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COMMISSION ON HUMAN RIGHTS

Forty-fifth session

SUMMARY RECORD OF THE SECOND PART* (PUBLIC) OF THE 53rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 March 1989, at 4 p.m.

Chairman: Mr. BOSSUYT (Belgium)
later: Mr. HELLER (Mexico)

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* The summary record of the first part (closed) of the meeting appears as document E/CN.4/1989/SR.53 and that of the final part (public) as document E/CN.4/1989/SR.53/Add.2.

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The public meeting was called to order at 4 p.m.

STUDY OF SITUATIONS WHICH APPEAR TO REVEAL A CONSISTENT PATTERN OF GROSS VIOLATIONS OF HUMAN RIGHTS AS PROVIDED IN COMMISSION RESOLUTION 8 (XXIII) AND ECONOMIC AND SOCIAL COUNCIL RESOLUTIONS 1235 (XLII) and 1503 (XLVIII): REPORT OF THE WORKING GROUP ESTABLISHED BY THE COMMISSION AT ITS FORTY-FOURTH SESSION (agenda item 12 (b)) (continued)

1. The CHAIRMAN announced that the Commission had concluded its consideration of agenda sub-item 12 (b) in closed session. It had examined, under Economic and Social Council resolution 1503 (XLVIII), the human rights situations in Brunei Darussalam, Haiti, Honduras, Iraq, Paraguay, Somalia, the Syrian Arab Republic and Zaire. In conformity with paragraph 8 of Council resolution 1503 (XLVIII), members of the Commission should make no reference in the public debate to the confidential decisions concerning those countries or to any confidential material relating thereto. Since, however, it was the practice of the Commission to disclose the names of countries in respect of which situations had been considered under that procedure, it seemed equitable to indicate that the human rights situations in Honduras, Iraq, the Syrian Arab Republic and Zaire were no longer under such consideration.

QUESTION OF HUMAN RIGHTS IN CHILE (agenda item 5) (continued) (E/CN.4/1989/7 and 72; E/CN.4/1989/NGO/9, 20, 29, 45, 58 and 60; A/43/624 and Corr.1)

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) (E/CN.4/1989/23-27, 58, 64 and 71; E/CN.4/1989/NGO/1, 5-7, 10, 31, 47, 54, 57, 61, 62 and 66; A/43/624 and Corr.1, 630, 705, 736, 742 and 743) INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (continued) (E/CN.4/1989/28)

2. Mrs. RICO (Spain) said that the Special Rapporteur on summary or arbitrary executions had noted in his report (E/CN.4/1989/25) that the number of such executions had increased as compared with the previous year, as had the number of countries implicated, particularly in situations of internal armed conflicts. Especially disquieting were the illegal use of force by law enforcement services and the alarming number of civilian deaths caused by non-governmental forces. In view of the grave situation, the Special Rapporteur's mandate should be renewed.

3. On the subject of mass exoduses, it was important not only to promote international co-operation to relieve the suffering but to strive to eliminate the causes, particularly the systematic violation of human rights. An end to internal armed conflicts and the establishment of just international economic relations would contribute greatly towards a solution.

4. The withdrawal of foreign troops from Afghanistan pursuant to the Geneva Agreements was an important step towards the Afghan people's exercise of the right to self-determination. Fighting was still going on, however, and human rights were still being violated. As the Special Rapporteur had said in his report (E/CN.4/1989/24), the international instruments to which Afghanistan was a State party were not fully respected in the Government-controlled area; prisoners were still being ill-treated and tortured, and the number of political prisoners remained very high.

5. He had also referred to alleged atrocities committed by the opposition movements. Her delegation regretted that he had been unable to visit the areas controlled by those movements, and endorsed his recommendations directed at those movements and the governmental authorities alike. The Government should continue to release political prisoners, put an end to torture and ill-treatment, investigate disappearances and make it possible for representatives of ICRC to visit all prisons and detention centres. The parties to the conflict should make greater efforts to end the fighting and in the meantime show rigorous respect for the provisions of humanitarian law.

6. As the Commission's Special Representative on the human rights situation in the Islamic Republic of Iran had said in his report (E/CN.4/1989/26), the cease-fire with Iraq should enable the Government to attend more effectively to the question of human rights; regrettably, however, the situation seemed to have deteriorated. The allegations of hundreds of summary executions aroused grave concern; that situation must be ended and abuses thoroughly investigated.

7. It was essential for the Special Representative to be allowed to visit the country, and the domestic legal system should be co-ordinated with international instruments on human rights; the expiry of the trial period for the Penal Code provided an excellent opportunity to do so. Her delegation found it deeply disquieting that the Teheran authorities should consider that they could apply beyond the national territory the domestic restrictions on freedom of expression; it was to be hoped that such an assault on intellectual freedom would not result in an attack on the basic human right to life and that the Commission would not have the matter before it, at its next session, as a case of arbitrary execution.

