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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Fortieth session

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva
on Wednesday, 10 August 1988, at 10 a.m.

Chairman: Mr. BHANDARE

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Review of the work of the Sub-Commission

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The meeting was called to order at 10.15 a.m.

ORGANIZATION OF WORK (continued) (E/CN.4/Sub.2/1988/1,
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1. The CHAIRMAN said that, further to their meeting of the previous day, the officers of the Sub-Commission suggested that the Sub-Commission should consider agenda item 6 from 16 to 18 August 1988 and agenda item 9 on 19 August, taking up agenda item 10 immediately afterwards. Since the documents relating to agenda item 8 would not be available before 24 August, that agenda item could not be taken up before that date. Furthermore, the non-governmental organizations would like the consideration of the question of slavery and discrimination against indigenous populations to be completed by the end of the second week of the session, so that the representatives of the organizations could return to their countries as soon as possible.

2. If there was no objection, he would take it that the Sub-Commission approved the timetable for the session, as amended by the officers.

3. It was so decided.

ELIMINATION OF RACIAL DISCRIMINATION:

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION

(b) ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA (agenda item 5) (E/CN.4/Sub.2/1988/6 and Add.1)

4. Mr. MARTENSON (Under Secretary-General for Human Rights) said that human rights and fundamental freedoms were rooted in the concepts of justice and equality and that, consequently, any form of discrimination was their nemesis, as was made clear in the Universal Declaration of Human Rights. In societies where the growth of racism was unchecked, it marginalized important groups of the population, often created insupportable tensions and might even lead to social explosions of untold consequences. Racism attacked the human rights not only of the victims but also of the racists themselves and racism against a few imperilled the human rights of all. The international community could not tolerate racism any longer without risk to the peace and human rights of each of its members. The prevention of discrimination was accordingly synonymous with the affirmation of universal human rights.

5. Since forms of discrimination based on race and colour were the most repellent, he had been particularly honoured to be appointed by the Secretary-General as Co-ordinator of the Second Decade to Combat Racism and Racial Discrimination. It would be recalled that at the close of the First Decade, proclaimed by the General Assembly in 1973, the Second World Conference to Combat Racism and Racial Discrimination had led to the proclamation by the General Assembly of the period from 1983 to 1993 as the Second Decade with the threefold objective of promoting human rights and fundamental freedoms for all without distinction, eliminating prejudice and racial discrimination and abolishing régimes and policies based on racism.

With those objectives in view, the General Assembly had approved a broad programme of activities, supplemented by detailed plans of action for the periods 1985-1989 and 1990-1993, which included action against apartheid, education, teaching and training, dissemination of information, protection of minorities, migrant workers and indigenous populations, implementing international conventions and action through national legislation, institutions and recourse procedures.

6. In order to make the campaign for the elimination of apartheid more effective, the United Nations had established a specific organ, the "Special Committee against Apartheid". It was well known that the combat against apartheid was one of the prime objectives of the decade. Further, the Commission on Human Rights and all the other United Nations human rights organs had repeatedly taken firm stands against apartheid.

7. The successful implementation of the programme of activities for the Second Decade required concentrated efforts within the United Nations system. In his capacity as Co-ordinator, he had established close contacts with the organs and secretariat services at Headquarters dealing with Decade-related issues, such as the United Nations Centre for Transnational Corporations and the Centre Against Apartheid. He had undertaken meetings with non-governmental organizations and representatives of the media. Prominence was also being given to the commemoration of the International Day for the Elimination of Racial Discrimination (21 March) and the Week of Solidarity with the People of Namibia and its liberation movement, SWAPO (October). Within the Centre for Human Rights, he had also strengthened the Decade-related activities and those giving renewed emphasis to the fight against racism. For example, in the activities related to the fortieth anniversary of the Universal Declaration of Human Rights, increased importance was being given to the Decade and the General Assembly had invited, inter alia, specialized agencies to support activities aimed at encouraging the promotion of civil, political, economic, social and cultural rights. The anniversary provided everyone with a unique opportunity to promote awareness of international efforts to further human rights and eliminate discrimination.

8. The Sub-Commission, whose eminent role in the prevention of discrimination was well known, had been requested by General Assembly resolution 42/47 to consider the need for updating the study on racial discrimination. The Secretary-General would appreciate it if the Sub-Commission would take that request into consideration during the current session.

9. The Sub-Commission had also been asked to complete as soon as possible the study on the results achieved and the obstacles encountered during the First Decade and during the first half of the Second Decade. In its resolution 1988/32, the Economic and Social Council, pursuant to the recommendations of the Sub-Commission and the Commission on Human Rights, had authorized the Special Rapporteur, Mr. Eide, to proceed with the collection of information he needed to complete his study. The General Assembly had once again authorized the Secretary-General to organize in 1988 a global consultation on racial discrimination which was scheduled to take place in Geneva from 3 to 7 October 1988.

10. At its last session, the Commission on Human Rights had considered the implementation of the Programme of Action for the Second Decade and had requested the Secretary-General, in its resolution 1988/16, to envisage the organization of a seminar on "the political, historical, economic, social and cultural factors contributing to racism, racial discrimination and apartheid", the topic for thematic consideration for 1989. The Commission had further decided that the topic for 1990 would be "the human rights of individuals belonging to ethnic groups in countries of immigration". For its part, the Economic and Social Council in its resolution 1988/6, had requested the Secretary-General to organize in 1989 a seminar on cultural dialogue between the countries of origin and the host countries of migrant workers. In its resolution 1988/35, the Council had further requested the Secretary-General to include the recognition and promotion of the rights of indigenous peoples in future United Nations activities under the Programme of Action for the Second Decade and to organize in 1988 as part of the programme of advisory services on human rights, a seminar on the effects of racism and racial discrimination on the social and economic relations between indigenous peoples and States.

