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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Fortieth session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 12 August 1988, at 10 a.m.

Chairman: Mr. BANDHARE

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The meeting was called to order at 10.10 a.m.

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

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5) (continued)

- (a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (E/CN.4/Sub.2/1987/6);
- (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 (E/CN.4/Sub.2/1988/6 and Add.1).

1. Mr. ALFONSO MARTÍNEZ, referring first of all to the text prepared by the Under-Secretary-General for Human Rights and circulated under agenda item 3 (Review of the work of the Sub-Commission), said that the statements made concerning the Second Decade for Action to Combat Racism and Racial Discrimination were absolutely pertinent. One important suggestion was that the report on racial discrimination prepared by Mr. Hernán Santa Cruz should be updated. The time was right, just before the half-way mark in the Second Decade. He thought that the African members of the Sub-Commission should be sounded out for that purpose, since the work had already been begun by a Latin American and the issue of racial discrimination particularly affected Africans. In his text, Mr. Martenson had reviewed various activities for the Second Decade, such as seminars and symposia. In that connection, he himself attached particular importance to the active participation of persons or groups exposed to racial discrimination and he hoped that the necessary practical steps would be taken. Mr. Martenson had also given some information concerning the re-organization of the Centre for Human Rights; it was to be hoped that the Centre would be able to command the resources it needed for the restructuring.

2. With regard to agenda item 5 (a), he considered that, as Mr. Eide had stated in his oral introduction, it was better to wait for further information so that a comprehensive report on the question could be submitted; it was to be hoped that the Sub-Commission would have the document before it at its next session. In his introduction, Mr. Eide had drawn attention to the external, international manifestations of apartheid which were all too often relegated to the background; such as massive violations of human rights against States adjoining South Africa and attacks against them, in particular the occupation of southern Angola. In that connection, the representative of the African National Congress had drawn attention to the assassination of South African nationalists in Western countries. Those aspects would have to be referred to in the Sub-Commission's decision on the subject. Mr. Eide had also spoken of certain forms of racism, less conspicuous than segregation, which persisted in many parts of the world, such as hostility towards migrant workers, anti-Semitism, and discrimination against indigenous populations and racial minorities. Those forms of discrimination clearly fell within the Nigerian expert's definition of racism as a mixture of ignorance and fear, and the Sub-Commission should therefore probe more deeply into them. In the same connection, although there was no longer the slightest need to praise Nelson Mandela, it would now be useful to anticipate how, on his release, he could appear before the United Nations in person to explain the tragic fate of opponents of apartheid.

3. With regard to agenda item 5 (b), he drew attention to the extent of the persistent collaboration of many consortia with South Africa, set forth in Mr. Khalifa's report (E/CN.4/Sub.2/1988/6 and Add.1). Mr. Khalifa's updated list gave some alarming figures: more than 1,000 enterprises from the United States of America were active in South Africa, and another 1,000 from the United Kingdom. Such enterprises were instruments for the economic and military strengthening of South Africa. Certain signs of improvement should, however, be noted: in the United States, in particular, the links between apartheid and trade appeared to be better understood. He had just learnt that the United States House of Representatives had adopted a law restricting trade with South Africa. It was, of course, paradoxical that the United States of America, after having stopped its trade with Cuba in one day, should have taken so long to limit its trade with South Africa. Nevertheless, the measure which had just been taken was encouraging, and it was to be hoped that the Senate would now approve it. Finally, he hoped that Mr. Khalifa would continue his efforts, maintaining his co-operation with the Centre on Transnational Corporations and the Centre against Apartheid.

4. Mr. AL-KHASAWNEH, referring to agenda item 5 (a), noted that Mr. Eide's interim note (E/CN.4/Sub.2/1988/5) was a schematic framework. Nevertheless, it indicated, in particular, the sources of information consulted. In the document Mr. Eide suggested two approaches which did not in fact appear to be very different: in both cases an assessment was to be made of the usefulness of the action taken for the Second Decade and to distinguish successes from failures.

5. In paragraph 10 of document E/CN.4/Sub.2/1987/6, Mr. Eide pointed out that there were many forms of racial discrimination. Apartheid must be given the highest priority, since it was universally condemned, even though opinions differed as to the pressures that should be brought to bear in order to put an end to it. It was illusory to believe that apartheid could be reformed by persuasion; the few measures announced by South Africa could not hide the fact that it was a policy that was bound to disappear as such. In paragraph 13 of the same document, other contexts were mentioned, such as ethnic conflicts and xenophobia. In that regard he agreed with Mr. Joinet that preventive action was necessary, but in his opinion caution was required when considering aspects such as nationalism, which was legitimate in itself but should not degenerate into xenophobia, the distinction sometimes being a fine one. A cautious approach would also serve to prevent the scope of Mr. Eide's mandate from being enlarged unduly. Mr. Eide's reference to the information media was particularly relevant. He himself had noted signs of racism in the media - for example, in the negative image which the Western news media gave of Arabs and Muslims.