8. A striking and alarming feature of the report of the Special Representative on the situation in El Salvador (E/CN.4/1989/23) was the increase in the criminal activity of the so-called "death squads", the practice of summary executions ("ajusticiamientos") by guerrilla organizations, the number of politically-motivated disappearances and the number of civilians killed and injured by mines. The Government's capacity to control the various State bodies had clearly diminished. The Government and all political bodies in the country, including the guerrillas, must strive to eradicate attacks on human life and personal integrity, while the constitutional authorities must take steps to control the entire State apparatus, investigate all human rights violations and punish those responsible. The FMNL must denounce the practices of "ajusticiamientos", terrorism and attacks against the country's economic infrastructure, and the Panama Agreement on the evacuation of war wounded must be observed.

9. In Guatemala, despite the progress in legislation to safeguard human rights and the Government's political will to respect them, serious human rights violations continued to occur, particularly politically-motivated killings and disappearances perpetrated by sources beyond effective government control; there was still a lack of respect for economic, social and cultural rights, and the situation of indigenous peoples remained serious. It was hoped that the advisory services provided by the United Nations would foster a more positive government role in that regard.

10. Her delegation was seriously concerned about the human rights situation in East Timor and hoped that the Indonesian authorities would take the necessary steps to end the abuses there. It was also disturbed about recent incidents in Burma, where hundreds of people had been killed in an unprecedented wave of violence whose repetition must be avoided at all costs; to that end, the Burmese authorities must observe their promise to hold elections as soon as possible.

11. The situation in Iraq was likewise a cause for grave concern, a horrifying number of Kurds having been the victims of the use of chemical weapons during the past year, not in isolated incidents but through a continued practice. She called upon the Iraqi authorities to respect the human rights of all the country's citizens, including the Kurdish minority.

12. Unfortunately, the wind of change being felt in a number of Eastern European countries had not touched Romania. Her delegation was particularly concerned at the uprooting of rural communities and the considerable destruction of the historical and cultural heritage, as well as the hostile treatment of ethnic minorities, particularly the Hungarians, and of the régime's opponents. It was also shocked that Mr. Mazilu, an expert of the Sub-Commission, should have been prevented from leaving the country in order to comply with his mandate.

13. The Minister for Foreign Affairs of Spain, speaking recently on behalf of the member States of the European Community, had expressed the hope that the United Nations would enhance its commitment to seek universal compliance with all internationally recognized human rights; for that purpose, he had proposed reconsideration of the idea of creating an office of United Nations High Commissioner for Human Rights. Such an initiative would be commensurate with the faith which peoples the world over had in the Organization and would open up new horizons for the United Nations in that field. The project was an ambitious one perhaps, but there could hardly be a better moment for it.

14. Mr. AL-DOURI (Iraq), speaking in exercise of the right of reply, said that Iraq was the only State to have recognized the national rights of its Kurdish people, not only in the Constitution - where it was stated that the people of Iraq consisted of two main nationalities, the Arab and the Kurdish - but also through the establishment of an autonomous régime with all its constitutional institutions, such as the Legislative Council, the Executive Council and Kurdish participation in the top leadership positions. The Kurdish language was the second official language in Iraq. It was taught at all educational levels in both Kurdish and Arabic schools. It was the language spoken and used by the judiciary and teaching institutions in the Kurdistan region. That was the factual situation in which the Kurdish citizens in Iraq lived.

15. What had happened in northern Iraq was nothing more than the exploitation by some foreign Powers of elements linked with them to undertake armed operations inside Iraq, aimed at innocent Kurdish civilians in order to force them to change their loyalties and bear arms against the legitimate authorities. What was still more serious was their full co-operation with an enemy whose goal was to occupy Iraq. The State authorities had had to take measures to deal with those outlaws. A distinction had to be made between peaceful citizens and those who constituted a threat to the security and stability of the State.

16. After the cease-fire in August 1988, the outlaws had found that they had no choice but to flee from Iraq. They had forced some citizens to leave Iraq on the basis of false alarms in order to mount an international campaign of slander, for example, by asserting that Iraq was using chemical weapons in the region. The State had issued a general amnesty to all Kurds, including the outlaws, inside and outside the country and had taken all the necessary measures for their return. In fact, 92,000 persons had returned. The last amnesty, proclaimed on 28 February 1989, had been the fifth since the cease-fire.

17. Mr. PERERA (Sri Lanka), speaking in exercise of the right of reply, welcomed the hope expressed by the representative of Australia that all the parties involved in the situation in Sri Lanka would make use of available democratic and consultative processes to return the country to stability. Regrettably, however, the tone of the Australian statement placed the violent extremists, who were a minority, on a par with all others in the majority who were utilizing those democratic and consultation processes. That sort of over-simplified comment encouraged groups engaged in violence outside the available democratic process and accorded them an international attention totally disproportionate to the actual support they had among the people of the country.