11. Turning to sub-item (b), adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa, he said that by resolution 1987/7, the Sub-Commission had recommended to the Commission that the Special Rapporteur, Mr. Khalifa, should be invited to continue to update his report on that subject. In resolution 1988/12, the Commission had approved that recommendation and invited the Sub-Commission to consider the updated report at its fortieth session. The updated report had been submitted to the Sub-Commission in document E/CN.4/Sub.2/1988/6 and Add.1.

12. Further, in resolution 1987/5, the Sub-Commission had invited Mr. Khalifa to examine the feasibility of a study on the impact of disinvestment and replacement of investment by non-equity links in South Africa and Namibia. That report would also be presented by Mr. Khalifa.

13. Mr. EIDE, Special Rapporteur of the Sub-Commission, said that contemporary international law was built on the Charter of the United Nations, one of whose basic purposes was to achieve international co-operation in encouraging respect for human rights without distinction, inter alia, as to race (Article 1, paragraph 3). All States were now under an international obligation to co-operate in the realization of human rights for all without distinction of any kind. As he had repeatedly stated, the efforts to eliminate racism came up against two different situations; one, where the State concerned refused to co-operate and the other, where there was a willingness to co-operate but there were still cultural, social or political factors which slowed down the process of creating full equality.

14. There was one State which consistently refused to co-operate; that was South Africa with its apartheid policy, by means of which a Government drawn from a privileged minority maintained its privileges by discrimination and oppression. Faced with that situation, the international community, in its obligation to co-operate in ensuring universal respect for human rights, had only one option: to organize counter-power and pressure, including sanctions in order to dismantle the privileges and create the basis for a democratic society and a Government based on the consent of all its citizens. The situation in South Africa also affected Namibia, (still occupied, in defiance

of United Nations resolutions but which should soon be free) as well as Angola and Mozambique, the latter country in particular being subjected to the dreadful terrorism carried out by the South African-sponsored Renamo or MNR. That organization, initially created by white Rhodesians to prevent the establishment of majority rule, had been handed over to South Africa by the Rhodesian intelligence services when defeat was inevitable. The former head of those services, Mr. Ken Flower had also recounted how several terrorist actions attributed to African liberation movements had in fact been organized by the Rhodesian intelligence services.

15. In States willing to co-operate with the international community, but where social, political and cultural factors made the elimination of racism difficult, considerable progress had been achieved in establishing international standards, by concentrating on the International Bill of Human Rights but also and above all on the International Convention on the Elimination of All Forms of Racial Discrimination. That instrument, which had received the highest number of ratifications, had inter alia the advantage of containing detailed standards. International procedures had also been established, in particular, the Committee on the Elimination of Racial Discrimination, which was struggling along in spite of great financial hardships and the unwillingness of many States Members to cover its costs from the regular United Nations budget. National mechanisms had also been established - ombudsmen systems, national human rights commissions and recourse procedures - and the task of preventing discrimination was occupying an increasingly prominent place in national education programmes. Thus, many positive measures had been taken in States which sought to co-operate for the realization of human rights.

16. However, even in those States problems persisted and many groups in all parts of the world, and not the least in Western countries, were at times the target of discrimination. Migrant workers and people from the West Indies, Latin America, Africa and Asia who had settled in Europe or North America often found themselves under pressure not from Governments, but from other social groups against which the authorities had then to defend them. The Sub-Commission was well aware how indigenous peoples, who had lived in a region prior to the arrival of those now dominant in the economic and political sense had been subjected to discrimination. It had itself initiated a major effort to elaborate standards to protect such populations more adequately. He expressed his appreciation to Mrs. Daes for her leadership in that field.

17. Finally, there were a multitude of ethnic and national groups which in many third world countries in the process of nation-building were victims of pressures often social in nature - competition for material resources and political power. Sometimes Governments opposed the manifestation of a separate identity, the use of different languages and the cultural and religious manifestations of the different groups. Thus, it was necessary to know not so much the standards, procedures, and relevant machinery as the nature itself of those occurrences.

18. When he had submitted his progress report on the subject (E/CN.4/Sub.2/1987/6) the previous year, he had proposed that information should be requested or collected on current manifestations of racism. Since there was reason to believe that manifestations of racism or at least of xenophobia persisted, and in some places were on the increase, it was

essential that the study should be based on solid information and on an assessment of current trends. Unfortunately, he had not been able to complete his study because he had not received sufficient information and because he was aware that highly relevant information would become available in the course of the forthcoming seven or eight months. He thought that by deferring the completion of the study to 1989, it would be possible to assess the situation much more fully than at the present time.

19. In his 1987 progress report, he had proposed that Governments should be requested for information about the recourse procedures available at the national level to victims of discrimination and the measures taken to help groups of the population which had been subject to racial discrimination in the past. He had received replies from only a few Governments; some had provided brief descriptions of relevant national legislation; others had referred to material already submitted to other United Nations agencies. He had also wished to obtain from the relevant United Nations organs, including the Special Committee against Apartheid, information on the extent to which members of the international community were participating in sanctions against South Africa and on the assistance they were contributing to anti-apartheid movements. Substantive information had been made available to him by the Centre Against Apartheid, which had also informed him that a report on national measures against South Africa would be submitted by the Secretary-General to the forthcoming session of the General Assembly in October 1988. Information had also been collected under General Assembly resolutions on the implementation of the Programme of Action for the Second Decade. On the other hand, no information had been received from UNESCO on the extent to which national programmes of education focused on the need to eliminate racism, prejudice and discrimination and on the effect of such programmes.