6. As far as self-determination was concerned, the concept should not be limited, as was the practice of certain jurists, to relations between the home country and its colonies. The building of new States was certainly an expression of the right to self-determination, but it must not be considered that such a right could be exercised only once and never again. The right to self-determination must remain a right open to all peoples, including when, in an independent country, social differentiations continued to exist.

7. He endorsed virtually everything that Mr. Khalifa said in his report on the adverse consequences of assistance to South Africa (E/CN.4/Sub.2/1988/6 and Add.1). It would be regrettable if, in updating his very important list

of corporations which collaborated with South Africa, Mr. Khalifa was denied the services of the two economists he needed. It was already known that commercial corporations were taking steps to avoid being included in Mr. Khalifa's list: to appear in his report was therefore a sanction in itself. He firmly supported the renewal of Mr. Khalifa's mandate.

8. Mr. DESPOUY congratulated Mr. Khalifa, whose report was one of the most important of those produced by the Sub-Commission. The document had a great influence on United Nations decisions, and beyond them on public opinion. The report submitted by Mr. Khalifa for 1988 (E/CN.4/Sub.2/1988/6 and Add.1) again confirmed the dimensions taken by apartheid. Apartheid was clearly a modern form of slavery, but what was just as striking was precisely the impetus which the despicable use of African labour had given to investors since the Second World War. Mr. Khalifa's report clearly showed the causal link between apartheid and investment. A parallel could be drawn with what had been noted by another Special Rapporteur, Mr. Cassese, with regard to Chile. In that country, since the coup d'état of 1973 there had been more investment than in the forty years of democratic life before it. In 1972, President Allende had denounced, in the United Nations General Assembly, the influence exercised in his country by economic groups in his view more powerful than the State. In actual fact President Allende had fallen one year later, largely because of those economic interests. That kind of situation was studied by the Centre on Transnational Corporations.

9. The findings contained in Mr. Khalifa's report included a renewed call for binding sanctions. In that connection, he drew attention to certain decisions taken by the European Communities. Mr. Khalifa had also commented on the fact that certain Western countries had refused to ratify the International Convention on the Suppression and Punishment of the Crime of Apartheid, invoking its imperfection. Their objection was mainly concerned with the supervisory machinery provided for therein, as in any convention. There might, in fact, be a legal imperfection in the Convention, but it should not be allowed to overshadow its very purpose. A comparison could be made with the Convention on the Prevention and Punishment of the Crime of Genocide, which also undoubtedly contained imperfections, but when it had been adopted shortly after the Second World War, it had appeared to be a minimum measure in an extremely difficult situation. The same considerations ought to apply to the International Convention on the Suppression and Punishment of the Crime of Apartheid. Moreover, it appeared that countries which had ratified that instrument had suffered no harm as a result. Argentina was a signatory to the Convention and, after the establishment of a democratic Government, had broken off its relations with South Africa. The instrument was of such importance that the overlooking of certain legal imperfections was fully justified.

10. He supported the proposal made by Mr. Sobarzo Loaize at the previous meeting, as well as Mr. Chernichenko's proposal concerning the honours to be awarded in recognition of action taken against apartheid. He wished to be a sponsor of the draft resolution on Mr. Khalifa's study.

11. Mr. ILKAHANAF pointed out that, since apartheid had been abundantly described and precisely defined, it would now be advisable to concentrate work on practical and action-oriented measures, firstly by evaluating the steps already taken by the international community and the progress made in the campaign against apartheid and racism, and secondly by examining what other

measures could be taken. Although the international community, through its co-ordinated efforts, had inflicted heavy blows on apartheid, the system had not been totally weakened.