18. His delegation firmly rejected the statement made by the representative of the non-governmental organization entitled "Liberation", that there was no single body within Sri Lanka competent to deal with the situation in the country and that the remedy of habeas corpus and other legal recourses had virtually disappeared. As his delegation had already said, with the completion of the recent democratic election process, effective administrations had been elected, at both the national and provincial levels, which were fully competent to deal with the situation.

19. Similarly, the traditional role of the judiciary had not been diminished and the number of fundamental rights and habeas corpus applications pending bore ample testimony to that fact. The Supreme Court had recently held, in an important decision concerning the right of habeas corpus, that the Court of Appeals had jurisdiction under the Constitution to direct a judge of a Court of First Instance to inquire into an alleged imprisonment or detention of the corpus, despite a denial by the respondent of having taken the corpus into custody or detention or of having the corpus in his custody or control. There was no reason whatsoever, therefore, for any misgivings concerning the traditional role and vitality of his country's judicial system.

20. Mr. CHLUMSKY (Observer for Czechoslovakia), speaking in exercise of the right of reply, said that his delegation did not assert that the situation of human rights in its country could not be improved. On the contrary, it wished to stress that the principle of perestroika and the democratization of society were aimed at developing the efforts his Government was making to resolve problems in that field. One basic way of achieving perestroika was to develop a common dialogue based on the socialist pluralism of opinion. The framework for that dialogue was contained in the national Constitution and in existing legislation.

21. However, the organizers of the unauthorized demonstrations had not been engaged in that kind of constructive dialogue but in confrontation with the State. An important aspect of the process of perestroika in Czechoslovakia was the further strengthening of the socialist State. Therefore, his Government could not allow the State structure to be weakened. A basic feature of a State was the binding nature of all legislation, with no exceptions whatever. The organizers of the unauthorized demonstrations had enjoyed the active participation of Western information media, particularly those which in the past had shown no genuine interest in developing international co-operation on the basis of respect for the right of the people of every State to choose their own form of development.

22. Mr. GOSHU (Ethiopia), speaking in exercise of the right of reply, said that his delegation regretted the fact that the representative of the United Kingdom should have depended so heavily in his statement concerning the situation in Ethiopia on the self-serving allegations of interested groups and speculative press reports. It wished to make it clear that the allegation of the use of napalm and indiscriminate bombing by Ethiopian forces was without any basis whatsoever.

23. Mr. GLAIEL (Observer for the Syrian Arab Republic), speaking in exercise of the right of reply, said that Syrian troops were stationed in Lebanon in order to help maintain stability there. The United Kingdom representative knew perfectly well who was responsible for the violations of human rights in Lebanon.

24. With regard to that representative's reference to the situation in Syria, his delegation had already pointed out that the state of emergency was the result of foreign aggression and occupation and would be lifted as soon as the circumstances which had caused it ceased to exist. He appealed to the Government of the United Kingdom, therefore, to put pressure on the Zionist forces to end those circumstances.

25. Mr. FRAMBACH (German Democratic Republic), speaking in exercise of the right of reply, expressed surprise that the dominating theme in the statement by the representative of the Federal Republic of Germany had been an alleged "special responsibility for all Germans", a claim which was at variance with existing realities and treaties. His Government was fully committed to those international agreements, including the statement in the communiqué issued on the occasion of the visit of Erich Honecker, Chairman of the Council of State of the German Democratic Republic, to the Federal Republic in September 1987, according to which the two sides agreed to preserve and develop what had been achieved so far, acting on the principle that each State respected the independence and autonomy of the other State with regard to its internal and external affairs and that desire for understanding and realism should be the guideline for constructive co-operation between the two States with the aim of achieving practical results.

26. The statement made by the representative of the Federal Republic of Germany was counterproductive if those objectives were to be achieved. His delegation did not intend to follow suit, although it could mention a number of well-known human rights violations in the Federal Republic. However, it absolutely rejected the allegations contained in the statement by the Federal Republic and the unfounded attacks made against his country by the United States representative at a previous meeting.

27. Mr. STEEL (United Kingdom), speaking in exercise of the right of reply, said that his delegation had hoped that the representative of Cuba would address his remarks to the comments made by various speakers on the allegations of human rights abuses in Cuba. However, that representative had seen fit to divert attention by attacking the United Kingdom for alleged shortcomings in its respect for human rights.

28. A few factual comments on the situation in the United Kingdom might thus be in order. Free elections were held at least once every five years at which all parties could put forward candidates, and their programmes and views were widely published in all the media. There was no restriction on the legitimate expression of opinion in books or papers, on the radio or television, or in public meetings, however critical that opinion might be of the authorities or the party in power.

29. If a person died in prison or police custody or in unusual or suspicious circumstances, a public inquest was held before an independent coroner at which the family of the deceased could be represented by lawyers. The proceedings were publicly reported in all information media.

30. There were no extraordinary restrictions on the freedom of association, including the right to form or join a trade union. Trade unions could be entirely independent of any political party or could support - or even be affiliated to - one party or another. Everyone was free to practise his own religion or belief and no one was sent to prison for possessing a Bible or any other religious material.