20. He had also applied to non-governmental organizations and scientific institutions to request their views on what constituted in their region the most important issues of racism, prejudice and discrimination, the efforts being made in different parts of the world to bring apartheid to an end, the effectiveness if within their field of competence, of educational programmes aimed at the elimination of racism and discrimination, the role of the media in that respect and the existence and effectiveness of national recourse procedures available to victims of racial discrimination together with information on current inequalities in racial terms in various fields such as income, employment, imprisonment; and finally the measures being taken to eliminate such differences. A limited number of non-governmental organizations had replied. Three of them, the Human Rights Watch, the International Confederation of Free Trade Unions and the International Defence and Aid Fund for Southern Africa had sent substantive information on apartheid and their efforts to oppose it. With the exception of the World Federation for Mental Health, the other organizations had provided only brief replies. Many non-governmental organizations regretted they had not been given more time to reply. The questionnaire had been sent on 22 April 1988 and the deadline for receiving replies had been set at 15 June 1988. Those organizations had indicated that they could provide fuller information if they were given more time and if the questions were more specific. It therefore seemed that the deadline should be extended. On the other hand, there was probably no point in repeating the request for information to Governments, United Nations organs and other intergovernmental organizations since the material provided under the Programme of Action for the Decade could be used

in the final report. Nevertheless, requests for more specific information might be addressed to certain non-governmental organizations, in particular to research institutions, in order to obtain a more systematic assessment of results achieved.

21. Before finalizing his report, he proposed to draw on two important sources of information which would be available before the end of the year, namely the report to be presented to the General Assembly on national action against apartheid, mentioned in the reply from the Centre against Apartheid and the updated report on racism by the Committee on Legal Affairs and Citizen's Rights of the European Parliament which was expected to be submitted to the Parliament's November session. It would also be appropriate to organize in March or April 1989 in co-operation with a number of research institutions, a seminar of experts in that field. He hoped that the results of those initiatives would assist him to submit a report which would enable the Sub-Commission and perhaps the Commission to consider further steps to combat racism and xenophobia.

22. Mrs. WARZAZI said she had noted with satisfaction that in his introduction, the Under-Secretary-General for Human Rights had highlighted the importance of monitoring closely the results of the Second Decade, a second phase having been decided upon by the General Assembly because the achievements of the First Decade had not been deemed satisfactory. Mr. Eide must also be thanked for his very interesting statement in which he had stressed the fact that most countries were willing to co-operate in the elimination of racial discrimination, but that political, economic and other conditions slowed down the process of creating full equality. It seemed however, that a number of measures in connection with the elimination of racial discrimination could be taken at governmental level which did not call for any particular financial outlay but which required above all an act of political will which should not be shirked on the pretext of economic problems. It was clear that Governments, the Centre for Human Rights, the specialized agencies and non-governmental organizations could and should provide material and financial assistance to countries willing fully to discharge the obligations that they had undertaken. She was confident that Mr. Eide's final report would enable the Sub-Commission to assess the progress achieved and the methods used and to make appropriate recommendations to reinforce the international campaign against racial discrimination.

23. She wished to report that on the previous day as she was leaving the conference room, she had been confronted by two gentlemen who had seen fit to call into question her impartiality and her convictions because on the preceding day she had proposed that the decision to observe a minute's silence for the victims of the racist régime of apartheid should be extended to cover the children who were victims of repression in the occupied Arab territories. She had been told that her proposal constituted a "cynical" political exploitation of the Sub-Commission's activities. In reply to those two gentlemen, she wished to state that she came from a country where from the age of six or seven years old, children learnt by heart the precepts of the Koran, one verse of which ran: "Oh men, we have created you from one man and one woman. We have divided you into races and tribes with different characteristics. The most deserving in the eyes of God is he who fears him the most." That spirit of tolerance emanating from the divine source had always characterized the Moroccan people. The most striking example of recognition of the equality of all men and of respect for their dignity had

been set by His Majesty, the late King Mohammed V, when the Nazi régime, through the agency of the Vichy Government, had wished to enforce the anti-Semitic laws in Morocco. His Majesty the King had courageously protested to the colonial authorities, refused to apply the laws and insisted on associating in the festivities of the Throne eminent Moroccan Jews to whom he had made the following declaration: "I in no way approve of the new anti-Semitic laws and I refuse to associate myself with a measure of which I do not approve. I want you to know that, as in the past, Israelites continue to be under my protection and I refuse to allow any distinction to be made among my subjects".

24. The entire Moroccan people was proud of the way its King had defied discrimination, oppression, servitude and repression. It was therefore natural that it should today protest against the policy of beatings and expulsions which had affected so many Palestinian families and children. Her sincerity could not in any way be called into question. Nor could that of the Moroccan Jews who, in March 1988, through the Secretary-General of the Jewish communities of Morocco, had told His Majesty Hassan II "As the heirs to centuries of fraternal co-existence between religious communities, the Moroccan Jews are doubly concerned by the tragic events which are plunging the Holy Land into mourning. They feel any use of violence against civilian populations to be a serious infringement of their traditional moral principles."

25. Reference to the violence was made by General Mizna, the Israeli officer commanding the central region of Israel who had stated in connection with the burying alive of four Palestinians in the village of Salem: "Even in my worst nightmares, I could never have imagined that Israeli soldiers could do such a thing." He added: "I always end my period of duty as a reservist worn out physically; this time it is my spirit that is broken. I could never have imagined that the Jews could do to another people what the Germans did to them. It is true there are no gas chambers and extermination camps here, but we are not far from it".

26. It was that repression which had brought 500,000 demonstrators out on to the streets of Tel Aviv and had caused Mr. Ted Naun, the Chairman of the American Jewish Congress to say on a visit to Israel that the policy of beatings was inhuman and quite simply unacceptable.

27. She would not cite all the well known people who had expressed horror at what was happening; she would simply say that her proposal had been legitimate and activated by the desire to pay a tribute to thousands of children who were fighting with stones against artillery and machine guns and were dying because they were demanding liberty, dignity and an end to discriminatory treatment which had lasted only too long.