12. The South African régime was trying to deceive the international community by adopting legislation by which it claimed to be improving the lot of the black population, whereas the purpose of such legislation was, in fact, merely to strengthen the system even further. In order to understand the hypocrisy of such measures, it sufficed to see the specific reaction of the Pretoria régime when the black community tried to claim its civil and political rights by demonstrations or strikes. Immediately, the repressive apparatus, with its well known brutality and violence, was put into motion against those who dared to protest, who were often unarmed young people. Mr. Khalifa had eloquently illustrated the tactics adopted by the racist régime to consolidate white supremacy in South Africa. He had also considered that economic pressures could effectively bring about political change in the country and that, for that purpose, it was sufficient that a small number of rich industrialized countries should exert such pressures. He, (Mr. Ilkahanaf) therefore urged those States to discontinue all economic relations with the South African régime. One day apartheid would be vanquished by the internal struggle associated with international pressures. World opinion was increasingly aware of the fact that the most effective means of combating the system was the application of economic sanctions. That type of pressure must therefore be maintained throughout the world and in all international forums. In contrast to what some members of the Sub-Commission seemed to think, he did not believe that multiplication of activities was synonymous with duplication. He wished to thank Mr. Khalifa for his excellent report, as well as for the very interesting introduction which he had made the previous day. He invited him to continue his work of updating the list originally requested in 1977 and asked him not to be discouraged by certain criticisms that had been made. Since his work undermined the interests of those who were enriching themselves thanks to the system of apartheid, he could hardly expect them to approve of it.

13. He supported Mrs. Daes's proposal that the Commission should be requested to send a telegram to the South African authorities calling for the release of Mr. Nelson Mandela and Mr. Zephania Motupeng, as well as Mr. Chernichenko's proposal that the Sub-Commission should recommend that a prize be awarded to Mr. Nelson Mandela. A prize should also be awarded to Mr. Zephania Motupeng, leader of the Pan-Africanist Congress of Azania, who was also 70 years old and who had been in prison for 20 years. The idea of abolishing two of the three United Nations lists in order to retain only Mr. Khalifa's list was sound, particularly since it would appear that the bodies that drew up the other two lists did not object to the idea. Such a step would also make it possible to make savings, part of which could perhaps be used to finance the work of the two economists requested by the Special Rapporteur.

14. Mr. TURK said that, although he was the Sub-Commission's Rapporteur, he had decided that he must take the floor as a member because the question under consideration was of such particular importance. It could, in fact, be said that the first human right of all was the right to enjoy, in conditions of equality, all other human rights. The prohibition of discrimination should therefore be considered to be a binding norm of general law, applicable in the same way to civil, political, economic, social and cultural rights. Mr. Eide was to be congratulated not only on the work which he had submitted at the

current session, but also for his previous reports, which had enabled the Sub-Commission to make considerable progress in its work on the prevention of racial discrimination. At a previous meeting, Mr. Chernichenko had recommended the adoption of an integrated approach to the discussion of that question. In fact, if the different aspects of the discussions at the present session were considered, it became apparent that such an approach was currently being adopted, as was shown, for example, by the statements made by Mrs. Daes and Mr. Joinet and by Mr. Eide's reports themselves. The Sub-Commission should therefore be in a position to convert into a principle what had already become a recognized practice in fact.

15. It would also be important, as several members of the Sub-Commission had stated, to update the excellent study by Mr. Santa Cruz who had been a pioneer in the field of the analysis of racial discrimination; an updated text of the study would constitute a very useful didactic tool.

16. Whatever approach was adopted concerning action against racial discrimination, there was no doubt that the action itself would have to be largely devoted to the elimination of apartheid as a persistent and odious form of racial discrimination. Everyone was agreed in condemning apartheid, and the Sub-Commission must, as it had already done, speak out clearly on the subject. Furthermore, it once again had a duty to stress the need to apply comprehensive and effective sanctions against the Pretoria régime, since, although it was true that the elimination of the régime required pressures from within South Africa itself, they could not be effective without strictly applied comprehensive sanctions. It was therefore necessary for the Sub-Commission to stress that point once again; Mr. Khalifa's report, by showing the significance of the international economic links with the apartheid régime, justified that approach to the problem. The system of apartheid, moreover, did not affect South Africa alone; it also harmed a vast region of southern Africa. At the previous session, he had spoken in detail of the problem caused by the destabilization of the region and had mentioned a report drawn up by UNICEF concerning children in the "front-line" countries. The report clearly showed the effects of the war waged by South Africa, which not only annihilated those countries' economic and other forms of potential but might also completely destroy their social structures. He therefore wished to associate himself with those who had expressed their concern regarding that problem, even though in 1988, fortunately, there were reasons for hoping that the situation might change in a not too distant future. In fact, it was now less unrealistic than before to bring up the subject of Namibia's accession to independence and to the role which the Sub-Commission could play in that process. He supported the idea put forward by Mr. Sobarzo Loaiza and developed by Mr. Despouy. Changes in the situation must also be followed with the greatest attention, since the Sub-Commission must be able to make the necessary contributions, perhaps in the form of advisory services. It would therefore be useful to continue the consultations during the present session in order to see whether such services were necessary and how they could be supplied should the occasion arise.

