According to the text of the governing international fishing agreements with Japan and other countries which fish in the North Pacific, the United States can require that "appropriate position-fixing and identification equipment, as determined by the Government of the United States is installed and maintained in working order on each fishing vessel." Moreover, no new legislative authority is required from Congress as the Magnuson Fisheries Conservation and Management Act in 16 U.S.C. 1821(c)(2)(C) expresses gives the United States authority to require transponders if they permitted in the GIFA with another nation.

Mr. Speaker, this resolution is cosponsored by my colleagues Congressmen DON BONKER, ROD CHANDLER, NORM DICKS, MIKE LOWRY, and DON YOUNG. I am delighted that they have joined me in taking this first step toward stopping the thievery in the North Pacific. Our resolution states three things. First, and most important, we call on the United States to exercise its acknowledged right to require position-fixing and indentification equipment on foreign fishing, fish processing and fish tender vessels operating in our exclusive economic zone. Second, we argue that based on the text of the GIFA that a strong case can be made that the same regulations apply to vessels fishing in international waters adjacent to U.S. waters in the Bering Sea and North Pacific. That means the so-called donut hole area in the Bering Sea. Third, we want some response from the Federal Government within 60 days.

I understand a similar resolution is being developed in the Senate.

Congressman DON BONKER and I just held a hearing on the status of fishery exports. Congressman MIKE LOWRY joined us for that hearing and we heard from Assistant Secretary of State Ed Wolfe about illegal fishing. Ambassador Wolfe spoke favorably of our objective of requiring position-fixing equipment on foreign fishing vessels. He cautioned us that he was speaking as an official of the State Department and his views had not yet been endorsed by the administration. I am hopeful that Ambassador Wolfe's view will become administration policy.

Mr. Speaker, this resolution speaks of certain equipment. It does not mandate a specific type of equipment. Rather, our objective is to see that the provision in the G.I.F.A.S. is implemented promptly. The Coast Guard, the State Department and the National Marine Fisheries Service are our experts on this technology. They have the expertise to properly determine the type of transponder or other appropriate equipment which should be "installed and maintained in working order on each fishing vessel" of the foreign governments operating in the North Pacific.

I also want to point out that we are trying to be good neighbors with these nations. We are not asking them to do anything they have not already agreed to. I believe that the United States is within its rights to require position-fixing equipment on vessels fishing in international waters commonly referred to as the donut hole area. Under international agreements, we can regulate the at-sea harvesting of anadromous fish like salmon caught outside of our 200-mile zone. It is commonly known among the fishermen from the United States that catching mixed stocks on the high seas will result in taking some anadromous fish. If the foreign fishing vessels are taking some salmon then they are subject to our regulations and they must install the appropriate equipment. We are not usurping international law, we are enforcing agreements negotiated in good faith.

Mr. Speaker, the resolution I am introducing today is carefully crafted. It is a reasoned response to a serious problem. It is easy to understand and relatively easy to implement. I urge my colleagues to support it. It is time to bell the cat and stop the theft of our fish.

H. RES. 402

Mr. MILLER of Washington (for himself, Mr. BONKER, Mr. CHANDLER, Mr. DICKS, Mr. LOWRY, and Mr. YOUNG of Alaska)

RESOLUTION

Calling for the United States to require appropriate position-fixing and identification equipment on foreign fishing vessels operating in the United States Exclusive Economic Zone in the Bering Sea and North Pacific Ocean or fishing in international waters adjacent to the United States Exclusive Economic Zone in the Bering Sea and North Pacific Ocean.

Whereas, evidence of substantial illegal fishing by vessels registered to foreign nations has been found in the Bering Sea and North Pacific Ocean;

Whereas, foreign fishing in the so-called "donut hole" area of the Bering Sea is not subject to necessary and appropriate conservation and management and appears to have served as a sanctuary for vessels engaged in illegal fishing in the Exclusive Economic Zone of the United States;

Whereas, the Governing International Fishery Agreements with foreign nations fishing in the Exclusive Economic Zone of the United States recognize the authority of the United States to require that "appropriate position-fixing and identification equipment, as determined by the Government of the United States is installed and maintained in working order on each fishing vessel" of such foreign nations;

Whereas, foreign nations which are parties to Governing International Fishery Agreements recognize the authority of the United States with respect to fishery resources in the Exclusive Economic Zone of the United States and to anadromous fish stocks originating in the waters of the United States while present in such Exclusive Economic Zone and in areas beyond national fisheries jurisdictions recognized by the United States; and

Whereas, the Magnuson Fishery Conservation and Management Act in 16 U.S.C. 1821(c)(2)(C) expesses the sense of Congress that Governing International Fishery Agreements shall bind foreign fishing nations to install and maintain in working order on each fishing vessel such "position-fixing and identification equipment" as the Secretary of the Department in which the Coast Guard is operating determines to be appropriate.

