether they would be funded from the Centre's budgetary or extrabudgetary resources. The matter would be clarified at a later stage. The resources needed for the implementation of the activities envisaged in other paragraphs of the draft resolution would be financed under section 21 (Human rights) of the programme budget for 1994-1995.

39. Draft resolution E/CN.4/1994/L.12/Rev.1 was adopted without a vote.

Draft resolution E/CN.4/1994/L.14/Rev.1 (agenda item 14) (Measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance)

40. The CHAIRMAN drew attention to a change in the text of the draft resolution. The words "as established in Commission resolution 1993/20 of 2 March 1993" should appear at the end of paragraph 9 instead of in paragraph 8.

41. Mr. SEZGIN (Turkey), introducing the draft resolution on behalf of its sponsors, said that it was similar to resolution 1993/20 adopted by the Commission after its consideration of the Secretary-General's report on measures to combat racism and racial discrimination, which had been submitted to the Sub-Commission at its forty-fourth session (E/CN.4/Sub.2/1992/11). Turkey regretted that the resources assigned to the Special Rapporteur to carry out his mandate had been insufficient to enable him to prepare more than a preliminary report. The draft resolution reaffirmed the Commission's support for the Special Rapporteur and renewed his mandate. Turkey hoped that the Special Rapporteur would in future have sufficient resources to do his work properly and that the draft resolution would be adopted by consensus, as in the case of resolution 1993/20. Such a consensus would reaffirm the magnitude of the danger faced by the international community in the matter.

42. Mr. PACE (Secretary of the Commission) announced that Albania, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Cuba, Hungary, Iceland, Ireland, Liechtenstein, Malaysia, Mexico, New Zealand, Peru, the Russian Federation, Slovakia and Switzerland had become sponsors of the draft resolution.

43. Mr. KHOURY (Syrian Arab Republic) asked why a new draft resolution had been submitted when the Commission had adopted a resolution on the same topic at its previous meeting. The present draft resolution referred to anti-Semitism. It would be useful if the sponsors of the draft resolution could define that term. An understanding must also be reached on what was covered by the word "Semite". Were the Arabs Semites? It was surprising to note in that connection that no Arab country had been asked to sponsor the draft resolution. The Syrian Arab Republic would appreciate clarification of the matter.

44. Mr. PADYA (Mauritius) requested a separate vote on the seventh preambular paragraph. He did not think it justified to establish a hierarchy among various forms of racism or to mention any of its specific forms.

45. Mr. GONZÁLEZ (Colombia) said that Colombia wished to become a sponsor of the draft resolution. The text was a very important one, especially in view of the current resurgence of xenophobia leading to violations of human rights and restrictions on access to work and decent housing.

46. Mr. RHENAN SEGURA (Costa Rica) said that Costa Rica also wished to become a sponsor of the draft resolution.

47. Mr. MOTTAGHI-NEJAD (Islamic Republic of Iran) said that the seventh preambular paragraph should be amended. As the representative of the Syrian Arab Republic had pointed out, its wording was inappropriate since, in its most usual meaning, anti-Semitism implied a very specific group of one race. Everyone knew that racial discrimination was not directed exclusively against one particular group. The Islamic Republic of Iran therefore considered that the seventh paragraph should be amended in order to reflect the opinions and concerns of members of other ethnic groups.

48. Mr. YOUSIF (Sudan) endorsed the views of the Iranian and Syrian representatives on the seventh preambular paragraph. Sudan would also like operative paragraph 8 to be amended, since its present wording allowed the Special Rapporteur to use all possible and conceivable information. A better balance should be struck by stating that the Special Rapporteur could use only documented and verified information. Sudan requested a separate vote on that paragraph.

49. Mrs. FERRARO (United States of America), supported by Mr. STOKVIS (Netherlands), requested that paragraph 4 should be amended by inserting the word "anti-Semitism" between "racial discrimination" and "xenophobia", in order to remain consistent with the preamble.

50. Mr. KHOURY (Syrian Arab Republic) regretted that his questions had not been answered. He thought that a dialogue was essential in the Commission and that it was insufficient merely to add words to various paragraphs of a draft resolution. He once again asked the question: what was anti-Semitism and who were the Semites?

51. The CHAIRMAN suggested that the Committee should vote on the seventh preambular paragraph.

52. Mr. KHOURY (Syrian Arab Republic) said he was astonished that the Commission should vote on a paragraph without really knowing what it was about. If delegations insisted on voting, the Syrian Arab Republic would submit amendments.

53. The CHAIRMAN noted that a number of delegations had mentioned possible amendments without submitting any texts, and suggested that the Commission should vote on the seventh preambular paragraph after hearing explanations of vote before the vote.

54. Mr. GARRETON (Chile), supported by Mr. VERGNE SABOIA (Brazil), said that to refrain from speaking of anti-Semitism would be to disregard the cruelties inflicted on an entire Semitic people in the twentieth century: in Chile's view, the notion of anti-Semitism covered all the Semitic peoples.

55. At the request of the delegation of the United States of America, a roll-call vote was taken on the seventh preambular paragraph of draft resolution E/CN.4/1994/L.14/Rev.1.

56. The seventh preambular paragraph of draft resolution E/CN.4/1994/L.14/Rev.1 was adopted by 34 votes to none, with 17 abstentions.

57. The CHAIRMAN suggested that the Commission should take up the United States amendment to paragraph 4.

58. Mr. KHOURY (Syrian Arab Republic), supported by Mr. YOUSIF (Sudan), proposed that the United States amendment should be further amended by the insertion of the words "hostility towards Arabs and Muslims" between "racial discrimination" and the word "anti-Semitism" proposed by the United States delegation.

59. Mr. TARBATABAEE (Islamic Republic of Iran) said that his delegation fully supported the Syrian proposal.

60. Mr. FLUGGER (Germany) proposed that "anti-Semitism" should be inserted between "racial discrimination" and "xenophobia" in paragraph 7.

61. Mr. KHOURY (Syrian Arab Republic), supported by Mr. MARKUS (Libyan Arab Jamahiriya), thanked the representative of Germany for having drawn the Commission's attention to paragraph 7. The paragraph should indeed be brought into line with paragraph 4.

62. Mr. VERGNE SABOIA (Brazil), supported by Ms. BOJKOVA (Bulgaria) and Mr. NANJIRA (Kenya), said that, given the vital importance of the draft resolution, its sponsors ought to have an opportunity to consult each other and other groups in order to reach an agreement - a procedure that would be preferable to a series of proposed amendments.

63. On the proposal of Mr. URRUTIA (Peru), the CHAIRMAN suspended the meeting in accordance with rule 48 of the rules of procedure, the text of which he read out.

64. On the resumption of the meeting and following an exchange of views in which Mr. LEMINE (Mauritania), Mr. SEZGIN (Turkey), Mr. GODOY (Cuba), Mr. EICHER (United States of America), Mr. MALGINOV (Russian Federation) and Mr. CHANDRA (India) took part, the CHAIRMAN said he took it that the Commission wished to defer voting on draft resolution E/CN.4/1994/L.14/Rev.1 until the following meeting.

The meeting rose at 6 p.m.