17. The CHAIRMAN gave the floor to the observer for the Syrian Arab Republic, in accordance with rule 69 of the rules of procedure.

18. Mr. GLAIEL (Observer for the Syrian Arab Republic) noted that, despite the existence of a number of international instruments, there continued to be discrimination. Its victims were human beings who were judged according to the colour of their skin, their religion, their language or their race. Racial discrimination and the conflicts which it engendered had cost the lives of countless human beings, had caused untold suffering, and was an obstacle to the development of millions of the earth's inhabitants. A group of experts which had met in Moscow under the auspices of UNESCO in August 1984 had declared, inter alia, that all human beings belonged to the same species and came from the same stock and that there was no national, religious, geographical, linguistic or cultural group which constituted ipso facto a race. Starting from that premise, they had concluded that the biological data were in clear conflict with the doctrines of racism, which had no scientific foundation. Nevertheless, a look around the world today showed that discrimination remained the basis of the policy pursued both in Pretoria and in Tel Aviv. In South Africa, everyone was classified and treated on the basis of his race. The policy of aggression and repression waged by the apartheid régime against the South African people and the people of Namibia showed that the régime was determined to continue to exploit the African peoples in every respect. Torture, maltreatment, detention, repression, with their customary violence, acts of police intimidation, etc., constituted the gloomy panoply of methods used by the racist régime, which, on the pretext of pursuing so-called "terrorist elements", was also carrying out a policy of aggression against neighbouring African States.

19. In another part of the world, the Middle East, discrimination also prevailed. Religious and racial prejudices were coupled with certain Biblical myths such as that of the "Chosen People" and God's promise to give a one people land which belonged to another people. The doctrine of Zionism had been invented to give tangible form to dreams based on Biblical myths. According to that doctrine, all the Jews of the world, wherever they were and regardless of the degree of attachment they showed for their religion, of their citizenship or of their status in their country of origin, constituted one nation, one people. Consequently, according to the Jewish congresses, a Jewish State had had to be created for that people, which efforts had been made to constitute at any cost. Without going into historical details concerning the creation of what was called "the Jewish State", he pointed out that the occupation of Palestine and other Arab territories had been carried out by armed force in violation of the commitments entered into by States Members of the United Nations in Article 2, paragraph 4, of the Charter. In parallel with their political expansion, the Zionists had begun to apply Nazi and racist methods to empty the land of its Arab inhabitants. Israeli practices had led to the Intifada ("stone-throwing revolt"), since the Palestinians remained attached to their native land and were combating by every means the attempts made to drive them away.

20. It was not by chance that a comparison was made between the two racist régimes. Israel, like South Africa, incarnated institutionalized racism. Zionism and apartheid were two sides of the same coin. Both régimes were odious and their behaviour constituted a crime against humanity and fell within the acts enumerated in article II of the International Convention on the Suppression and Punishment of the Crime of Apartheid. The difference between apartheid and Zionism was that apartheid had institutionalized the slavery of blacks, whereas Zionism had legitimized the dispersion of non-Jews and the usurpation of their lands and property. It was not, therefore,

surprising that the two movements assisted one another. In order to survive, they had established an alliance and maintained relations of co-operation in different fields. The most dangerous was military and nuclear co-operation, which deserved to be condemned by the international community and justified the latter in campaigning against both régimes until they and their racist doctrines were eradicated. South Africa and Israel, moreover, enjoyed the moral, political and material support of a number of Western countries. The veto cast by a permanent member of the Security Council against resolutions providing for sanctions against those régimes encouraged them not to heed the will of the world, which had been expressed in various resolutions.

21. The Syrian Arab Republic, which since its accession to independence had been threatened by aggression from the Zionist entity, had not ceased, and would not cease, to combat racism, including Zionism, apartheid and any manifestation of racial discrimination, until they were totally and definitively eradicated.

22. Mr. CAREY, referring to the statement made by the observer for the Syrian Arab Republic, noted that the latter had referred to "Biblical myths such as that of the Chosen People". As a Christian, he (Mr. Carey) had studied the Bible, including the Old Testament. Consequently he knew what the text said about the "Chosen People". He therefore strongly protested against the use of the word "myth" as applied to part of his religious tradition.