Resolved, the House of Representatives hereby,

(1) Calls for the United States to exercise its authority under the Governing International Fishery Agreements with nations fishing in the United States Exclusive Economic Zone or fishing in international waters adjacent to the Exclusive Economic Zone in the Bering Sea and North Pacific Ocean to install and maintain in working order on each fishing vessel appropriate position-fixing and identification equipment; and

(2) that the Secretary of Commerce, after consultation with the Secretary of Defense, the Secretary of State and the Secretary of Transportation report to the Congress within 60 days of passage on progress toward achieving the objective of this resolution and the cooperation of such foreign nations.

SHARPEVILLE SIX AND THE DEATH SENTENCE IN SOUTH AFRICA

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. DYMALLY. Mr. Speaker, I have read the attached materials and feel that my colleagues in the House of Representatives would benefit from the information contained therein:

SHARPEVILLE SIX AND THE DEATH SENTENCE IN SOUTH AFRICA

I. FACTS

The Sharpeville Six Case

On December 1, 1987, the highest court in South Africa, the Appellate Division of the South African Supreme Court in Bloemfontein, denied the appeal of six (6) South African political activists who were convicted of murder and subversion, on December 10, 1985. All six have been sentenced to death. The six condemned people are Mojalefa Sefatsa, aged 33, Oupa Moses Diniso, aged 31, Reid Malebo Mokoena, aged 25, Theresa Ramashamola, aged 27, Duma Joshua Khumalo, aged 27, and Francis Don Mokhesi, aged 31. They have been commonly referred to as "The Sharpeville Six",[1] citing the location of the incident which led to their arrest and conviction.

The arrest of The Sharpeville Six took place in a context of widespread civil unrest which erupted in the Vaal Triangle townships south of Johannesburg in early September 1984, and eventually spread through South Africa. It was the imposition a month earlier of a revised Constitution that touched off this new level of resistance. Popular opposition to the constitutional changes which continued to deny political participation to the 73% black majority and offered only limited participation to the Colored and Asian population groups was spontaneous. In addition, the government appointed "township councils" to implement the established Nationalist Party policies in the townships. These new township councils were also authorized to manage public services in these areas but were given no new revenue sources. In an effort to create sufficient revenues, local authorities levied rent and tax increases on endemically impoverished residents already hard-pressed by rising prices and high unemployment. The new financial demands on township residents coupled with the bitterness over the new Constitution sparked the worst outbreak of violence since the Soweto protests of 1976.

Thousands of angry township residents demonstrated en masse their opposition. Mass meetings were held throughout the area. Boycotts of work and school were launched. Protest marches against the rent

[1] Of the accused persons who originally numbered eight, two members Motsiri Gideon Mokone, aged 21 and Motseki Christian Mokubury, aged 23 were acquitted of the most serious charge of murder and convicted of public violence and subversion. They were sentenced to eight years. Hereinafter, "defendants" or "accused" will refer exclusively to "the Sharpeville Six".

increases followed, as crowds of demonstrators—thousands strong—marched on local Development Board offices and converged on the residences of local township councillors who themselves became live targets of anger from fellow township residents.

Human rights groups monitoring the trial of The Sharpeville Six, report that the trial Court accepted the following sequence of events for September 3, 1985,: "a crowd of protesters marched to the home [of Khuzwayo Jacob Dlamini] early on Monday morning. Police used tearsmoke and rubber bullets to disperse the people but were unable to persuade Dlamini to leave the house. Instead, he preferred to stay and confront the protesters—in the process shooting at least one person, Motsiri Gideon Mokone. The attack on him was initiated by his shooting at the demonstrators".[2] Councillor Dlamini died at the hands of the crowd.

This is the incident in which the Sharpeville Six were implicated. They were tried in connection with Dlamini's death and convicted both on the common law offense of murder and the statutory offense of subversion. This combination of statutory and common law charges is becoming characteristic of political trials in South Africa.

The trial itself was marked by glaring irregularities. The conviction was based on evidence given in camera by two unnamed state witnesses identified only as Mr. X and Mr. Y. The Court denied defense counsel the right to cross-examine Mr. X with respect to certain key statements made by him. Defense cross-examination of state witness Y revealed evidence of police brutality used to obtain "satisfactory evidence". Doubt was cast on the possibility of accurately isolating the actions of six particular individuals in a crowd that was reported to be several thousand.

