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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 42nd MEETING

Held at the Palais des Nations, Geneva,  
on Tuesday, 27 February 1990, at 3 p.m.

Chairman: Mrs. QUISUMBING (Philippines)  
later: Mr. DITCHEV (Bulgaria)

CONTENTS

Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories (continued)

Consideration of draft resolutions submitted under the following agenda items:

The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régime in southern Africa

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CONTENTS (continued)

Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, including:

Problems related to the right to enjoy an adequate standard of living; foreign debt, economic adjustment policies and their effects on the full enjoyment of human rights, and in particular, on the implementation of the Declaration on the Right to Development

Effective functioning of bodies established pursuant to United Nations human rights instruments

Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts

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

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 12) (continued)

1. The CHAIRMAN invited any delegations who so wished to exercise their right of reply under agenda item 12.
2. Mr. NOORANI (India) recalled that in its reply to the representative of Pakistan on 5 February 1990 on the subject of the State of Jammu and Kashmir, his delegation had expressed the view that the time of the Commission should not be spent in discussing issues extraneous to its concerns. Three weeks later, the delegation of Pakistan had again raised the question under a different agenda item. Without wishing to prolong that exchange, which was out of place in the Commission and harmful to relations between India and Pakistan, he would like to make a few points.
3. The State of Jammu and Kashmir was an integral part of India. The fact that India had brought to the attention of Pakistan's leaders that the problems in that State had arisen as a result of external interference made it all the more inappropriate for Pakistan to refer to the matter in the Commission. India, for its part, had not commented on the measures taken by the Pakistani authorities to deal with the recent disturbances in a number of regions of Pakistan. It wished merely to point out that despite terrorist actions, no state of emergency had been proclaimed in the State of Jammu and Kashmir, and the rights of all citizens had been maintained. The Supreme Court of India, as well as the High Court of the State of Jammu and Kashmir, guaranteed respect for those rights.
4. The State of Jammu and Kashmir had been the scene of systematic terrorist activities which had been a grave threat to law and order and to the security of citizens. The kidnapping of the daughter of the Home Minister of the Central Government, a Kashmiri, was an example. It was against this background of disturbances that a curfew had been imposed in certain towns. Despite the fact that the terrorists had tried to attract media attention in order to present a distorted version of reality and to demoralize public opinion, there had been no news blackout. The authorities had also been careful to ensure that the curfew did not interfere with the practice of religious observances - contrary to the claims made by the representative of Pakistan.
5. India wished to reaffirm the principle, recognized by the United Nations, that the right to self-determination was not applicable to regions which were an integral part of independent and sovereign States. If that principle were to be violated, the integrity of many States would be under threat. In conclusion, he reminded the Commission of the commitment undertaken by both India and Pakistan under the Simla Agreement to work towards a normalization of relations between the two countries.
6. Mr. WIN (Observer for Myanmar) said that some of the statements made by non-governmental organizations and by Western countries about the situation in Myanmar were a complete travesty of the truth. Torture and cruel treatment of prisoners were unknown. In addition, the situation in Myanmar had already been considered under a specific Commission procedure; the reopening of a parallel debate in the course of the same session would be contrary to the principles which should govern the Commission's work.

7. The situation in Myanmar had greatly improved over the past two years. Preparations were being made for the holding of democratic elections, which were to take place on 27 May 1990. Arrangements for those elections were in the hands of an independent electoral commission of five members, whose integrity had never been questioned by anyone in the country. One hundred political parties and 2,392 candidates would be participating in the elections, and the Government was doing all it could to see that they were held in a climate of peace and tranquillity and in strict accordance with the law of the land. The people and the Government of Myanmar would always be united in resisting any attempt at outside interference.

8. It was regrettable that individuals connected with certain illegal groups acting against the Governments of member States were increasingly appearing before the Commission to make abusive statements. Such a practice, if continued, would be harmful to the prestige of the Commission and to the prestige of the United Nations as a whole.

9. Mr. CHONG (Observer for the Democratic People's Republic of Korea) said that, although most non-governmental organizations contributed to the promotion of human rights, one of them, the International Organization for the Elimination of all Forms of Racial Discrimination, had distinguished itself by its provocative and immoral behaviour. That organization had grossly slandered a country which was doing its best to guarantee its national sovereignty and the welfare of its people, by describing it as a place where human rights were virtually non-existent. Contrary to the Commission's practice, it had gone so far as to insult, by name, the country's legally recognized leaders. The NGO in question ran the risk of losing face if it should emerge that it was allowing itself to be manipulated. He asked that the organization's statement should not be included in the record, and declared that his delegation would never recognize any statement that might be made by any of its representatives. The Commission should seriously consider whether the organization in question, which had violated elementary morality and the practice of the international community, as well as jeopardizing the progress of work, was qualified to attend the Commission's sessions.

10. Mr. PHARAON (Observer for the Syrian Arab Republic) said it was unfortunate that the Canadian delegation, when speaking of the human rights situation in a number of countries - including the Syrian Arab Republic - should have omitted to mention Zionist crimes in Palestine and in the occupied Arab territories. It should also have spoken about the activities of Canadian firms in South Africa, and about the racist criteria applied in relation to immigration to Canada.