23. The CHAIRMAN gave the floor to the observer for Israel, in accordance with rule 69 of the rules of procedure.

24. Mr. WALDEN (Observer for Israel) said that he had not intended to take the floor under the agenda item being considered, but he felt obliged to do so because of what had been said by the penultimate speaker. In exercise of his right of reply, he wished to state first of all that, although observers were not supposed to comment on statements made by members of the Sub-Commission, he had greatly appreciated Mr. Carey's words. Referring to the statement made by the observer for the Syrian Arab Republic, who had claimed that Zionism and the State of Israel were based on racism, he said that such an affirmation was totally unfounded and that there was no racism either in the Jewish religion or in the principle of Zionism. The concept of the Jewish people was not a biological concept, and any one who wished to become a member of the Jewish people could do so without any biological test. Jews - like the English, the French or the Syrians, for example - considered that they were a people; that was not a racist but a nationalist concept. Zionism was based on nationalism and not on racism.

25. It was also regrettable that the observer for the Syrian Arab Republic had mentioned, once again, Israel's links with South Africa. There was no mention of such links in Mr. Khalifa's report. If he wished to do so, he, too, could speak in detail of the known links between several Arab States and South Africa.

26. The CHAIRMAN said that under rule 45 of the rules of procedure, he was obliged to give the floor to the observer for the Syrian Arab Republic, but he requested him to be brief, since the debate should not be protracted.

27. Mr. GLAIEL (Observer for the Syrian Arab Republic) pointed out that in his statement he had used only the terms found in resolutions of the United Nations General Assembly, which assimilated Zionism to racism. Moreover, he wished to inform Mr. Carey that in Syria there were, in addition to Muslims, followers of other religions. He himself was a Catholic and therefore knew exactly what was meant by the texts recognized by that religion.

28. The CHAIRMAN gave the floor to the representative of the Pan Africanist Congress of Azania, in accordance with rule 70 of the rules of procedure.

29. Mr. DLOVA (Observer for the Pan Africanist Congress of Azania), after congratulating Mr. Khalifa on his excellent introduction to his report, said that the list drawn up under the report was of vital importance for the efforts being made to isolate South Africa in the economic field. Mr. Khalifa was particularly well qualified to perform that task, but if he could have the assistance of one or two full-time economists, his work would certainly be of much greater value still for users, including the liberation movements of Namibia and Azania.

30. He also welcomed Mr. Khalifa's recommendation that forms of investment not involving participation in the share capital should not be treated separately from other forms of investment. He recognized that it was still too early to evaluate the authenticity of the disinvestments carried out so far and that it was also necessary to avoid running the risk of losing one's way in too many details, with a consequential slackening of the emphasis placed on sanctions. The objective, of course, was to arrive at total disinvestment, and the Special Rapporteur, as he himself had stated, should not miss a single opportunity to denounce the practice of replacing shareholdings by contractual links; however, that should be done under the Special Rapporteur's present mandate.

31. In conclusion, he approved of Mr. Chernichenko's suggestion and thanked him for it. The award of a prize to Nelson Mandela for his human rights activities would be a source of pride for all Azanians. Nevertheless, Mr. Mandela was the leader of a political party which aspired to govern the country one day. If such a prize were awarded to him, his organization would also be honoured and could derive political advantages from it. The Pan Africanist Congress of Azania's leader was Mr. Zephania Motupeng, who had been imprisoned for 24 years. He was well known to the United Nations, and his name appeared almost invariably with that of Nelson Mandela, as was attested further by the telegram which the Sub-Commission had decided to send to the Pretoria authorities. The United Nations Centre against Apartheid had celebrated Mr. Mandela's seventieth birthday in July, and in September would celebrate Mr. Motupeng's seventy-first birthday. The Sub-Commission could therefore serve concurrently the cause of South African unity and of human rights by conferring upon both men the prize which it was thinking of awarding, thus paying tribute also to the sacrifices made by Mr. Motupeng and his supporters, who were at the present time continuing the struggle against the enemy. If it excluded Mr. Motupeng, the Sub-Commission might undermine its credibility as an honest and impartial advocate of human rights. It would also create tensions between the two organizations and their leaders.

32. Mr. NCHAMA (International Movement for Fraternal Union Among Races and Peoples) said that he had listened attentively to the statements made by the Under-Secretary-General for Human Rights and by the Special Rapporteur, Mr. Eide.

33. Unfortunately, he noted that despite the many declarations, conventions and protocols adopted, little progress had been made in the field under consideration. In fact, there were more than 12 instruments drawn up by the international community concerning discrimination based on race, sex or religion, but it seemed very difficult to put them into practice. Perhaps a start should be made by an effort in the educational field to induce all States to teach accurately, in primary and secondary schools and in universities, the principles of human rights and fundamental freedoms.