28. The inhabitants of South Africa were also fighting young people and children as well, while the international community had almost run out of breath in its condemnation of the racist régime of Pretoria, deaf to all appeals and all condemnation. Atrocities, deaths, hangings, arbitrary arrest were the lot of an entire people who aspired to dignity and recognition of the legitimate rights due to them both as human beings and as the heirs to that part of the African continent. The international community must continue to monitor developments in the situation and to arm itself with patience and tenacity in order to overcome those who refused dialogue and clung to their

privileges by oppression and injustice. All the fanatics of violence must be told that justice would soon prevail and that it would be better to put an end right away to an odious system of apartheid, and to the hatred which today motivated even the children of the two communities and could lead to a point of no return.

29. Side by side with the two most "spectacular" situations of racial discrimination, there were other situations of discrimination which affected millions of human beings and minority communities and also often led to acts of violence, arbitrary arrests and other forms of injustice, and in certain cases by what were known as ratonnades (reprisals against Arabs). Many of the leaders in countries containing minority communities were aware of such situations and endeavoured to remedy them. Nevertheless, more energetic action must be undertaken to promote better understanding between the societies of the host countries and their foreign minorities or communities. It was essential that the services responsible for public order should be alerted to the difficulties encountered by those people. Migrant workers had done much to restore the economic situation of Western countries in the early days after the second world war. Currently their input was also useful, particularly for the future of societies with falling birth rates and which would have to ensure the welfare and security of all their members, particularly the elderly. With the necessary good will and political commitment, a harmonious and enriching co-existence could be established among the communities; but there must be imagination and open-handedness as to the means.

30. In that connection, she wished to refer to an example of what could be done to eliminate prejudice. In 1987, the staff of the Moroccan State police had called, in co-operation with the Moroccan Embassy in Brussels, for Belgian volunteers to learn the Moroccan dialect. The officer and 15 policemen selected had been warmly welcomed by their Moroccan colleagues; they had followed Arabic courses and had been received by Moroccan families who had shown them the country and helped them to become familiar with Moroccan customs and attitudes. The experiment, whose results had still to be analysed, would be pursued if it proved positive. But it was already clear that the policemen on leaving Morocco were certainly not the same men who had arrived there.

31. In conclusion, she said that racial discrimination was not a scourge to be eradicated by a wave of the hand. The struggle must be unyielding, the surveillance close and the positions clear-cut. The world of today seemed to be lending itself to more promising initiatives than in the past. As if by a miracle, things were turning out well, which proved when there was the political will, everything was possible. There was hope that the agreement which had just been reached in southern Africa could, if its terms were respected, finally lead at last to independence for Namibia. The Sub-Commission did not have political power but it did have an imperative duty to condemn racial discrimination wherever it occurred and to defend and protect its victims. That position could not give rise to pressure or incur subjective censure. The experts of the Sub-Commission were certainly not perfect, but if their attitudes were completely consistent with their deepest beliefs, they would be able to move forward.

32. The CHAIRMAN said that there was no place in the Sub-Commission for verbal attacks and he hoped that the incident which had taken place would not recur.

33. Mr. TIAN JIN pointed out that the Sub-Commission was considering agenda item 5 at a particularly significant point of time in view of the seventieth birthday of Nelson Mandela and the fortieth anniversary of the Universal Declaration of Human Rights which would be celebrated at the end of the year.

34. Nelson Mandela had remained faithful to his principles in spite of all the persecution to which he had been subjected and even in prison he had continued his fight to abolish apartheid. Many ceremonies had taken place everywhere in the world on 18 July, his birthday, and in China, for example, there had been a television programme about him. On that occasion the Secretary-General of the United Nations had paid a tribute to Nelson Mandela, condemned South Africa's policy of apartheid and reaffirmed the determination of the South African people to gain their freedom.

35. Although in some conflict areas in the world, a clear trend towards détente had been noted, the South African authorities were extending for one year the state of emergency and were taking new repressive measures against the black population, in particular by banning 18 anti-apartheid organizations. As for the so-called reforms announced by the South African Government, they were purely cosmetic and unacceptable to the South African people.

36. The efforts by the United Nations for the last 30 years to combat racial discrimination had greatly contributed to the world-wide fight against that phenomenon. The United Nations had also provided moral support to the black population of South Africa and to the so-called "front-line" States so that South Africa was becoming more and more isolated. At the end of its mission in South Africa, the Panel of Eminent Persons from the Commonwealth had adopted a resolution, similar to numerous United Nations resolutions, in which it had asked South Africa to abolish apartheid, to end the state of emergency, to release Nelson Mandela and other political prisoners, to guarantee political freedoms and to put an end to all forms of violence, and to embark on a dialogue with the representatives of the black masses. It was clear that was the only way out for South Africa.

37. The Sub-Commission itself should continue its efforts to put an end to racial discrimination, particularly in that region of the world. The task was difficult, but one in which it should be able to succeed.

38. Mr. DLOVA (Observer, Pan Africanist Congress of Azania) said that his country, Azania, had been under European occupation since 1652 and that the Azanian people earnestly hoped that the Sub-Commission, and through it the international community, would assist it in its efforts to rid itself of the yoke of colonial and racist oppression and perhaps also rid the world of the scourge of constitutionally entrenched racism. Faced with the resistance of the Azanian people, the Government of European settlers had had to abandon all pretensions that it was ruling the country with the acquiescence of the majority of the population. Day and night, armoured military vehicles patrolled African residential areas and "the security forces" enjoyed immunity

from any prosecution or punishment when they were responsible for the deaths of members of the black community. During the preceding three years, over 3,000 civilians had been murdered in that way.