11. Mr. GOFOUN (Observer for Sudan) said it was regrettable that the representatives of Canada and the United States of America had not taken into consideration the efforts in the cause of peace made by the Sudanese Government since 30 June 1989, notably in the form of contacts with the rebel movement and use of the good offices of foreign dignitaries, including former President Carter and Presidents Mubarak and Mobutu. Negotiations between the Government and the rebel movement were about to enter their fourth stage. A cease-fire had in fact been agreed in 1989, but the rebel movement had not respected that agreement. He also wished to stress that the Sudanese Government was facilitating the dispatch of humanitarian aid to the south of the country. Overall, Sudan consistently demonstrated its will to promote peace and respect for human rights.

12. Mr. ANCOG (Philippines) referring to a statement made the previous day by the International Federation - Terre des Hommes, agreed that some evacuation measures had been applied in the Philippines in the rebel-infested areas, because the military authorities had been concerned to move the local inhabitants away from the theatre of operations. Those people had been evacuated to schools, churches and government buildings, where they had been fed and cared for by a number of agencies, including the Department of Social Welfare and Development, the Department of Health, and the Department of Local Government, as well as by non-governmental organizations such as the Philippine National Red Cross and Caritas. They were free to return home as soon as the military operations were over.

13. International Federation - Terre des Hommes had alleged that persons thus evacuated had been the victims of human rights violations, but had given no evidence in support of its allegations. It had spoken of children being terrorized, wounded or killed. Considering that the evacuation centres were public buildings, such allegations were difficult to believe and would seem to be more in the nature of propaganda. The organization concerned had further alleged that many children had died as a result of epidemics or malnutrition in some of these centres. He had visited the locality in person and was able to state that although there had been victims, they had been few in number. The records of the various governmental and non-governmental agencies concerned could be consulted on that point. The number of persons evacuated in the regions of Luzon, Visayas and Mindanao had also been greatly exaggerated. He assured the Commission that great concern had been shown for these evacuees by the Government, and notably by President Aquino, who had herself visited the area. With regard to the allegation concerning a confiscation carried out at the home of the woman who was the chairman of a child welfare organization, his delegation could not as yet give any details, but would look into the matter.

14. In conclusion, he reiterated that while his Government would respond positively to constructive statements, it considered that irresponsible and highly exaggerated statements could only be counter-productive.

15. Mr. KAMAL (Pakistan) said that the representative of India, in exercising his right of reply, had tried to conceal the gravity of the situation in Jammu and Kashmir and the human rights violations being committed there - a question which was, however, of concern to the Commission. The statement made by Pakistan on the subject had been based on independent assessments by Amnesty International and the London newspaper The Independent. Reference could also be made to articles and editorials that had appeared in such journals as The Times and The Guardian of London, the Frankfurter Allgemeine Zeitung, The Citizen of Ottawa, the Saudi Gazette, the Saudi Arab News, Sangram and Ittefaq of Dhaka, The Canberra Times, The Calcutta Telegraph and The Times of India.

16. The representative of India had referred to "external involvement". It was not the first time he had used that argument in an attempt to justify policies which violated human rights. The Indian representative had also asserted that the State of Jammu and Kashmir was an integral part of India. For his own part, his response to that assertion was that the will of the people should be determined by an impartial plebiscite held under United Nations auspices. Until that was done, the relevant United Nations resolutions would not be implemented. It was well known that India claimed

that the will of the people of the State of Jammu and Kashmir had already been expressed through elections held under Indian control, but he reminded the Commission that the Security Council, in resolutions 91 (1951) and 122 (1957), had affirmed categorically that any action by the so-called constituent assembly to determine the future of the territory would not constitute an expression of the will of the people. In fact, the people of Kashmir had given the lie to Indian assertions by boycotting the general elections held in November 1989.

17. For its part, Pakistan remained committed to seeking a peaceful settlement of the Jammu and Kashmir problem on the basis of the relevant United Nations resolutions and in the spirit of the Simla Agreement.

18. Mr. ALDORI (Iraq) said it was regrettable that statements by certain delegations and non-governmental organizations about the Kurdish population of Iraq had been motivated by political considerations which were out of place in the Commission. His delegation had already shown, in a detailed statement under agenda item 12, that the Kurdish population enjoyed full rights and suffered no kind of discrimination or oppression. On the contrary, the Iraqi Government was promoting the interests of the Kurdish people, since they formed an integral part of the Iraqi population. He pointed out that transfers of certain Kurdish communities had been carried out at their own request. In any event, the situation of the Kurdish population was to be investigated during a visit by members of the Sub-Commission, a visit which would be granted every facility by his Government.

19. Mr. LE LUONG MINH (Observer for Viet Nam) said that at the previous meeting the representative of the United States had mentioned the question of self-determination for Viet Nam. He pointed out that the Government and people of Viet Nam were second to none in cherishing national independence and self-determination. It was in that cause that they had fought for 40 years against foreign aggression, and for 20 years of that time against aggression on the part of the United States.

20. Mr. OMAR (Observer for the Libyan Arab Jamahiriya) said it was regrettable that the United Nations representative should have spoken of a lack of democracy in Cuba, the Libyan Arab Jamahiriya, Nicaragua and Viet Nam, countries which were co-sponsors of a draft resolution that in fact focused on the United States military intervention in Panama as a violation of international law and of the territorial integrity of a State. International opinion had expressed itself along the same lines. The intervention had even been criticized by legal experts in the United States itself. The attitude of the United States Government on the subject of human rights, notably with respect to Palestine and South Africa, was well known. However, that Government did not, as a rule, practise what it preached.