34. In his report Mr. Khalifa stated that if the United States of America, the United Kingdom, the Federal Republic of Germany, France, Japan and Switzerland so desired, apartheid would be rapidly eliminated. That was tantamount to stating that it was those countries which allowed the racist régime to continue in existence.

35. Apartheid was essentially an economic problem. In his book entitled Le code noir, ou le calvaire de Canaan, Professor Sala-Molins, of the Paris I University, described the repulsive phenomenon of the trade in black slaves across the Atlantic. Currently, as in past centuries, the real problem of apartheid in South Africa remained slavery. Mr. Khalifa had stressed that South Africa was in some ways a superficial State, maintained exclusively as a result of foreign assistance and investment, since it did not have the support of its own population. The international community should spare no effort to destroy such a totalitarian régime, which was very similar to other régimes which had held sway in the past. Apartheid could not be reformed; it could only be destroyed.

36. Mr. GAJARDO (World Federation of Democratic Youth) said that if all non-governmental organizations showed the same good will as members of the Sub-Commission, the latter's work would be all the more appreciated by the Commission on Human Rights.

37. At its forty-fourth session, the Commission had expressed its position as clearly as could be: the assistance given by certain Western countries, including some of the most powerful, to the South African régime was currently the principal obstacle to the elimination of apartheid. The system of apartheid and the illegal occupation of Namibia were made possible by the assistance given by the major Western Powers and transnational corporations.

38. Furthermore, by violating United Nations resolutions on the embargo on the supply of arms to South Africa, certain Member States were permitting apartheid to perpetuate itself. Their obstinate flouting of the opinion expressed by the peoples of southern Africa and the front-line States concerning the need for comprehensive and mandatory sanctions in all fields, was an almost surrealistic spectacle. By their lack of political will, some countries were in fact supporting the pillaging of the natural resources of South Africa and Namibia by unscrupulous multinational corporations and were thereby abetting the crime of apartheid. Those who irresponsibly continued to invest in the South African economy and to grant new loans and to increase military assistance to South Africa were not only making a laughing stock of the international community by violating its treaties but were also displaying hostility towards the oppressed peoples of southern Africa. If some made a pretence of disinvesting, leaving South Africa only to return on tiptoe and by devious ways, they did so because they were completely indifferent to the fate of the black population and considered that apartheid could still line a few pockets.

39. Mr. Khalifa's report proved conclusively that economic and financial strangulation would be an effective means of destroying the inhuman South Africa régime. The facts presented showed the cynicism of theatrical measures such as so-called "constructive engagement", which, far from striving to bring the régime to an end, sought to ensure that imperialism profited from it until the rich natural and human resources of southern Africa were exhausted. "Constructive engagement" strove to ensure that apartheid remained the destabilizing external factor and oppressive internal factor that was holding in check the political, social and economic emancipation of the young African countries. The assistance thus supplied by Western enterprises would be much better appreciated in those countries, especially in Lesotho, Botswana, Zimbabwe, Zambia and Mozambique. A tribute should be paid to those States and to Angola, which were sacrificing themselves for freedom and justice, despite their more than limited means. With the South African people itself, those countries were the ones that suffered most from apartheid and which, despite South Africa's economic and military blackmail, were in the forefront of the campaign against the apartheid régime. They must receive all the assistance they requested, since once sanctions were truly binding, they would be the most vulnerable elements. Mr. Khalifa had stressed the extent of the contribution made by economic sanctions to the struggle waged by the South African peoples and had rightly requested assistance in order to improve further his report, the usefulness and cogency of which had already made themselves felt in many sectors.

40. The World Federation of Democratic Youth supported comprehensive and mandatory measures at the world level. Only joint efforts in all fields, especially at the governmental level, could put an end to apartheid, such efforts being supplemented, of course, by the action taken by anti-apartheid organizations in South Africa and abroad and by the armed struggle on the spot. The crucial role of the youth of the world in promoting respect for the United Nations instruments condemning apartheid should also be stressed.

41. The World Federation of Democratic Youth, which strongly endorsed an economic boycott of South Africa, reaffirmed its unreserved support for the freedom fighters of the African National Congress and SWAPO, as well as its appeal for the release of all South African and Namibian political prisoners, including Nelson Mandela. Throughout the world, young people must promote the ideals of human rights and fundamental freedoms and campaign against apartheid, racism and colonialism, since the world of tomorrow would be the work of the youth of today.

42. Mr. ODABASI (World Federation of Trade Unions) said that his organization, which supported the peoples of Namibia and South Africa, the Palestinian people and all peoples fighting for their fundamental rights, also wished to draw attention to the situation of the Kurdish people, especially in Turkey.