39. The representatives of the press, including the foreign press, had no access to the areas where such atrocities were perpetrated every day. Even on the rare occasions when permission was granted to them, they could not publish their reports on incidents without clearance by the State Bureau of Information. Recently, the idea had been floated of licensing journalists, after screening them on apartheid, for them to be able to practise their profession in South Africa.

40. Current South Africa legislation on the press, on arrest and detention and on extra-judicial executions left judges without any discretion. Their role was only to check that Government officials, that was, all those who gagged the press, detained even eight-year old children, executed civilians in streets and committed other atrocities, complied with the procedures set out in the statutes that sanctioned such actions. The judiciary, respectful of tradition, considered that it was not required to question the morality or appropriateness of the law, and the fact that the law in question was made by a foreign minority was a question which came within the domain of political science rather than of law. The hypocrisy of the South African judicial system had been exposed in the recent trial of the "Sharpeville six". The South African courts had stretched the law to convict those six persons for a crime they had never committed; subsequently, one of the main State witnesses had stated that he had been forced by the police to give false testimony. Only the pressure brought to bear by the international community on the racist authorities could save the lives of those six persons and his organization hoped that the Sub-Commission would reactivate the campaign and continue to urge States, non-governmental organizations and individuals to keep up the pressure on the racist Government of South Africa.

41. Despite all the oppression, the Azanian people were continuing to resist and to manifest their determination. In spite of the state of emergency, in 1988 more than 40 towns and villages had commemorated on 28 February the tenth anniversary of the death of Mangaliso Sobukwe, the founding president of the Pan Africanist Congress of Azania. Then on 21 March, they had celebrated the International Day for the Elimination of Discrimination. Finally, on 16 June, millions of people also marked the twelfth anniversary of the day on which students rejected Afrikaans, the language of their oppressors, as the medium of instruction in Azania. On all those anniversaries, the Azanian people, on the advice of their leaders, had avoided as much as possible mass demonstrations which could have caused further casualties. Since the tragic experience of Sharpeville in 1960, the PAC position on mass demonstrations had been well-known. The PAC leaders considered limited armed action to be more effective and that was why the movement had never been favourable to what others had termed the strategic objective of making South Africa ungovernable. In the past two years, the PAC had established, with some degree of success, its programme of militarizing the population. As a result of that programme, by the admission of the oppressors themselves, the number of soldiers and police who had died in clashes with PAC combatants had risen dramatically since the imposition of the state of emergency in 1986. The programme would go on until the Azanian people was master of its destiny and assumed the reins of power. It was partly owing to the campaign that the racist régime had recently announced that it was contemplating the withdrawal

of its troops from Namibia. Furthermore, increasing numbers of soldiers preferred to go to prison rather than die for apartheid in the hope that in the not too distant future the entire prison system and the whole State apparatus would have changed hands.

42. The Azanian people appealed to the international community to continue, particularly through the Commission on Human Rights and the Sub-Commission, to maximize the cultural, political and economic isolation of the racist régime and to strengthen the political, moral and material support to the South African people, reaffirming their right to fight with all means at their disposal, including armed struggle. The Pan Africanist Congress of Azania hoped that in 1988 the Sub-Commission would be bold enough to do what the Anglican bishops had done at the Lambeth Conference, namely, to declare unanimously its understanding for the campaign of armed struggle which the Congress was advocating.

43. Mrs. WARZAZI said that the text of the statement of the observer for the Pan Africanist Congress of Azania contained valuable information and should be circulated to the members of the Sub-Commission.

44. The CHAIRMAN concurred with that view.

45. Mr. CAREY, speaking on agenda item 5 (b), drew the attention of members of the Sub-Commission to document E/1988/23, entitled "Follow-up to the recommendations of the Panel of eminent persons established to conduct public hearings on the activities of transnational corporations in South Africa and Namibia: supplementary information". That document, particularly paragraph 3 et seq., contained information on the measures taken with regard to Namibia and on those companies which had withdrawn the investments they had made in South Africa. It also contained revised lists, broken down by countries of origin, of all the transnational corporations which had disposed of their equity interests in South Africa and/or Namibia or were in the process of so doing and of the corporations with interests in companies in South Africa and/or in Namibia. He stressed that according to paragraph 9 of the document, it was United States corporations which were by far the most willing to disinvest. Finally, he drew attention to paragraph 37 of document E/C.10/1988/7 of the Commission on Transnational Corporations, where it was stated that if there was a concerted effort by transnational banks from all creditor countries to reduce current and new loans to South Africa coupled with "effective" divestment actions by the transnational corporations, the South African Government would be much more disposed to abolish apartheid.

46. Mrs. TAWANGAYAWMA (Four Directions Council) who came from the Hopi village of Hotevilla, first thanked the Sub-Commission for agreeing to appoint two observers to attend Congressional Hearings in the United States of America on the issue of the relocation of Hopi and Navajo. She hoped that the Sub-Commission would request Mrs. Daes, one of the appointed observers, to report on the subject.

47. The Hopi were addressing the United Nations to fulfil an ancient prophecy of their people which referred to a "House of Mica" where leaders of the world gathered and of the need for the Hopi to plead with them to prevent the Hopi community from becoming extinct. The prophecy had been set out in the text of a message that the Hopi had addressed on 30 September 1985 to the Sub-Commission. According to the Hopi tradition, they were required to obey

the laws inscribed on tablets of stone which told them to live simply, not to divide the land or sell it and never to use the riches of Mother Earth to harm others but only to benefit all. The prophecy had also warned that another race called Bahannas would try to change the Hopi's pattern of life by making them believe in an easier way of life. That had unfortunately come to pass and the Hopi who wished to preserve their primitive life patterns were threatened with extinction. The prophecy, which emanated from the Great Spirit, even warned that if the primitive life-style was abandoned, the aboriginal humans would become extinct and the rest of mankind would follow in their footsteps.