CONSIDERATION OF DRAFT RESOLUTIONS SUBMITTED UNDER THE FOLLOWING AGENDA ITEMS:

ITEM 6: THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE COLONIAL AND RACIST REGIME IN SOUTHERN AFRICA (E/CN.4/1990/L.21/Rev.1 and E/CN.4/1990/2, chapter I A, draft resolution VII)

ITEM 7: QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

(a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT (E/CN.4/1990/L.28/Rev.1)

ITEM 18: EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS (E/CN.4/1990/L.29)

ITEM 5: VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (E/CN.4/1990/L.20)

Draft resolution E/CN.4/1990/L.21/Rev.1 (agenda item 6)

21. Mr. SAADALLAH (Observer for Egypt), introducing the draft resolution on behalf of the sponsors, to which Nicaragua and the Syrian Arab Republic should be added, said that although the release of Nelson Mandela was a source of satisfaction, it must be remembered that the odious apartheid régime was still there. Nelson Mandela's release stemmed directly from the resistance and struggle of the oppressed people of South Africa and from the adoption of measures, including sanctions, by the international community. Encouraged by that fact, the sponsors of the draft resolution had wished to reaffirm that the pressure must be maintained or even increased in order to make South Africa a united, democratic and non-racial country. The Commission would note that the draft resolution submitted to it for consideration hardly differed in form or substance from the text adopted at the forty-fifth session. Its attention was drawn, in particular, to operative paragraphs 5 and 7 and to operative paragraph 17, in which a renewal of the mandate of the Special Rapporteur, Mr. Khalifa, was requested.

Draft resolution E/CN.4/1990/L.28/Rev.1 (agenda item 7)

22. Mr. de RIVERO BARRETO (Peru), introducing the draft resolution on behalf of the sponsors, recalled that at its forty-fifth session the Commission had decided to add the question of foreign debt to the agenda item concerned with the realization of economic, social and cultural rights. The draft resolution was designed, not to reopen the debate on questions of substance, but to find a way of enabling the Commission to monitor the situation closely in the light of various studies and reports, including those of UNICEF and the World Bank, which gave a good idea of the extent of the problem. The sponsors had wished to stress the human dimension of the economic problems of indebtedness and adjustment policies. In no way were they seeking to point out those responsible; they merely wished the Commission to keep the issue under review by monitoring developments in the situation from the standpoint of the economic, social and cultural rights of the affected populations. The sponsors hoped that the Commission would not misjudge their intentions and would adopt the text without a vote.

Draft resolution E/CN.4/1990/L.29 (agenda item 18)

23. Ms. ANDREYCHUCK (Canada), introducing draft resolution E/CN.4/1990/L.29 on behalf of the sponsors, to which Kenya should be added, said that the text reflected the concerns expressed in previous resolutions of the Commission on Human Rights and the General Assembly regarding the effective functioning of treaty bodies, which was essential to the full and efficient implementation of United Nations human rights instruments. Since the General Assembly had reaffirmed, in its resolution 44/135, the importance of addressing the question of securing sufficient financial resources, the sponsors of the draft resolution had wished to propose a means of doing so; in particular, in operative paragraph 10 they recommended the establishment of a "contingency reserve fund" for the Committee on the Elimination of Racial Discrimination. In order to make it clear that the recommendation was only an idea that would be officially put forward at a later date to the States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, the sponsors had redrafted the paragraph in the following terms:

"10. Recommends that the Secretary-General seek to obtain, at the earliest opportunity, the concurrence of States parties to the Convention on the Elimination of All Forms of Racial Discrimination to the establishment of a 'contingency reserve fund' made up of that portion of State party payments, received prior to 31 December of each year, which are over-assessments for the Committee on the Elimination of Racial Discrimination for the elapsed year (normally credited against the contribution of States parties), provided that the agreement of a State party must first be obtained before its own over-assessment is paid into this fund, and to be used to finance, on a contingency basis, up to two meetings of the Committee on the Elimination of Racial Discrimination in a following year, for which State payments have not been received in that calendar year, with the contingency fund to be reimbursed in full once payments by these States are received."

Draft resolution E/CN.4/1990/L.20 (agenda item 5)

24. Mr. MAHIGA (United Republic of Tanzania), introducing draft resolution E/CN.4/1990/L.20 on behalf of the sponsors, to which Cameroon, Cuba, Iraq, Morocco, Nicaragua and the Syrian Arab Republic should be added, first of all drew attention to several amendments to be made to the text.

25. The sixth preambular paragraph should read as follows: "Recalling the concerns repeatedly expressed about abductions and assassinations carried out by the South African régime against political refugees and members of the liberation movements,".

26. The seventh and seventeenth preambular paragraphs were merged into a single preambular paragraph reading:

"Having examined Mr. F.W. De Klerk's statement of 2 February 1990 in which, inter alia, he rescinded the ban on the African National Congress of South Africa, the Pan Africanist Congress of Azania and other political organizations,".

27. The ninth preambular paragraph was replaced by the following text:

"Outraged by South Africa's acts of violence in the townships, the continued intransigence in revoking the abominable apartheid laws, and in refusing to reinstate the human rights of political prisoners by freeing them unconditionally,".