43. There were 25 million Kurds, distributed among Turkey, Iran, Iraq and Syria. The 1920 Treaty of Sèvres between the Allied Powers and the Ottoman Empire, which had recognized the right of the people of Kurdistan to an independent State, had never been implemented and had been replaced by the 1923 Treaty of Lausanne, which had confirmed the division of Kurdistan among the four States of the region. Since the foundation of the Turkish State, the existence of the Kurdish people had always been denied in legislation and in

the Constitution. For the Turkish State, the words Kurdistan and Kurd did not exist, and the 14 million Kurds in Turkey were called "mountain Turks". The Kurdish revolts that had taken place between 1923 and 1940 against Turkish colonialism had been put down in an inhuman manner. So far it had been difficult to find documentation on those massacres. At the time Turkey had been able to isolate Kurdistan from the rest of the world and was still trying to conceal the facts about the people of Kurdistan, which was fighting for its independence in the National Liberation Front of Kurdistan.

44. The situation in North-West Kurdistan was one of serious and systematic violations of human rights. Torture, in particular, had been intensified in prisons, and new prisons had been established outside Kurdistan to isolate the many Kurdish political prisoners, more than 10,000 of whom were currently living in inhuman conditions of detention. In February 1988, more than 2,000 prisoners had begun a hunger strike and, on 19 February, Memet Emin Yavuz had died as a result of the torture to which he had been subjected after 10 days of his strike. A Kurdish woman who had never carried a weapon, Sakina Polat, had been sentenced to 76 years of imprisonment for her political opinions. At her trial she had asked to speak in Kurdish, but that had been refused. The use of the Kurdish language was also prohibited by law.

45. Mention must also be made of the deportation of entire villages and of the creation of "protected" areas to make it easier to control the population. The purpose of such deportations to the central areas of Kurdistan and the military sealing-off of the strategic villages thus created was to get round the characteristics which made the terrain impassable for the Turkish army, to cut off the contacts between the people and the revolutionaries, and to establish a system of control aimed at intimidating the population and at preventing it from providing assistance to the National Liberation Front of Kurdistan. A real paranoia had gripped the Turkish army, and it was sufficient for a Kurd to carry with him a photograph of the leader of the Kurdistan revolution, Abdollah Ocalan, for him to be tortured or even put to death, as had happened to the shepherd Mehmet Aman Coskun, whose case had been reported in the newspaper Milliyet on 23 March 1988.

46. In 1987, Turkey had set up a special Government for Kurdistan, and the governor, Hayri Kozakçioğlu, was empowered to promulgate new laws for it. A special armed force of 64,000 soldiers and "contras" had been created to terrorize the people, and hundreds of Kurds had been killed during its operations. In order to divide the Kurdish population, the Turkish authorities had set up a system of "village protectors", who were chosen from among the Kurds and whose job was to denounce supporters of independence. Those few examples clearly proved that Turkey was pursuing a colonial and discriminatory policy against the people of Kurdistan.

47. The World Federation of Trade Unions urged the Sub-Commission to consider the flagrant violations of human rights involved in that situation in Turkey, a country which had, however, recently ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and it suggested that the Sub-Commission should adopt a resolution on the subject.

48. Mr. KHALIFA, after thanking all those members of the Sub-Commission who had commented on or praised his report, said that he wished to revert to some of the ideas expressed. On the previous day Mr. Abgoyibor had referred to the

position of the front-line States with regard to sanctions against South Africa. He recognized that only a brief outline of the difficult situation of those States had been given. He therefore proposed to develop that aspect of the question between now and the next session. Also, he was glad that Mrs. Daes and Mr. Joinet shared his view as to the methods which should be used to prepare the report and that they supported the idea of making more resources available to him. Mr. Chernichenko had been quite right to recommend that he should always bear in mind, in his work, all relevant human rights texts and to suggest that a human rights prize should be awarded to Nelson Mandela. Mrs. Warzazi could rest assured that nobody could intimidate members of the Sub-Commission or underestimate the impact of the report under consideration. She had rightly pointed out that the Commission and the Sub-Commission had acted with foresight when they had decided to draw up the list in question. Mr. Flinterman, when referring to the current status of the International Convention on the Suppression and Punishment of the Crime of Apartheid, had rightly emphasized that countries which condemned apartheid did not always have the will to translate their words into action, since some of them were not even considering acceding to the Convention.