31. He would like to know whether the same factual comments could be made in the case of Cuba.

32. His country was a party to the European Convention on Human Rights, a binding international human rights agreement under which any individual who thought that his rights had been violated by any State party could complain to an independent judicial tribunal. If the State party was found to be in breach of its obligations under the agreement, it could be required to justify itself before that tribunal. On the occasions when his Government had been arraigned before the European Commission of Human Rights or the European Court of Human Rights, it had sometimes been exonerated and sometimes been found wanting. That had also happened to other European Governments parties to the Convention. When they were found wanting, they accepted the obligation imposed by the Court to do whatever was necessary to bring their laws or practices into line with the Convention.

33. He would like to know whether the Cuban representative could assure the Commission that his Government had agreed to be subject to similar independent and impartial machinery for supervising its human rights record.

34. Mr. OMAR (Observer for the Libyan Arab Jamahiriya), speaking in exercise of the right of reply, said with regard to comments by the representative of the Federal Republic of Germany, that his country was not in a position to manufacture toxic gas. His delegation regretted that the question of chemical weapons had been raised in connection with agenda item 12, which did not concern the subject. He also deplored the fact that inappropriate comments

had been made by the delegation of the Federal Republic of Germany, a country with which Libya had good relations. Perhaps, it had done so as a result of pressure brought to bear upon it.

35. His Government had already expressed its position with regard to the question of weapons of mass destruction. In that connection, the Minister for Foreign Affairs of his country had recently said in Paris that Libya understood the dangers represented by chemical weapons and other weapons of mass destruction and had reaffirmed its commitment to the provisions of the 1925 Geneva Protocol.

36. His Government was prepared to participate in all international efforts to prohibit chemical weapons and other weapons of mass destruction and invited all Member States to sign without delay the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction. His delegation had endorsed the Final Declaration of the Paris Conference and had participated in the work of the Ad Hoc Committee on Chemical Weapons of the Conference on Disarmament.

37. His Government was not building a chemical weapons facility in Libya and had no intention of manufacturing chemical weapons. His country's interest in chemicals was the same as that of other countries, namely to use them for peaceful purposes.

38. The representative of the Federal Republic of Germany had referred to South Africa and its human rights violations. It was to be hoped that he had been sincere in referring to the severing of relations with South Africa. His own delegation would welcome information concerning South Africa's capacity for the production of weapons of mass destruction and its co-operation with the Western countries.

39. Mr. GALLEGOS (Observer for El Salvador), speaking in exercise of the right of reply, said that the representative of Cuba had linked the armed forces of El Salvador to the so-called "death squads". In his report (E/CN.4/1989/23), the Special Representative had stated that he had not been able to reach "absolutely definite conclusions". The representative of Cuba had forgotten that El Salvador was a country in the throes of an armed conflict and that the guerrilla forces of the FMLN had been receiving weapons from certain foreign countries. The representative of Cuba should not try to defend his Government from accusations of human rights violations by attacking El Salvador, a country which had a democratically elected President and was taking measures to strengthen its democratic institutions.

40. Mrs. BINI (Somalia), speaking in exercise of the right of reply, said that the release, two days previously, of the last 20 political prisoners in Somalia had brought the total number of political prisoners released in the past two months to more than 219. There were currently no political prisoners in Somalia.

41. Her delegation was unable to understand why human rights in Somalia had been discussed at a public meeting of the Commission, when an extended debate on the subject had been held in a closed session. It rejected all politically

motivated comments whose objective was to distort the true situation in Somalia. The disturbances in the northern regions had been amply explained, and her Government was doing its best to bring about reconstruction and reconciliation. As for the proposal by the representative of the United Kingdom, her Government could not hold any form of dialogue with confirmed terrorist groups.

42. Certain delegations had insisted on teaching Somalia about human rights. The representative of the Federal Republic of Germany had stated that black Africans were slowly learning about human rights, having benefited from a number of seminars on the subject. Her delegation took exception to such patronizing comments and insults to the African peoples.

43. Mrs. MARTINS GOMES (Portugal), speaking in exercise of the right of reply, said that the assertion by the representative of Indonesia that the people of East Timor had already exercised their right to self-determination was in total contradiction with General Assembly resolutions 31/53 and 32/34. There was no need for her delegation to restate why, how and by whom the people of East Timor had been prevented from exercising their inalienable right to self-determination and other basic human rights or why Portugal was still the Administering Power of East Timor. She wished only to point out that two delegations - those of Sao Tome and Principe and Angola - had also expressed to the Commission at its current session their solidarity with the people of East Timor and their concern at the denial of that people's right to self-determination.

44. Her delegation would not comment on what elected and escorted visitors brought in by the occupying authorities could or could not see in East Timor. According to estimates made by a reporter in the January 1989 issue of the National Geographic, at least 16,000 men of the occupying army were stationed in East Timor. She wondered why so many soldiers were needed for a population of less than 600,000 people, if there were no problems in East Timor.