28. In the penultimate line of operative paragraph 20, the word "significant" should be inserted before the word "step".

29. As in previous years, the draft resolution on the situation of human rights in South Africa reflected the gross and widespread violations of human rights inherent in the apartheid system, attested by the interim report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1990/7). At the same time, the sponsors recognized the importance of Mr. De Klerk's statement, seeing in it the beginning of a negotiated process of transforming South Africa into a united, democratic and non-racial country. The release of Nelson Mandela was stressed as a triumph of human rights over the forces of oppression and as the sign of an incipient change. The draft resolution was therefore designed to give an account of the new situation in South Africa, to send a message to Mr. F.W. De Klerk, and to appeal to the international community not to relax its pressure until the apartheid system had been finally dismantled. It would be seen that the text was very faithful in both spirit and letter to the Declaration on Apartheid and its Destructive Consequences in South Africa adopted by consensus at the sixteenth Special Session of the General Assembly on 14 December 1989, some of the wording of which it even incorporated. The sponsors had wished to reaffirm the universally recognized need to exert concerted pressure, including sanctions, on the South African régime in order to keep alive the hopes of progress that had recently arisen.

30. The sponsors had deliberately avoided any reference to Namibia, whose independence was imminent. Nevertheless, his delegation wished to note the report of the Ad Hoc Working Group (E/CN.4/1990/7/Add.1), which showed that although the after-effects of apartheid could not disappear from one day to another, the combined efforts made by the international community under the auspices of the United Nations had laid the foundations for the realization of the rights and fundamental freedoms of the Namibian people.

31. His delegation thanked those delegations which, through their constructive suggestions, had made it possible to draw up a text reflecting as faithfully as could be the joint concern and commitment to bring about the abolition of the apartheid régime. It hoped that the draft resolution would receive the unconditional support of all members of the Commission.

32. The CHAIRMAN invited the Commission to vote on the draft resolutions submitted, drawing attention to the procedure to be followed: the Commission would hear comments on all the draft resolutions, then explanations of vote before the vote as and when they were announced, and finally explanations of vote after the vote, agenda item by agenda item.

Draft resolution E/CN.4/1990/L.21/Rev.1 (agenda item 6)

33. Mr. NYAMEKYE (Deputy Director, Centre for Human Rights) presented the statement of programme-budget implications of draft resolution E/CN.4/1990/L.21/Rev.1, in accordance with rule 21 of the rules of procedure of the functional commissions of the Economic and Social Council. Since the financial implications of resolution VII of the Sub-Commission on Prevention of Discrimination and Protection of Minorities were similar to those of draft resolution E/CN.4/1990/L.21/Rev.1, the statement applied to both texts.

34. After drawing attention to the relevant provisions of the texts, he said that the total cost to be charged to chapter XXIII (Human Rights) of the programme budget was estimated to be \$US 29,500 for each of the two years 1990 and 1991. The Secretariat intended to finance the expenditure incurred for the necessary computer services within the limits of the resources already allocated under chapter XXVI G and H of the programme budget for the biennium 1990-1991. It was considered that the activities envisaged in draft resolution E/CN.4/1990/L.21/Rev.1 of the Commission and resolution VII of the Sub-Commission were included under ongoing activities and would therefore be financed out of the funds supplied under the allocations made by the Economic and Social Council in chapter XXIII of the programme budget; thus it would not be necessary to request additional allocations or to resort to the contingency reserve.

35. At the request of the representative of the United Kingdom of Great Britain and Northern Ireland, a vote was taken by roll-call on draft resolution E/CN.4/1990/L.21/Rev.1.

36. Mexico, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Botswana, Brazil, Bulgaria, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, Ghana, Hungary, India, Iraq, Madagascar, Mexico, Morocco, Nigeria, Pakistan, Peru, Philippines, Sao Tome and Principe, Senegal, Somalia, Sri Lanka, Swaziland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: Belgium, Canada, France, Germany, Federal Republic of, Italy, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Japan, Panama, Spain, Sweden.

37. Draft resolution E/CN.4/1990/L.21/Rev.1 was adopted by 31 votes to 8, with 4 abstentions.

Draft resolution VII of the Sub-Commission (agenda item 6)

38. At the request of the representative of the United Kingdom of Great Britain and Northern Ireland, a vote was taken by roll call on draft resolution VII (E/CN.4/1990/2)

39. Sao Tome and Principe, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Botswana, Brazil, Bulgaria, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, Ghana, Hungary, India, Iraq, Madagascar, Mexico, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Sao Tome and Principe, Senegal, Somalia, Sri Lanka, Swaziland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: Belgium, Canada, France, Germany, Federal Republic of, Italy, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Japan, Spain, Sweden.

40. Draft resolution VII of the Sub-Commission was adopted by 32 votes to 8, with 3 abstentions.

41. Mr. STANEVSKI (Union of Soviet Socialist Republics), speaking in explanation of vote, said that his delegation had supported draft resolution VII, but would have abstained if a separate vote had been taken on operative paragraph 6.

42. Ms. LEADER (United States of America) said that her delegation supported recourse to pressure in order to abolish apartheid. Nevertheless, her delegation had voted against draft resolution E/CN.4/1990/L.21/Rev.1 because it was opposed to the imposition of global binding sanctions against South Africa, preferring peaceful negotiation in their stead.