Three of the accused testified that they had been tortured and assaulted. At the time of his arrest at his home, Mojalefa Sefatsa was so severely assaulted that his jaw bone was broken. Later, at the police station, he was tortured with electric shocks. The District Surgeon from Bloemfontein, a government employee who in 1984 examined Sefatsa at Groenpunt Prison, confirmed the extent and seriousness of the injuries on his arms and chest, cheek, left leg, and also noted that his vision was affected and his hearing impaired by the ill treatment.

Defendant Malebo Reid Mokoena challenged the admissibility of a confession he had allegedly made voluntarily citing his torture during detention. He told the Court how, after some days in custody with his injuries still fresh, he was forced to write a letter to the Minister of Law and Order describing how Dlamini had been killed. In addition, he said that a statement which the police alleged he had made voluntarily to a magistrate had actually been dictated to him under duress by Warrant Officer Schoeman. Again, a District Surgeon who examined Mokoena confirmed his injuries: "Pain in the chest and neck could have been consistent with electric shocks having been applied to his body." Evidence was submitted that defendant Theresa Ramashamola was also tortured by electric shocks to her breasts.

Acting Justice Human based many of his findings on the evidence of a single state witness, and rejected most of the evidence given by the six accused, as well as the expert evidence concerning their torture. He sentenced the defendants to the maximum penalty: execution by hanging.

This is the first time in South Africa that six persons have been collectively sentenced to hang for the death of one individual. To reach that result the trial Court made an unusual reliance on a conspiracy theory. The Appellate Court noted:

". . . it has not been proved in the case of any of the six accused convicted of murder that their conduct contributed causally to the death of the deceased . . . In the present case I am dealing with the position of the 6 accused *who have been convicted of murder solely on the basis of common purpose.*" (Emphasis ours).

The Court found that none of the six had actually caused the death of the deceased nor had they in a premeditated fashion entered into a compact to kill Dlamini. For example, Theresa Ramashamola, according to the facts accepted by the Court, had at no time come into physical contact with the deceased, nor was the causally linked to the means of his death. The only malfeasance on her part was to shout out, after Dlamini had fired into the crowd, statements that allegedly incited the crowd. The specific act for which Reid Malebo Mokoena was inculpated was the throwing of a stone at the deceased, a stone which the Court accepted was not causally responsible for his death. Nevertheless, because they were part of the crowd that killed the town councillor, through an expansive application of the notion of common purpose they were judged to be guilty of murder.

II. SOUTH AFRICA AND POLITICAL EXECUTIONS

South Africa has one of the highest per capita execution rates in the world, averaging more than 100 executions annually. In recent years, a number of political activists involved in resistance activities have been sentenced to death.[3] Trials on charges of "high treason", a capital offense often with alternative common law charges, are increasing as authorities attempt to demonstrate that any form of popular mobilization and organization—be it a boycott, stayaway, "street committee" or people's court—constitute a treasonous activity. The 1983 execution of three alleged ANC members augured this ominous trend; they were the first Black South Africans to be executed for treason since 1914.[4]

Despite a growing outcry for protest from the international community, direct appeals for clemency for people on Death Row by the United Nations Security Council and numerous governments and non-governmental organizations, the executions have continued. For example, on October 18th, 1985, 30 year old Black poet and ANC supporter, Malisela Benjamin Moloise was hanged. In July 1987, when the number of people under sentence of death for political offenses grew to at least 32, the South African Youth Congress (SAYO) spearheaded a campaign to save their lives. Since then, fifteen more death sentences have been imposed.

The authorities have also resorted to hasty and sometimes secret executions as a tactic to circumvent public pressure. Two men, Mlamli Wellington Mielies, aged 22, and Moses Mnyanda Jantjies aged 27, sentenced to death for their alleged involvement in the killing of a township councillor, Kinikini and others, received only a week's notice of their imminent executions. No official notification was sent to their families. They had not yet even received the response to their petitions for clemency lodged with the Justice Department in May 1987. One week later on September 9th, 1987, in Britain, an anti-apartheid delegation visiting the Foreign and Commonwealth Offices in Britain, learned that three other Death Row prisoners, Solomon Maowasha, Alex Matsepane and Elili Webushe, believed by all to be awaiting execution had in fact been hung secretly months earlier.