48. She thanked the people who had helped the Hopi to have access to the United Nations, in particular the staff of the Centre for Human Rights, and the experts who were members of the Working Group on Indigenous Peoples. She was encouraged by Mrs. Daes' announcement that the Working Group would recommend that special advisory services should be made available to indigenous peoples. That strengthened the hope that the Hopis would survive, in spite of the danger threatening the Navajo and the Hopi from a United States law calling for their relocation.

49. The Hopi would like to contribute some of their tribal money to the Voluntary Fund for Special Advisory Services but the money was kept in a trust account in Washington, and to spend it they had to have the approval of the Secretary of the Interior. The Special Advisory Services would assist the Hopi to understand better the proposals of the Government of the United States and their own best interests. The Hopi did not accept the United States' Trust Policy: they would prefer a United Nations trusteeship under Article 75 of the Charter.

50. As an immediate step, the Sub-Commission should at least ask the United States to place an 18-month moratorium on the relocation of the Hopi as had been proposed by Senator Alan Cranston and allow them to have a voice in the matter. She concluded by thanking the members of the Sub-Commission for their interest in the wellbeing of the Hopi as an indigenous people. She hoped that the Great Spirit would guide the Sub-Commission.

51. Mr. LOWES (Anti-Slavery Society for the Protection of Human Rights) said that as far back as 1910, his organization had publicly opposed the South Africa Act, which denied the blacks full civil and political rights; at the time, it had cost his society its royal patronage in England. It might be claimed that the Anti-Slavery Society had opposed apartheid before the concept had entered South Africa's consciousness. At the present time, when the seventieth birthday of Nelson Mandela had just been celebrated, it continued to condemn apartheid. In 1987, at its annual general meeting in London, the Committee of the Anti-Slavery Society for the Protection of Human Rights had reaffirmed a resolution on apartheid originally adopted on 27 October 1970 in which it condemned the policy "as a gross denial of opportunity for human development and individual human dignity" and affirmed "its conviction that apartheid violates the human rights obligations of the United Nations Charter and the Universal Declaration of Human Rights".

52. Mrs. SMITH (International Organization for the Elimination of All Forms of Racial Discrimination), a Navajo Indian introduced by Mr. RAIANI, Executive Director of that organization, said that she came from the village of Teesto, in the area of Arizona common to Hopi and Navajo who were being relocated by

the United States Government. She represented over 15,000 Navajos threatened with forcible relocation. Her Indian name was "Morning Star". She had been chosen by the Elders of the Navajo to represent her people at the United Nations, their last hope.

53. The relocation programme had been undertaken because of an alleged land dispute between the Navajo and the Hopi. In fact, the real dispute was between the Indians who lived according to the traditions of the two tribes, and outside forces which sought to develop Indian lands in their manner. Faced with the refusal of the Navajo to be relocated, the Government of the United States had impounded 85 per cent of their livestock - their primary source of food - and banned the construction of new houses. The Government was trying to starve the Navajo off their land but the Navajo would rather die than give up their culture and live as white men lived.

54. The Navajo were encouraged by the recommendations of the Working Group on Indigenous Peoples that special advisory services should be made available to indigenous peoples. She thanked the Voluntary Fund for providing her travel expenses to Geneva. The Navajo would like to contribute to the Fund, as the Cree in Canada had done, but their money was kept in a trust account in Washington and could not be spent without the approval of the Secretary of the Interior, according to the United States' Trust Policy.

55. The relocation of the Navajo would put an end to their culture and their religion. On their traditional lands, they had sacred offering places, including springs, trees, rocks, hills and areas where ceremonial herbs were gathered. She asked the Sub-Commission to urge the United States to call a 18-month moratorium on the further relocation of the Hopi and the Navajo as proposed by Senator Alan Cranston, who had also requested the establishment of an advisory commission which would give both tribes a voice. She thanked the Sub-Commission for accepting the Hopi invitation to appoint two observers to attend the Congressional Hearings on the relocation of the Hopi and the Navajo. Unfortunately, the United States Senate Select Committee on Indian Affairs refused to notify the Navajo of hearings on Senator Inouye's bill, calling for a speedy relocation facilitated by "incentive" monies. She thought that with the "incentive money" the United States should rather pay its United Nations dues and contribute to the Voluntary Fund for Special Advisory Services. She asked the Sub-Commission to obtain the permission of the Secretary of the Interior for the Hopi to use some of their tribal money to protect their culture.

56. She asked the Sub-Commission to develop enforceable standards to protect the things which were important to indigenous peoples, because the countries where such peoples lived would not do that. She also asked the Sub-Commission to adopt the suggestions of the Working Group on Indigenous Peoples, in particular Mr. Türk's suggestion that States should take affirmative actions to protect the rights of indigenous peoples and Mrs. Mbonu's suggestion that a supervisory mechanism should be established to monitor the situation of indigenous peoples and report back to the Sub-Commission on the autonomy they enjoyed. She further asked the Sub-Commission to obtain from the Secretary of the Interior the necessary authorization for the Navajo to make a contribution to the Voluntary Fund for Indigenous Peoples. The Navajo did not accept the trusteeship of the United States of America and would prefer the United Nations trusteeship under Article 75 of the Charter.

57. Mrs. DUNBAR CRUZ (Indigenous World Association), describing the activities of her organization, first listed the recommendations at the national level which it addressed to Governments: to recognize and promote respect for the populations, territories and institutions of indigenous peoples; to guarantee the rights of indigenous peoples to their traditional territories and natural resources, restoring confiscated lands and honouring the treaties signed with them; to combat discrimination against indigenous communities and to educate the public to support governmental action in favour of the rights and welfare of such communities, particularly by taking into account the views of the indigenous population in history textbooks; to increase funding for indigenous social services and education in order to reach the level of the rest of the population and in particular to enable indigenous peoples to manage such services in accordance with their traditions; to make contributions to the newly established United Nations Voluntary Fund for Indigenous Populations.