43. Mr. SEZAKI (Japan), speaking in explanation of vote, said that his delegation had abstained in the vote on draft resolution E/CN.4/1990/L.21/Rev.1 because the text contained paragraphs which his Government found it difficult to accept.

44. His delegation had also abstained in the vote on draft resolution VII because it stated, in operative paragraph 3, that the Commission welcomed with satisfaction the resolution voted on earlier, in which his delegation had abstained.

Draft resolution E/CN.4/1990/L.28/Rev.1 (agenda item 7)

45. Mr. SEZAKI (Japan), speaking in explanation of vote before the vote, said that his Government shared the developing countries' concerns and had actively participated in all international activities designed to assist them; Japan was allocating more than 10 billion dollars as official development assistance to developing countries. However, his delegation would vote against draft resolution E/CN.4/1990/L.28/Rev.1 because it believed that the Commission on Human Rights was not an appropriate body to consider issues relating to foreign debt and economic adjustment policies.

46. At the request of the representative of Japan, a vote by show of hands was taken on draft resolution E/CN.4/1990/L.28/Rev.1.

47. Draft resolution E/CN.4/1990/L.28/Rev.1 was adopted by 36 votes to 2, with 5 abstentions.

48. Mr. STEEL (United Kingdom), speaking in explanation of vote after the vote, said that his delegation regretted having been unable to vote in favour of the draft resolution, which contained passages and provisions it considered unacceptable. Thus, the title of the draft resolution itself and operative paragraphs 3 and 5 implied that economic adjustment policies had an adverse effect on the enjoyment of human rights and, in particular, on the implementation of the Declaration on the Right to Development. The United Kingdom took the contrary view that economic adjustment policies were the only means of achieving economic and social progress capable of promoting the enjoyment of certain human rights. It would have been possible to formulate the relevant provisions in a manner to which the United Kingdom delegation might have agreed, for it was true that economic decline had entailed a lowering of the standard of living in some countries and that the burden of foreign debt servicing, among other factors, made the problem difficult to resolve.

49. Mr. SCOTT (United States of America) said that his delegation was not unsympathetic to the concern of many of the Commission's members with debt and economic adjustment issues. The United States was working actively to address those issues in the appropriate forums, most notably the international financial institutions as well as the economic organs of the United Nations system. Noting that the draft which had just been adopted recognized the work being done elsewhere in the United Nations family and specifically referred to documents produced by UNICEF, the United Nations Economic Commission for Africa and the World Bank, he expressed the view that mention could also have been made of the work under way in the United Nations Conference on Trade and Development, the special session of the General Assembly on development which was to be held shortly, and work being done in preparation for the Fourth United Nations Development Decade.

50. All the foregoing reinforced his delegation's view that the issue was inappropriate to the Commission on Human Rights. The question of foreign debt was certainly important, but neither the Sub-Commission nor the Commission had the time or the expertise to give that complicated subject the attention it deserved. For that reason, his delegation had voted against draft resolution E/CN.4/1990/L.28/Rev.1.

51. Ms. FERRIOL (Cuba) said that her delegation had voted for the draft resolution because it considered that the Commission on Human Rights should devote particular attention to the effects of economic adjustment policies on the effective enjoyment of human rights. She would, however, have preferred the text to refer more directly to all important aspects of foreign debt servicing. In her delegation's view, recent trends in economic adjustment policies called not only for economic growth but also for development capable of guaranteeing an adequate standard of living for the populations of developing countries.

52. Mr. RONQUIST (Sweden) recalled that his country attached a great deal of importance to problems connected with foreign debt servicing; however, the issue lay outside the scope of the Commission on Human Rights, and the Commission was not qualified to discuss it. The debt situation could indeed weigh heavily upon the economic and social development of many countries, but

it should not exempt States from the obligation to guarantee full enjoyment of civil and political rights by everyone. His delegation had therefore abstained in the vote.

53. Mr. RIETJENS (Belgium) said that his delegation had voted for the draft resolution because it wished to stress the importance it attached to the foreign debt issue and its relationship with the problems which confronted many developing countries in respect of guaranteeing decent living conditions to their populations. That being said, his delegation remained convinced that in order to preserve a degree of logic in the operation of the United Nations, each body should abide by its mandate. That of the Commission on Human Rights was to prevail upon the Governments of member States to honour their obligation to respect, and ensure the respect of, human rights. It was not the Commission's chief purpose to deal with economic relations among States, even if those relations could, directly or indirectly, affect the enjoyment of human rights. Other bodies within the United Nations system were much more experienced in that field and better equipped to deal with the substance of problems relating to foreign debt and economic adjustment policies.

54. Mr. MEZZALAMA (Italy) said that his delegation had voted in favour of the draft resolution in order to stress its concern with the issue of foreign debt as a priority problem for developing countries. That was, however, without prejudice to his delegation's view that the problem of foreign debt servicing should be addressed in other United Nations bodies and technical forums where it was currently under discussion.

55. Mr. GOMPERTZ (France) said that his delegation had voted in favour of the draft resolution as a token of its appreciation of the efforts towards moderation and objectivity made by the draft's sponsors. In any other appropriate forum, France would have been able to give such a text its unreserved support. However, it doubted the usefulness of submitting a draft resolution on foreign debt to the Commission on Human Rights and saw no reason to single out any one of the factors which might affect the standard of living of the people of a country. The problem was an economic one and was already under consideration by other, more competent bodies such as UNCTAD, IMF and the World Bank.