45. Her delegation appreciated the detailed information which the representative of Indonesia had provided in his right of reply concerning eight individuals who had been brought to trial as a result of the massive arrests that had taken place in East Timor in October and November 1988. It noted that Indonesia had not denied the contents of the Pastoral Note of Monsignor Belo, Bishop of Dili, East Timor, of 5 December 1988, which her delegation and others had also brought to the attention of the Commission.

46. Her delegation hoped that the much-publicized opening of East Timor from 1 January 1989 onwards would mean free movement from and within the whole Territory and free access to it for all East Timorese and for foreign visitors. The Indonesian authorities should allow humanitarian non-governmental organizations and the international media free access to the entire Territory.

47. Mr. WIRYONO (Observer for Indonesia), speaking in exercise of the right of reply, said that Portugal had abandoned East Timor and had forfeited any historical, legal or moral right to be still considered the Administering Power of East Timor. Although the representative of Portugal had characterized some of the many visits of East Timor of foreign visitors as being escorted and selected, she had not denied that East Timor had been open and, as of 1 January 1989, the conditions for travel to and from the province of East Timor were the same as in any other province of Indonesia.

48. Mr. ROA KOURI (Cuba), speaking in exercise of the right of reply, said that the representative of the United Kingdom had taken exception to his reference to the human rights situation in that country. He himself had merely been exercising his right, to which all members of the Commission were entitled to refer in a constructive spirit to things which were common knowledge. In that connection, he read out two paragraphs from Bricks of Shame: Britain's Prisons, a book by Vivien Stern, the wife of the Secretary-General of Amnesty International. He also quoted from the 1986 report by H.M. Chief Inspector of Prisons.

49. The representative of the United Kingdom had said that, in his country, when a person was sent to prison, the fact was reported in the newspapers and had asserted that that was not the case in Cuba. If that representative read the Cuban newspapers, he would discover that when a person was sentenced in Cuba for any crime whatsoever, the sentence was published.

50. The representative of the United Kingdom had said that, in his country, anybody could be a candidate for election, and had asked whether that was the case in Cuba. It was his own understanding that, in order to stand for an election in the United Kingdom, a person had to be a member of a political party - something which was not required in Cuba. In Cuba, any citizen could be a candidate, provided he was proposed by members of his electoral district. The ideas of the representative of the United Kingdom concerning Cuba were a bit odd, and perhaps the representative of the United Kingdom in Cuba would be able to clarify the situation for him.

51. The United Kingdom was a party to a number of international conventions. However, it was not party to the International Convention on the Suppression and Punishment of the Crime of Apartheid or the International Convention against Apartheid in Sports. Cuba was a party to both. Delegations should not pretend to know everything and should avoid making hasty judgements about other countries. While he believed that there was always something to be learned from other delegations, he was not prepared to accept lessons from the representative of the United Kingdom on matters relating to item 12 or to any other item.

52. Mrs. MARTINS GOMES (Portugal), speaking in exercise of the right of reply, said that the opening of the Territory of East Timor applied to Indonesian citizens only, and the mere fact that the Government of Indonesia had decided to open the Territory was proof that the Territory had previously been closed to the world, even to Indonesian citizens. Moreover, the "opening" affected only eight districts of the Territory, in which only one third of the East Timorese population lived. Her delegation hoped that the Government of Indonesia would open the rest of the Territory and normalize the situation.

53. Portugal had left East Timor in 1976, the year in which it had begun its decolonization process. That process had been successful in all of Portugal's former colonies, apart from East Timor. Portugal was the Administering Power of East Timor precisely because it had been the former colonial Power, and it had to accept its legal, historical, moral and humanitarian responsibilities towards that Territory.

54. Mr. STEEL (United Kingdom), speaking in exercise of the right of reply, said that the representative of Cuba had not been the first person to draw attention to certain deplorable conditions of prisons in the United Kingdom. The prison system was currently the subject of wide debate in the United Kingdom. No attempt had been made to conceal the defects of that system, and every attempt was being made to pursue remedies in public.

55. Perhaps Mr. Roa Kourí had not been present when he had made his previous statement. Otherwise, such an able lawyer would undoubtedly have dealt with the questions raised by the United Kingdom delegation in a different way.

56. Mr. ROA KOURI (Cuba), speaking in exercise of the right of reply, said that he had not, in fact, been present when the representative of the United Kingdom had made his statement and had not seen a copy of that statement. The United Kingdom representative in Cuba should obtain the reports of the interrogations of counter-revolutionaries which were published before and during their trials, in the newspaper Granma and the magazine Bohemia, for example.

57. The CHAIRMAN read out the following draft decision of the Commission on Human Rights regarding the question of human rights in Cyprus:

"The Commission decides that the debate under agenda item 12 (a), (Question of human rights in Cyprus) should be postponed to the forty-sixth session of the Commission and be given due priority at that session, it being understood that action required by previous resolutions of the Commission on this subject would continue to remain operative, including the request to the Secretary-General to provide a report to the Commission regarding their implementation."