III. THE CONTEXT OF POLITICAL OFFENSES IN SOUTH AFRICA

To reestablish its control shaken by the nationwide rebellion that is now over three years old, the South African Government has engaged in a coordinated violent assault on all forms of opposition in the country. The June 12, 1986 declaration of a State of Emergency set the stage for unprecedented State violence to be unleashed against anti-apartheid activists and even against entire black communities. Since, then, over 30,000 people have been detained without charge or trial. More than 10,000 have been children. Torture, ill-treatment, disappearances, deaths in detention, extra-judicial killings as well as an upsurge in judicial executions are the salient features. It is this picture of apartheid violence that forms the backdrop for the acts of those condemned political prisoners on Death Row in South Africa. Their actions cannot be judged nor evaluated in artificial isolation from their social and political context. In South Africa, that context is apartheid. A system which violates the most fundamental norms of international law. Further, The Sharpeville Six and all other political prisoners in South Africa have been tried and convicted by a legal system flawed by its subversion to enforce apartheid laws and practices. To maintain apartheid requires unjust laws and a judiciary willing to enforce them. No trial of a person accused of having infringed these laws can be called fair. Whatever our view may be of their tactics, the acts of political activists are inspired by their legitimate opposition to apartheid and, thus should they be judged.

To continue to execute political prisoners in the politically charged context that is South Africa today, will further exacerbate a rapidly deteriorating situation. It will be counterproductive to the quest for a non-violent democratic solution and will reduce drastically the possibility of achieving viable non-racial political structures in South Africa. Rather than quelling unrest, to execute political activists merely creates new martyrs, which in turn solidifies resistance.

The International Community must urge the South African Government to take a wiser path:

1. Forego as a matter of policy the imposition of the death sentence on political prisoners, and

2. Commute the death sentence for The Sharpeville Six and those other political prisoners presently on Death Row.

The facts and figures cited in this memorandum were drawn from the following sources: The Weekly Mail (Johannesburg); various reports of Amnesty International; Focus on Political Repression in Southern Africa; "Save The Sharpeville Six: No to Apartheid Executions", by the London-based Southern Africa The Imprisoned Imprisoned Society; and publications and reports of the UN Centre Against Apartheid.

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[2] "Save the Sharpeville Six," London: SATIS (Southern Africa the Imprisoned Society). April 1986.

[3] For example, over the last ten years eight ANC combatants have been executed. Weekly Mail Nov. 7-13, 1986, p. 4.

[4] John Harris, one of only two white political prisoners sentenced to death since World War II, was executed in 1963 (Weekly Mail November 7-13, 1986 p. 4).

THE SHARPEVILLE SIX AND POLITICAL EXECUTIONS IN SOUTH AFRICA

On December 1st, 1987, the Appellate Division of the South African Supreme Court denied the appeal of six political activists who were convicted of murder and subversion on December 10, 1985 and sentenced to death. Commonly known as The Sharpeville Six, they are: Mojalefa Sefatsa (33), Oupa Moses Diniso (31), Reid Malebo Mokoena (25), Theresa Ramashamola (27), Duma Joshua Khumalo (27) and Francis Don Mokhesi (31).

The arrest of The Sharpeville Six took place in a context of widespread civil unrest touched off by the 1984 imposition of a revised but unacceptable Constitution which denied political participation to the 73% Black majority and offered only limited participation to the Indian and "Colored" populations. Unpopular government appointed township councils, which had attempted to levy rent increases, bore the brunt of public enmity as impoverished residents, pushed to the breaking point, demonstrated en masse their opposition. Township Councillors became live targets of public anger.

Township Councillor Jacob Dlamini was killed after he provoked a crowd, thousands strong, by shooting into it. In convicting the Sharpeville Six for his murder, the judge acknowledged that none of the six accused had committed acts which in fact caused his death. At most they played a part in inciting an already provoked crowd. In addition, the trial was marked by glaring irregularities, notably: secret witnesses, denial of cross-examination, and confessions extracted under torture.

South Africa has one of the highest per capita execution rates in the world. Trials on charges of high treason, a capital offense, often with alternative common law charges, are increasing as authorities attempt to criminalize any form of popular mobilization and organization as treasonous activity. Despite the growing international outcry, South Africa still continues to execute political prisoners. The July, 1987 count of 32 political activists on Death Row has now climbed nearer to 40. The authorities have also resorted to hasty and sometimes secret executions as a tactic to circumvent public pressure.

Since the declaration of the State of Emergency, more than 30,000 people have been detained without charge or trail, more than 10,000 have been children. Torture, ill treatment, disappearances, deaths in detention, extra-judicial killings, as well as an upsurge in judicial executions form the backdrop for the acts of those condemned prisoners on Death Row in South Africa. Whatever our view may be of their tactics, the acts of political activists are inspired by their legitimate opposition to apartheid. The Sharpeville Six and all other political prisoners have been tried by the apartheid legal system, an inherently flawed legal system. Therefore the accused are themselves victims.