Draft resolution E/CN.4/1990/L.29 (agenda item 18)

56. Draft resolution E/CN.4/1990/L.29 was adopted without a vote.

57. Mr. STEEL (United Kingdom), speaking in explanation of vote after the vote, said that his delegation had been pleased to join the consensus on the draft's adoption, but wished to clarify its position. His Government paid its outstanding contributions in full and in good time as a matter of principle and considered it appropriate that all other States parties or States members should be encouraged to do likewise. The draft resolution, and more particularly its operative paragraph 10, seemed to be unfairly penalizing States parties which scrupulously discharged their obligations by asking them, in substance, to finance other States which defaulted on their obligations. His Government therefore interpreted the draft to mean that States were free to pay their excess contributions into a "contingency reserve fund" if they so wished, but that they could on no account be compelled to do so. Furthermore, the possible establishment of a contingency fund should in no way diminish the pressures exerted on all States parties to meet all their financial

obligations without delay. Lastly, his delegation considered that the consideration of all financial issues should be governed predominantly by the application of the financial regulations of the United Nations and that the appropriate machinery should be applied in all cases without exception.

58. Mrs. GUMPRICH (Federal Republic of Germany) said that her country had joined the consensus on the draft resolution because it shared the concern with the effective functioning of bodies established pursuant to United Nations human rights instruments. Operative paragraph 10 proposed the establishment of a "contingency reserve fund" made up of excess contributions by States parties to the Committee on the Elimination of Racial Discrimination, which would be used to finance, on a contingency basis, up to two meetings of the Committee in the following year. In that connection she wished to place on record that the adoption of the draft resolution did not mean that the Federal Republic of Germany would be in a position to approve the establishment of such a fund. Her country's strict financial regulations did not allow credits assigned to the regular budget of the United Nations to be reassigned to special funds. Furthermore, her Government was of the opinion that the solution to the Committee's financial difficulties lay in the punctual discharge of their financial obligations by all States parties and not in a mechanism which might impose an additional burden upon non-defaulting States.

59. Mr. TSUNOZAKI (Japan) said that he had joined the consensus on the revised draft resolution as a token of his appreciation of the efforts made by the Canadian delegation to improve the efficiency of the existing machinery for the promotion of human rights. However, Japan's position with regard to the contents of operative paragraphs 8 and 9 had not changed since the Commission's previous session. Moreover, Japan interpreted operative paragraph 7 as entailing neither the cancellation of unpaid contributions nor unfair treatment of States which, in spite of financial difficulties, were prepared to discharge their financial obligations. As for paragraph 10, his Government considered that it would be inappropriate to establish a contingency fund before States parties had had an opportunity to consider its contents and purpose.

Draft resolution E/CN.4/1990/L.20 (agenda item 5)

60. At the request of the representative of the Federal Republic of Germany, a vote was taken by roll-call on paragraph 19 of draft resolution E/CN.4/1990/L.20.

61. Spain, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, Ghana, India, Iraq, Madagascar, Mexico, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Sao Tome and Principe, Senegal, Somalia, Sri Lanka, Sweden, Venezuela, Yugoslavia.

Against: Belgium, France, Germany, Federal Republic of, Italy, Japan, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Botswana, Brazil, Bulgaria, Canada, Hungary, Spain, Swaziland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

62. Paragraph 19 was adopted by 26 votes to 8, with 9 abstentions.

63. At the request of the representative of the Federal Republic of Germany, a vote was taken by roll-call on the passage in the second sentence of paragraph 21 beginning with the words "and are commended" and ending with the word "implementation".

64. Cyprus, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Brazil, Bulgaria, Canada, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, Ghana, India, Iraq, Madagascar, Mexico, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Sao Tome and Principe, Senegal, Somalia, Sri Lanka, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: Belgium, France, Germany, Federal Republic of, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Botswana, Hungary, Italy, Japan, Spain, Swaziland.

65. The passage was adopted by 31 votes to 6, with 6 abstentions.

66. At the request of the representative of the United Kingdom, a vote was taken by roll-call on draft resolution E/CN.4/1990/L.20 as a whole.

67. Hungary, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Botswana, Brazil, Bulgaria, Canada, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, Ghana, Hungary, India, Iraq, Madagascar, Mexico, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Sao Tome and Principe, Senegal, Somalia, Spain, Sri Lanka, Swaziland, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Belgium, France, Germany, Federal Republic of, Italy, Japan, Portugal.

68. Draft resolution E/CN.4/1990/L.20 was adopted by 35 votes to 2, with 6 abstentions.

69. Mr. RAVEN (United Kingdom), speaking in explanation of vote after the vote, expressed keen regret at the fact that the laudable efforts to achieve consensus made by the draft resolution's sponsors had proved unsuccessful. Notwithstanding its vote against the draft, his delegation continued to be strongly opposed to violations of human rights in South Africa, and more especially to apartheid. It was to be hoped that thanks to the progress made at the present session, the Commission would achieve consensus on the issue at its next session.