58. He said that, if he heard no objection, he would take it that the Commission wished to adopt the draft decision.

59. It was so decided.

60. The CHAIRMAN said that the Observer for Turkey had requested that his reservations with regard to the previous resolutions of the Commission should be placed on record.

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 21)
(E/CN.4/1989/22, 39-42 and 68; E/CN.4/1989/NGO/48 and 64)

61. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing the agenda item, said that, in accordance with Commission on Human Rights resolution 1988/54, the Centre for Human Rights had begun to implement a medium-term plan of activities for advisory services and technical assistance in the field of human rights. The report of the Secretary-General on advisory services in the field of human rights (E/CN.4/1989/42) contained a table listing all the activities which had been carried out in less than a year since the adoption of that resolution. In that short time, training courses and national or regional seminars had been organized at Lomé, Lisbon, Tunis, Milan, Guatemala City, Moscow and San Remo. At the request of the Secretary-General and the Commission on Human Rights, the Centre had also

organized at Geneva two international seminars, one on the teaching of human rights and the other on the social and economic relations between indigenous populations and States.

62. In addition, the staff of the Centre had also taken part in activities organized by other bodies of the United Nations system or outside the system, such as non-governmental organizations, which dealt with various aspects of human rights. They had given lectures or courses on questions relating to human rights and the activities of the Centre in different centres or institutions. Under the 1987 Fellowship Programme, some 30 fellows from different countries had taken training courses at Geneva, Strasbourg and other places during the summer of 1988. Some 30 other fellowships had been awarded under the 1988 Programme.

63. Several activities had been planned for 1989, including training courses, workshops and seminars, which would be organized in South America, Europe, the Arab region, Africa and Asia. The objective of the Centre was to intensify contacts in order to further the development of infrastructures and regional organizations for the promotion and protection of human rights in as many countries and regions as possible, and as feasible within the limits of its financial situation. In particular, he had in mind the African Centre for Human Rights and Documentation at Banjul, The Gambia, which would be the headquarters of the African Commission of Human and Peoples' Rights, and the proposed Arab Centre for Human Rights, to be established at Tunis.

64. That considerable expansion of the advisory services programme could not have taken place without the establishment of the Voluntary Fund for Advisory Services and Technical Assistance and the generous additional financial resources provided by donor countries and non-governmental organizations. The additional financial support had allowed the Centre to develop a programme under the Voluntary Fund, expanding and complementing the regular activities of the advisory services, and to carry out a number of practical activities on the implementation of the international human rights standards.

65. As recommended by the Commission, the main activities under the Voluntary Fund had been directed towards the provision to Governments of assistance in the development and strengthening of the necessary infrastructures responsible for protecting and promoting human rights at the national level.

66. In 1988, the Centre had embarked upon the implementation of two major country projects of technical co-operation, one with the Government of Guatemala, the other with the Government of Colombia. The two country projects provided advisory services on specific issues, such as the problem of missing persons, and trained nationals in human rights matters through the granting of fellowships or the holding of national training courses. In addition, the Centre provided the two Governments with human rights documents and publications for the establishment and development of human rights libraries. Another characteristic of those two country projects was the involvement of specific target groups - in particular, the judiciary, the police, the army, teachers and civil servants - in the implementation of human rights standards to which the main activities were directed.

67. In 1988, the Centre, with the financial support of the Voluntary Fund, had also assisted the Government of Uganda to strengthen its national infrastructures by the provision of books and documents for a human rights reference library. The Secretary-General had reminded member States and organizations concerned of the possibility of resorting to the Voluntary Fund for advisory services and technical assistance in the field of human rights, and the Centre had already received positive responses which might develop into specific projects of technical assistance to a number of countries.

68. Chapter IX of the Secretary-General's report (E/CN.4/1989/42) outlined the activities for the future provision of advisory services and technical assistance currently under consideration. The Centre was planning to convene in 1989 an inter-agency meeting of United Nations bodies and specialized agencies in order to improve the co-ordination of activities to promote and protect human rights.

69. In his report on Equatorial Guinea (E/CN.4/1989/41), the Secretary-General informed the Commission of the action taken during past years and the preparations of the mission of the Expert to Equatorial Guinea in pursuance of Commission resolution 1988/52. Unfortunately, the mission, which had been planned for January 1989, could not be carried out since the Expert, Mr. Volio Jiménez, had suffered a heart attack in 1988.

70. Mr. Gros Espiell, the Expert designated by the Secretary-General pursuant to Commission resolution 1988/50, had informed the Secretariat that he was currently ill and would be unable to travel to Geneva to present his report on Guatemala (E/CN.4/1989/39). However, Mr. Texier, the Expert nominated by the Secretary-General pursuant to Commission resolution 1988/51, would introduce his report on Haiti (E/CN.4/1989/40).