The international community must urge the South African Government to take a wiser path;

1. Forego as a matter of policy the imposition of the death sentence on political prisoners, and

2. Commute the death sentence for The Sharpeville Six and those other political prisoners presently on Death Row.

UNEMPLOYMENT BENEFITS FOR NONPROFESSIONAL SCHOOL EMPLOYEES BETWEEN SCHOOL TERMS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. MATSUI. Mr. Speaker, today I am introducing a bill to allow States to extend unemployment benefits to nonprofessional school employees between school terms. The Social Security Amendments of 1983 Public Law, 98-21, required the States to deny unemployment benefits between academic years or terms to nonprofessional school employees if the employees have "reasonable assurance" of returning to work in the next academic year. States were also given the option to extend or deny between term unemployment benefits to workers performing services on behalf of an educational institution or an educational service agency but who are not directly employed by either the institution or agency.

As a result of this new Federal mandate, many thousands of nonprofessional employees of elementary, secondary, and higher educational institutions have lost protection against unemployment between academic years or terms. These nonprofessional school employee—custodians, cafeteria workers, bus drivers, crossing guards, and secretaries—are among the lowest paid group of workers in the Nation. Typically, such workers are paid on an hourly basis, at no near the minimum wage level, during the 9-month school period. Given the very low hourly rate of compensation of these workers, it cannot be reasonably maintained that their wages are intended to cover nonwork periods. The automatic unemployment benefits denial requirement is creating a devastating financial hardship for thousands of nonprofessional school workers who are temporarily out of work through no fault of their own. Many of these workers end up applying for public assistances to make ends meet for their family budgets.

Although these workers are willing to work, often they do not possess the additional vocational skills needed to qualify for other employment. In addition, employers may refuse to hire these workers because they know that they will lose the worker when the next school term begins.

It is not fair to single out nonprofessional public school employees for denial of unemployment benefits. All other major categories of seasonal occupational workers are eligible to apply for unemployment benefits. Unworthy benefit claims will be eliminated by existing eligibility requirements set forth in State laws regarding availability for work and work search efforts.

I believe that this bill is consistent with the basic principles of the unemployment compensation program as established in the 1930's. It will extend to a hard-working class of citizens the protection and security they deserve during temporary periods of unavoidable unemployment. I urge my colleagues to cosponsor this bill.

HENRY J. BARON: CANCER SOCIETY COURAGE AWARD WINNER

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 16, 1988

Mr. RINALDO. Mr. Speaker, the American Cancer Society will celebrate its 75th anniversary this year, and as proof of its success in saving the lives of countless victims of cancer, it will present "Courage Awards" to the survivors of serious cancer operations and treatment on March 28-29. Among those to be honored will be Henry J. Baron of Clark, NJ.

A survivor of laryngectomy, Mr. Baron has given other families in Union County, NJ, the courage to overcome the fear, anxiety, and physical trauma of cancer of the larnyx. Before receiving the "Courage Award" of the American Cancer Society, Mr. Baron will sign a cancer survivors' bill of rights, which seeks to insure that cancer patients who recover from their operations and treatment do not suffer discrimination in employment, insurance, and medical coverage.

For 20 years, Mr. Baron served as city clerk of the city of Linden, he was city health commissioner, member of the board of education, and on the Linden City Council.

He gave up his career in city government following his cancer operation. Since 1977, he has served on the rehabilitation and public education committees of the Union County Unit of the American Cancer Society. In overcoming the loss of his voice, Mr. Baron has been able to educate others to meet this terrible crisis. He has frequently visited hospitals and worked with patients and their families in laryngectomy voice rehabilitation.

The message of hope and cancer prevention has been carried to schools, where Mr. Baron has spoken to thousands of students about the health dangers of tobacco and drugs.

He also has assisted in developing a film sponsored by the New Jersey Division of the American Cancer Society on "The Laryngectomy Visitor," and he has written about his experiences.

Henry Baron's courage in dealing with his own ordeal of cancer is inspiring. It brings hope to those faced with the calamity of losing their voices and perhaps their lives to cancer of the larnyx. Through the American Cancer Society's research and training programs, volunteers like Mr. Baron have salvaged many lives from the desperate despair that once afflicted victims of cancer of the larnyx.

I join my friends in the Union County Chapter of the American Cancer Society in saluting Henry Baron, a man of uncommon courage and devotion to public service and public health.