70. Mr. PALACIOS (Spain) welcomed the flexibility displayed by the draft's sponsors in drafting the document. However, his delegation regretted the extreme language employed in certain paragraphs. Furthermore, while firmly convinced that the international community should use every peaceful means at its disposal in order to eliminate apartheid, it did not believe that total isolation of the Pretoria régime, especially in the present situation, was the best way of contributing towards the improvement of the black population's living conditions or of ensuring respect of its fundamental freedoms and rights. His delegation also considered that some of the measures proposed in the text fell within the scope of other United Nations bodies.

71. Ms. ANDREYCHUCK (Canada), speaking in explanation of vote after the vote, welcomed the efforts to attract support made by the draft's sponsors. Consensus had come very close, which augured well for the future. In voting for the draft, her delegation had been motivated by the wish to advance the cause of a just and non-racial democracy in South Africa.

72. Mr. SEZAKI (Japan) said that he greatly appreciated the goodwill shown by the draft's sponsors, especially in referring to the positive steps taken by Mr. de Klerk. However, he regretted that the absence of consensus on some points had compelled his delegation to abstain, and expressed the hope that the constructive spirit which had prevailed during the debate would be maintained and strengthened during the follow-up to the decision just taken.

73. Ms. LEADER (United States of America), speaking in explanation of vote after the vote, welcomed the efforts made to ensure that the draft resolution expressed the concern felt by all nations represented on the Commission at violations of human rights in South Africa. Unfortunately, her delegation had had no choice but to vote against the text, which failed to reflect fully the consensus reached at the special session of the United Nations General Assembly on apartheid and did not place sufficient emphasis on the steps taken recently in South Africa in order to create a climate propitious to negotiations.

74. Mr. GROLIG (Federal Republic of Germany), speaking in explanation of vote after the vote, commended the constructive spirit displayed by the draft resolution's sponsors and expressed profound regret at the Commission's inability to reach a consensus. His delegation had abstained in the vote on the draft as a whole and, by reason of his Government's well-known position on compulsory sanctions, had had to vote against paragraph 19 and the passage in paragraph 21 which had been put to the vote. His Government also disagreed with the wording of the thirteenth preambular paragraph which implied that compulsory sanctions should be applied.

75. The CHAIRMAN said that the Commission had completed its consideration of agenda items 5, 6, 7 and 18.

76. Mr. MOSES (Grand Council of the Crees) explained that he spoke also on behalf of the International Organization of Indigenous Resource Development, the Four Directions Council and the South American Indian Council.

77. The indigenous peoples of the countries of North and South America were continuing to suffer under the non-recognition of their civil, political, economic, social and cultural rights by dominant States which considered those peoples' needs and interests less important than their own. They were being denied their fundamental right of self-determination and, as a result, were not able to benefit from or to develop their lands and resources, which those States had appropriated for short-term economic gain, thus endangering the environment.

78. In South and Central America, children of Indians continued to be bought and sold for adoption. The Grand Council of the Crees wished to direct the attention of the Commission's members to the lacunae which existed in that respect in the recently adopted Convention on the Rights of the Child, and particularly its article 21 (b) and (d). In the United States, the Indian treaties were being flouted and in Canada, the racist Indian Act was still in force. In all those countries the indigenous peoples were victims of oppression and their very existence was threatened. Was it possible to doubt that the rights abuses against the indigenous peoples of the Americas constituted a pattern of gross and persistent violations of human rights which met the Commission's criteria for intervention?

79. It had lately begun to be realized that all the world's peoples shared the earth's resources. Events which had taken place in 1989 had shown that change was still possible. Eastern Europe had opened its borders; the Government of Colombia had recently recognized indigenous land rights, Nelson Mandela had been freed. The momentum for goodwill and the reversal of historic wrongs should be carried further. The international community should take urgent action to protect the rights of indigenous peoples.

80. Mr. Ditchev (Bulgaria), Vice-Chairman, took the Chair.

81. Mr. KHOURI (Union of Arab Jurists) said that his organization had always endorsed the principles set forth in the Universal Declaration of Human Rights and in the international human rights instruments and had supported the struggle against all forms of oppression degrading to man. It noted with regret the violations taking place in several Arab countries - proliferation of emergency tribunals, restrictions upon the freedom of expression and of the press, banning of trade unions and organizations for the defence of human rights. The gravity of those violations varied from country to country. In Syria, the State of Emergency Act had been in force for the past 27 years and some political prisoners had been held in Syrian prisons for more than 20 years. In Sudan, too, a state of emergency had been proclaimed and arbitrary arrests, as well as cases of torture in prisons, had been reported. The Union of Arab Jurists called upon those two countries to repeal the state of emergency and release all political prisoners.

82. In other countries there were fortunately some positive signs of willingness to respect the provisions of the International Covenants on Human Rights and to guarantee fundamental rights and freedoms. His organization could only welcome that trend towards democratization, for democracy was the only means of preserving man's freedom and dignity. Recent events in Eastern Europe confirmed that truth.

83. His organization wished once again to draw the Commission's attention to the question of the settlement of Jewish immigrants from the Soviet Union in Israeli colonies in the occupied Arab territories and Jerusalem. That deliberate policy of Israel's ran counter to the relevant resolutions adopted by the United Nations and, more particularly, by the Commission, and showed that Israel sought to fan the flames of conflict in the region and refused all peace initiatives.