71. Mr. Heller (Mexico) took the Chair.

72. Mr. TEXIER (Expert for assistance to Haiti), introducing his report, said that it was the first time that a comprehensive, albeit highly incomplete, report on Haiti had been presented to the Commission. Although it had been decided in 1987 to send an expert to help the Haitian Government to restore respect for human rights (resolution 1987/13), it had not been possible to visit the country until December 1988.

73. The Haitian authorities had facilitated his task, enabling him to meet members of the Government, magistrates and administrators, democratic leaders, representatives from human rights defence organizations, trade unionists and peasants, both in Port-au-Prince and on the central plateau.

74. The report provided a history of events as from 7 February 1986, the date of the departure of President Duvalier. It was important to note that the situation had changed completely since the Commission's forty-fourth session. Two coups d'état had taken place, the second in September 1988, when General Avril had come to power.

75. Over the past three years, the country had been seriously marked by institutional instability, four successive régimes having failed to secure the transition to democracy. Human rights violations had continued unabated, their most extreme manifestations being two massacres in 1987 and 1988, respectively.

76. As far as the judicial system was concerned, the 1987 Constitution, approved by a great majority, had been suspended in June 1988 with the result that there was no longer any separation of powers. General Avril not only ran the Government, but legislated by issuing decrees. The independence of the judiciary was no longer assured and its powers were greatly reduced. It had dealt with only a tiny proportion of the numerous crimes committed in recent years and had failed to initiate any serious investigation into the two massacres.

77. The country's accession to, or ratification of, various human rights instruments was indicative of a willingness to improve a situation that had seriously deteriorated. Nevertheless, such instruments would have no national legal force until the Constitution had been restored.

78. With regard to human rights violations, information received by the Expert since his visit indicated that the general situation had deteriorated still further. The return of some of the key figures of the Duvalier régime had prompted disturbances and rumours of a coup d'état persisted. There had been further incidents of looting and a number of civilians had been murdered. The section heads, whose abuses were described in the report, continued to make arbitrary arrests and to beat peasants. Two men accused of writing anti-government slogans, had apparently been arrested and tortured by the police, while in the case of two political leaders arrested on unproven charges in connection with a bomb attack, the normal judicial procedure had not been followed. The almost daily abuses of human rights reported by the human rights defence organizations had not been denied by the authorities.

79. The commission of inquiry designed to investigate the massacres had not yet been set up and, in the view of those appointed to it, nothing would be achieved in the absence of a political will to obtain justice. The attitude of the Government in that respect was illustrated by the treatment of Franck Romain, one of the suspects in the September 1988 massacre, who had been allowed by General Avril to leave the country. In response to the public outcry at his departure, the Government had apparently requested his extradition from the Dominican Republic, but it had not yet been granted.

80. As far as the transition to democracy was concerned, General Avril was apparently unwilling to set up the provisional electoral council provided for in the suspended Constitution. In February 1989, however, a national forum had been held in preparation for the elections. The majority of those present had favoured the institution of an independent body to organize the elections, headed by a provisional council made up of representatives from a broad range of institutions and organizations, including the Church and human rights monitoring bodies. A decree had been published to that effect on 23 February.

81. Referring to the conclusions and recommendations set out in the report, he said that, while awareness of the need to respect human rights had been shown, the political will to take specific measures to that end had not yet been convincingly demonstrated. The Government and judiciary had neither devised effective measures for investigating human rights violations nor prevented further violations from occurring daily. There were currently numerous obstacles to any real improvement of the human rights situation and, having no basis in law, the Government could not rely on lasting support from the country's democratic forces. If a climate of trust were to be

re-established, the 1987 Constitution would have to enter promptly into force and the electoral process be rapidly restored. Notwithstanding a slight improvement since September 1988, the large number of very negative factors led to a pessimistic assessment of the situation which could only be changed when there was a firm will to ensure respect for the rule of law.

82. The Commission should continue to monitor the human rights situation in Haiti with a view to fostering genuine improvement, should express deep concern at the continued deterioration in that situation and should consider appointing a special rapporteur to report on the subject in accordance with resolution 1988/12 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. In the light of recent events, the Commission should also consider whether conditions were appropriate for the continued provision of advisory services through the Secretary-General.

83. Assuming that such services were still to be provided, he recommended that particular attention be given to the holding of free elections under peaceful conditions, the strengthening of the judiciary, the elaboration of a general policy with regard to development and assistance to the poorest communities, and the provision of specific technical assistance to improve the police services. All the human rights organizations should be involved in any training programmes provided.

84. Lastly, he expressed concern at the instability of the current situation in Haiti, emphasizing that, unless prompt measures were adopted to institute the necessary reforms, further violence would be inevitable. The provision of advisory services would then no longer have much meaning.

85. Mr. Bossuyt (Belgium) resumed the Chair.

86. Mrs. MOLINA (Deputy Secretary of the Commission) read out a telegram from the Expert for assistance to Guatemala, Mr. Gros Espiell, regretting that, for health reasons, he would be unable to introduce his report (E/CN.4/1989/39) in person. He had intended to describe the evolution of the situation to date, and to express his ideas with regard to the assistance and advice that could continue to be offered to Guatemala, if the Commission so decided.