58. In the field of development, the Indigenous World Association recommended that Governments, development banks and transnational co-operations should consult fully with indigenous peoples before projects were initiated in their territories and should undertake social and environmental studies with the collaboration of the indigenous peoples before embarking on such projects; multinational development banks should assure themselves of the support of the indigenous peoples to the development projects they were financing on the territories of the latter and adopt a code of conduct to that effect; the World Bank should revise its policy statement on tribal peoples; transnational corporations should obtain the approval of indigenous peoples for the projects they were implementing on the latter's territories and guarantee those peoples a share of the profits; corporations, both commercial and non-profit, should contribute generously to the United Nations Voluntary Fund for Indigenous Populations.

59. At the international level, the Indigenous World Association called upon the ILO to revise its Indigenous Populations' Convention No. 107 by 1989 including indigenous representatives both in the revision process and for monitoring implementation of the revised Convention. It asked the Sub-Commission's Working Group on Indigenous Populations to accelerate the preparation of a draft declaration on the rights of indigenous peoples and to hold periodic meetings in countries or locations of indigenous communities. It called upon the newly established Voluntary Fund for Indigenous Populations to broaden its mandate to enable it to fund the travel of indigenous representatives to attend international meetings in addition to those of the Working Group; it hoped that international agencies such as UNESCO, UNEP, UNCTAD, UNIDO, UNICEF, UNHCR, WHO, FAO, UNRISD and UNITAR, as well as regional inter-governmental organizations, would include the issues of indigenous populations in their agendas and recruit indigenous professionals to help in the elaboration and implementation of programmes. It also asked the relevant committees of the United Nations, such as the Committee on Transnational Corporations and the Committee on Disarmament not to overlook questions relating to indigenous peoples.

60. For immediate action, the Indigenous World Association was of the opinion that recourse procedures must be established within the United Nations to examine threats to the survival and well-being of indigenous peoples; an ombudsman appointed by the United Nations Secretary-General could monitor such

situations. The organization also requested that the Sub-Commission's Special Rapporteur on the problem of discrimination against indigenous populations should carry out as soon as possible a study on the status of treaties and other agreements between indigenous peoples and States. Finally, the United Nations General Assembly should respond to the recommendations of indigenous and other organizations, as well as to that of the Sub-Commission's Special Rapporteur, to proclaim 1992 the International Year of the World's Indigenous Peoples.

61. Mr. CAREY said he had listened with great interest to the representatives of the Hopi and the Navajo, two indigenous tribes of the United States. In that connection he recalled that in 1987 the Sub-Commission had arranged for some of its members to attend the Congressional Hearings on the relocation programme for Navajo and Hopi Indians. It was regrettable that those arrangements had not been followed up since it would be very useful for experts of the Sub-Commission to follow the work of Congress on the subject and even to visit Arizona to see on what land and under what conditions the relocation was to be carried out. He was proud that the precedent of sending for the first time members of the Sub-Commission to attend the debates of a national parliament had taken place in the context of the United States and he hoped that the experiment would be repeated for other issues. There seemed to have been certain problems of communication, since the Sub-Commission had apparently not been informed of the dates on which the relevant hearings were to take place. That was regrettable and he promised his assistance on future occasions in order to ensure that such hitches did not recur.

62. The affairs of the indigenous populations in the United States were the responsibility of the Department of the Interior, and more specifically the Under-Secretary for Indigenous Affairs. That official was himself an Indian and he had often testified before Congress when it was dealing with matters of concern to the indigenous peoples. The relocation programme under discussion did not consist of physically and forcibly moving individuals from one place to another. That had already been done once at least in the United States, in 1942 during the Second World War, in the case of Japanese living in the west of the country. But in the case before the Sub-Commission, it was a programme which by means of various incentives and inducements aimed at prompting those concerned to agree to being relocated in another sector of the same reservation.

63. In order to understand the problem, it was necessary to go back at least a hundred years. In 1882, a vast area had been delimited as the territory reserved for the Hopi and the Navajo tribes. In 1962, a decision by a court in the State of Arizona had defined the rights of the two tribes in the reservation. By that decision, the court recognized that each of the two tribes had equal and indivisible rights over an area of 1.8 million acres (over 700,000 hectares) known as the Joint Use Area from which Mrs. Smith, as she said herself, came. Subsequently, the United States Congress had adopted detailed arrangements to divide up the territory between the two tribes so that each of them had exclusive rights over certain areas. In theory, consequently, members of the tribe who were on the lands allocated to the other tribe were required to leave them and be relocated elsewhere. A Navajo-Hopi relocation committee had been set up to pave the way for such removals through various incentives and 7 July 1986 had been set as the deadline for the relocations. The relevant regulations provided that if the individuals affected by the measures refused to make the necessary arrangements

to leave the land they were occupying and be relocated elsewhere, their names would be communicated to the Secretary of the Interior and to the Attorney-General of the State of Arizona so that the latter might take the appropriate measures. The regulations seemed very harsh but he had made inquiries about what had happened to those who had in fact refused to move and according to what he had learnt, the programme was currently stalled and that no particular steps had been taken so far against the numerous individuals, like Mrs. Smith, who had remained on the lands they were occupying. Senator Cranston had proposed that an official moratorium should be declared but in actual fact a moratorium was already in force.

64. The problem was highly complex and he hoped that members of the Sub-Commission would visit the United States Congress to attend the debates on the subject, in order to appreciate the difficulties involved. Fortunately, it was possible to inform oneself by reading the official accounts of the debates in Congress, which clearly showed that all the parties concerned were very frustrated and that even the Government officials sometimes gave the impression of regretting that they had embarked on the programme which was very expensive and trying for everyone.