84. Lastly, his organization deplored the absence of efforts since the ending of the war between Iraq and Iran in August 1988 to ensure that all prisoners of war were released in accordance with article 118 of the Third Geneva Convention and paragraph 3 of Security Council resolution 598 (1987). In that connection, it supported the latest initiative taken by Iraq in July 1989 proposing the release of all prisoners of war, the resumption of talks with Iran under the auspices of the United Nations and the opening of frontiers between Iraq and Iran to inhabitants of both countries in order to facilitate pilgrimages to holy places. The Union of Arab Jurists appealed to the Commission to support that initiative and called upon Iran to accept it in the interests of both parties, thus putting an end to the sufferings of the prisoners and their families.

85. Mr. ALVARADO (Indian Council of South America) paid a tribute to all the indigenous peoples of the American continent who were struggling in various ways to preserve their life, land and culture, end the oppression, discrimination and exploitation to which they were subjected, and live in freedom at last.

86. In Guatemala, any attempt by Indians to recover their lands and to denounce the wretchedness, hunger and injustice in which they lived and the infringements of their rights had been ruthlessly put down by all successive Governments. The army and paramilitary groups massacred children, women and old people indiscriminately. Cultural oppression and violations of their economic and social rights, above all their right to life, were the Indians' daily lot. Murderous operations launched by the army against villages with Indian majority populations had made many victims, particularly in the El Quiche district. In his report on Guatemala (E/CN.4/1990/45/Add.1), Mr. Gros Espiell stressed that it was "... imperative and urgent that the ... public authorities and all current social and political sectors in the country should tackle ... the task of ... terminating the campaign of open repression that has been waged ... against these communities and ... encourage the elimination of the phenomena of general discrimination, economic exploitation and ethnic oppression which ... have been plaguing these people, communities and persons for several centuries". Before the army had destroyed the indigenous communities' traditional system of organization, those who broke established laws were judged by the community's other members. If the Guatemalan Indians could judge the military men responsible for the genocide and ethnocide in that country and those who supported them, they would without any doubt sentence them to severe penalties.

87. The Indian Council of South America categorically rejected the Guatemalan Government's assertions denying the existence of human rights violations in Guatemala and putting forward the view that the appointment of a special rapporteur on Guatemala would infringe the established constitutional order. The international community could not allow all those crimes to remain unpunished.

88. Mr. JAZIC (Yugoslavia) said that the forty-sixth session of the Commission was taking place in an international climate distinguished by the relaxation of tensions and of confrontation between the major Powers and their respective blocs and by a general orientation towards negotiations with a view to resolving global problems and regional conflicts by peaceful and political means and opening new avenues for progress in many areas of international co-operation. Those positive trends, which were in tune with the principles and goals of the Non-Aligned Movement, should become universal and irreversible. The positive changes taking place in some countries of Europe and within the framework of the Conference on Security and Co-operation had had beneficial repercussions in the field of human rights and fundamental freedoms, including the rights of minorities in many countries, and on the observance and implementation of many international instruments created for their protection. In that connection, he recalled that the promotion of human rights and freedoms was one of the basic objectives of the non-aligned countries and had been reaffirmed as such at the Ninth Non-Aligned Summit held in Belgrade in 1989.

89. It was becoming increasingly clear that the effective enjoyment of human rights depended on the political, economic, social and cultural conditions of life of peoples, nations and individuals. Everything possible should be done to guarantee not only civil, political, economic, social and cultural rights but also the right to development. The approach to human rights problems should be constructive and should be directed towards solving those problems rather than merely identifying them without due consideration of their causes. His delegation also strongly believed that human rights and fundamental freedoms were best served within a democratic framework. A number of measures had been taken in Yugoslavia to speed up the process of democratization and adjustment of national laws.

90. His delegation welcomed the progress achieved by certain countries in the human rights field. In particular, it was happy to note the re-establishment of democracy in Chile and to report that Yugoslavia had resumed its diplomatic relations with that country. However, a great deal still remained to be done in Chile as well as in other countries where the human rights situation had deteriorated, as the reports of the Commission's special representatives and rapporteurs showed.

91. The Government of Albania had begun to communicate with the Commission, but the information it provided failed to answer the serious allegations of human rights violations in Albania formulated by the Commission. The Albanian Government confined itself to a formal description of constitutional and legal provisions concerning human rights and fundamental freedoms in force in the country, without stating how those provisions were implemented in practice. That was the essential problem. The entire system in Albania was still based on anachronistic postulates of ideological monolithism, typical of the period of Stalinism, which in practice took the form of manipulation of individuals and groups and non-respect of universally recognized human rights. The national minorities, in particular, were victims of a systematic policy of denationalization and assimilation. The numbers of the Yugoslav minorities had diminished considerably and some of them, such as the Serbs and Montenegrins, were not even recognized as minority groups. His delegation remained concerned with the human rights situation in Albania and believed that the Albanian authorities should make substantial efforts to implement internationally recognized standards concerning human rights and fundamental

freedoms. Yugoslavia, for its part, was willing to maintain good-neighbourly relations with Albania on condition that that country also showed the necessary goodwill.

92. His delegation was aware of serious violations of human rights in other parts of the world, but, bearing in mind the positive development taking place in some regions and the encouraging achievements of the Commission, it was confident that with the co-operation and goodwill of member States the present session would mark a further step towards the effective realization of human rights and fundamental freedoms.

The record of the second part of the meeting is issued under the symbol E/CN.4/1990/SR.42/Add.1.

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