87. Mr. RIVERA IRIAS (Observer for Guatemala) said that his Government's profound desire to guarantee full respect for human rights was demonstrated by the fact that it investigated all alleged violations. In spite of its limited resources, it had created an investigation mechanism and supplied the results of its investigation into enforced or involuntary disappearances to the Commission (E/CN.4/1989/76).

88. Detractors of the Government had presented many unfounded allegations: an exhaustive analysis of 80 per cent of the 2,106 cases reported had shown that only 85 of those concerned had been kidnapped. Seventy had already returned home which meant that only 15 had actually disappeared. Notwithstanding some debatable points, the Government considered the Expert's report to be an objective and impartial one. The Commission had shown wisdom in deciding to provide advisory services in response to the genuine willingness of the Government to improve the human rights situation. The report indicated that improvements had been made, a factor not appreciated apparently by some non-governmental organizations which had attempted to discredit the Expert rather than discuss the content of his report.

89. Although Guatemala had had the benefit of advisory services for only two years, the measures taken to consolidate the democratic process had begun to bear fruit. Officials of the armed forces, police officers and civil servants responsible for the promotion and protection of human rights had reacted positively to seminars and lectures on the subject, which suggested that values and attitudes were becoming more consistent with a general recognition of human rights. Furthermore, the technical assistance provided by the Centre for Human Rights had begun to have the desired catalytic effect. National co-ordination of human rights-related activities was being encouraged and advice and training were being provided for Guatemalan officials, particularly law enforcement and armed forces officers.

90. His Government had nothing to hide and had readily co-operated with the Expert. Furthermore it had extended invitations to the Special Rapporteur on questions relevant to torture and to the Working Group on Enforced or Involuntary Disappearances to make on-the-spot investigations. The report itself demonstrated the Government's political will to guarantee respect for human rights and stated that the Government had not been directly involved in any human rights violation.

91. It was true that the Expert had made a number of criticisms, but the Government was making every effort to comply with his recommendations. Nevertheless, the fundamental changes of attitude required would take time. They called for a long, arduous process of education and transformation and, in that context, the advisory services had a vital role to play.

92. It was important to be aware of the effort required to consolidate democracy in countries which had only recently introduced democratic systems and which had initially had hardly any infrastructure to enable them to function within a state of law. The conscience of the Guatemalan people had been awoken, however, to the possibility of change and progress by peaceful means, in other words, through discussion, suggestion and, above all, the right to vote.

93. The enemies of democracy had been left behind in ideological isolation with their black and white picture of the world as the trend developed globally to seek comprehensive solutions to common problems. They had redoubled their efforts to discredit the Government and to undermine the democratic process through a policy of violence. There was no room in a democracy, however, for the self-appointed defenders of the oppressed. Progress could be achieved only by legal means and through persuasion and conviction sanctioned by the ultimate embodiment of democracy, the vote.

94. Before President Cerezo had come to power, the country as a whole and its institutions had experienced a form of social atrophy in which the violation of human rights had been becoming a widespread, daily practice. The efforts of the Government to improve that situation had been recognized by the international community. Accordingly, the Commission and other serious bodies responsible for the protection and monitoring of human rights should help it to consolidate the progress made, particularly with regard to economic, social and cultural rights and the right of the Guatemalan people to achieve sustained well-integrated development, for the benefit, above all, of those traditionally forgotten or excluded.

95. His Government continued to give special emphasis to the problems of underdevelopment, according priority to programmes for the rural population with a view to achieving a more integrated society offering equal opportunities and equal benefits.

96. The condition of the indigenous population continued to be a cause for concern. Historical factors and serious structural problems had virtually excluded those people not only from the economic and social benefits of development, but also from the decision-making process. Some progress had been made, however, and there were currently indigenous representatives in the various political parties and trade unions, on the regional and departmental development councils and in various interest groups. Such participation should be institutionalized and rights clearly accorded since any further recourse to violence would necessarily undermine his Government's efforts in that regard.

97. In addition to its endeavours to achieve broader objectives, his Government also ran short-term support programmes to help the victims of violence, for example, and to improve pay and conditions. Of special interest was its repatriation programme, the recent acceleration of which indicated that former refugees were confident that political and social conditions had changed.

98. His Government categorically rejected the tendentious allegations made to the Commission by certain non-governmental organizations. In a climate of freedom and respect for human dignity, Guatemala had separation of the powers of State. There was legal supervision of the activities of the Government and means of investigating and sanctioning any authority committing violations of human rights. The Government's respect for its people and for international public opinion had attracted the understanding and support of many countries which shared its values and ideals. It would continue to co-operate with the Commission and improve the human rights situation with, it hoped, the further assistance of the advisory services.

The summary record of the final part (public) of the meeting appears
as document E/CN.4/1989/SR.53/Add.2.