65. Mr. ALFONSO MARTINEZ said that the example of forced relocation mentioned by Mr. Carey had at least one precedent since towards the middle of the nineteenth century, indigenous nations living east of the Mississippi had been moved by wagon loads and relocated to the west of the river.

66. Mr. CAREY said he did not claim that the example he had quoted was the only case which had happened in the United States. He had chosen it to show the difference between the methods applied by the Government of the United States in 1942 and in the case under discussion.

67. The CHAIRMAN gave the floor to the observer for International Indian Treaty Council in accordance with rule 74 of the rules of procedure.

68. Mrs. MENCHU (International Indian Treaty Council) said that she was awaiting Mr. Eide's report in order to communicate her organization's viewpoint, as far the indigenous populations were concerned.

69. She would take the opportunity to join the consensus on the decision to pay a tribute to Nelson Mandela.

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3)

70. Mr. MARTENSON (Under-Secretary-General for Human Rights) said that since 1982, the Sub-Commission had reviewed its working methods, its programme of work and its relationship with the Commission. It had also been engaged in the consideration of a wide range of complex issues relating, inter alia to the name and reference of the Sub-Commission, its role and functions, the programming of studies and other fields and the rationalization of its procedures and methods. The need for a review of those issues had been emphasized by its members and various proposals had been made. In order to ensure better complementarity and co-ordination between its activities and those of the Commission on Human Rights, the latter had also referred some issues and proposals to the Sub-Commission for its attention. He briefly reviewed the resolutions by which the Economic and Social Council and the Commission on Human Rights had recalled the terms of reference of the

Sub-Commission and had given directives concerning its role, title and methods of work as well as the election of its members and alternates. Among those resolutions, he called the attention of the Sub-Commission to Commission resolution 1988/43, and in particular to paragraphs 6, 7, 9 and 10 which had a direct impact on the preparatory work of the secretariat for the Sub-Commission. Their consideration and observance in the work of the Sub-Commission would undoubtedly be very helpful, inter alia to provide the Sub-Commission with all the documentation required in due course and in all official languages.

71. With regard to the standard-setting activities, the Sub-Commission might wish to recall Commission resolution 1987/24, by which the Sub-Commission was invited, when engaged in developing international instruments to bear in mind the guidelines established in General Assembly resolution 41/120. Those guidelines were recapitulated in paragraph 14 of the annotations to the provisional agenda (E/CN.4/Sub.2/1988/1/Add.1).

72. Mr. KHALIFA thanked Mr. Martenson for his introduction which was especially helpful as the Sub-Commission, contrary to the usual practice, did not have a note by the secretariat on the agenda item before it. He would add that he personally was rather satisfied with that situation because he did not think that any note was necessary. He would like to propose that the Sub-Commission should decide to request the Commission to authorize it to delete the item from its agenda. The Sub-Commission had said everything it had to say on the subject. At the beginning, what had been involved was an examination of the relationship between the Commission on Human Rights and the Sub-Commission, possibly with a view to restructuring it. Simultaneously, the Sub-Commission had decided to have its title changed as being in its view too long and not reflecting the entire range of its activities. At that time, it had proposed that it should henceforth be known as the Committee of Experts on Human Rights. Unfortunately, the Commission had not acceded to that request, and that was regrettable because everyone was aware that the present title of the Sub-Commission was not appropriate. To begin with, it was not a Sub-Commission since an organ with such a title should be of the same nature as the Commission to which it was subsidiary. But the Sub-Commission was not a political body whereas, and that was the paradox, it was subsidiary to an organ which was entirely so.

73. The kaleidoscopic nature of the Sub-Commission and the constant overlapping of its work with that of the Commission inevitably resulted in duplication and loss of time to which the Commission on Human Rights drew more and more firmly the attention of the Sub-Commission, multiplying the guidelines it addressed to the latter. The Commission was right to stress the fact that the Sub-Commission should definitely not take part in politics since it had been established so that the United Nations could have an independent and objective body to discuss human rights issues. Nevertheless, its situation was difficult, since it was the subsidiary body of a political organ and it did approximately the same type of work as the latter. For that reason, in 1982, the Sub-Commission had decided to consider the possibility of restructuring its relationship with the Commission. In fact, the Sub-Commission should become a commission or an independent committee. It was the only Sub-Commission in the United Nations. He recalled that when he had made precisely that proposal, Mrs. Warzazi had supported it. Mr. van Boven, then the Director of the Centre for Human Rights, without entirely sharing their viewpoint, had nevertheless thought that the Sub-Commission was free to

make the proposal to the Commission and, if the latter had approved it, it would have then gone before the Economic and Social Council. Unfortunately, Mr. Sofinski had not at that time been a supporter of the restructuring exercise.

74. In conclusion, he said he found Commission resolution 1988/43 completely disconcerting because it requested the Sub-Commission to do a whole series of obvious things which it did not seem necessary to draw to the attention of the experts who composed the Sub-Commission. In the circumstances, the deletion of the item from the Sub-Commission's agenda would save time and money and would contribute towards the rationalization of working methods requested of all United Nations bodies.

75. Mrs. WARZAZI said that to enable new members of the Sub-Commission to become fully conversant with the question, the secretariat should distribute the summary records of the meetings which had previously been devoted to it, together with the summary records of the 1984 session of the Commission on Human Rights which related to the meetings during which she had submitted her report on the subject.

76. Mr. MARTENSON (Under-Secretary-General for Human Rights), referring to Mr. Khalifa's comment on the absence of a note by the secretariat on the agenda item, requested the Sub-Commission to refer to document E/CN.4/Sub.12/1988/1 where the subject was copiously annotated.

The meeting rose at 1.05 p.m.