49. Mr. Carey, who had indicated his concern for the removal of certain imperfections from the list, had expressed doubts, as he had done at a previous session, regarding the inclusion of certain periodicals and press agencies. He believed that he had already had occasion to inform Mr. Carey that the periodicals and press agencies in question had been included in the list because they had engaged in activities other than information in the strict sense of the word. The list drawn up by the United Nations Centre on Transnational Corporations clearly showed that those press corporations maintained relations with South Africa under their activities in such fields as wood, paper, paper products and packaging products.

50. Mr. Carey had also asked why he had verbally denounced corporations such as Ford and Coca Cola whereas annex II to the report showed that their names had in fact been removed from the list. The problem was due to the multiplicity of lists drawn up in the United Nations context. Economic and Social Council document E/1988/23 and Corr.1 and 2, which contained a list of transnational corporations, included several tables relating respectively to transnational corporations which no longer held any share capital in South African or Namibian enterprises, corporations which had interests in both countries, corporations which were in the process of disinvesting, and corporations which had reduced their investments in share capital in South Africa. In that list Coca Cola and Ford appeared among the transnational corporations which no longer held any share capital in South Africa and Namibia. Although he was not convinced that those two corporations had carried out a total disinvestment, he had not wished to discredit a list drawn up by the United Nations; he had therefore removed them from his own list, but not without stressing in his introduction that in his opinion they were not doing what was expected of them. He had drawn attention to the hypocrisy of those enterprises while placing them in a separate category from the category of enterprises having clear-cut economic relations with South Africa.

51. It must be borne in mind that, in the introductory statement which he had made the previous day, he had nevertheless stressed that disinvestment in share capital could only be welcomed and he had expressed the hope that links

of any kind whatever with South Africa would be totally severed; he had added that it was at least possible to be sure that those who had disinvested would not allocate funds for expansion in the future. Mr. Carey was, in fact, contesting only two names among 4,000. Even if a particular name included in the list turned out to be wrong, the possibility of a human error must always be borne in mind.

52. He wished to thank Mr. Alfonso Martínez for his interesting observations, and also Mr. Al-Khasawneh, who had endorsed the idea of providing him with the services of two economists. Mr. Despouy had also supported the idea of strengthening the assistance available to him, and Mr. Ilkahanaf had endorsed the suggestion that a single list for the whole of the United Nations system should be submitted. Mrs. Warzazi had made some useful comments on the method to be followed in bringing that task to a successful conclusion. It must, nevertheless, be pointed out that it might take three or four years.

53. He still had a few doubts concerning two important questions. First, he wondered whether the Sub-Commission still considered it necessary to make a study of "fictitious" disinvestment, which he himself would prefer to call "incomplete" disinvestment. In his opinion, such a study might distract the Sub-Commission's attention from the principal objective of the report which he was responsible for preparing. Also, was it necessary to adopt the proposal made by the United Nations Centre on Transnational Corporations and the Centre against Apartheid concerning the preparation of a single list for the United Nations system and, if so, what methodology should be followed in that regard?

54. The CHAIRMAN said that the Sub-Commission had concluded its general debate on agenda item 5.

ORGANIZATION OF WORK

55. The CHAIRMAN reminded members of the Sub-Commission that a telegram had been sent to Professor Mazilu through the United Nations Information Centre at Bucharest. The Centre had informed Mr. Martenson that it had not been possible to deliver the telegram to Mr. Mazilu, who, according to his mother-in-law, had left Bucharest with his family a few days before in order to follow a course of medical treatment at a health centre whose address had not been indicated.

56. Mr. DIACONU, speaking on a point of order, said that, since the Sub-Commission was considering the organization of its work, he would like to know whether the other special rapporteurs had replied to the invitations sent to them to be present in the Sub-Commission during the consideration of their reports and, if so, what replies had been received.

57. The CHAIRMAN replied that Mr. Singhvi had stated that he would be present during the third week of the session. Mr. Mubanga Chipoya had also announced his arrival, and two of the other special rapporteurs were already present. Mr. Bossuyt would apparently also be present.

58. Mr. EIDE said that, since the initial efforts made to establish contact with Mr. Mazilu had not produced satisfactory results, it was necessary to act promptly. Before continuing his comments on that point, he would like to give his view of what the task of a special rapporteur involved. As everyone was aware, the Sub-Commission was composed of independent experts, and their independence was even more important in the case of special rapporteurs, who had to endeavour to rise above their personal preferences or the interests of their countries in order to take into account only the values set forth in the Universal Declaration of Human Rights. There was no doubt that Mr. Mazilu had accepted the work entrusted to him in that spirit and had undertaken to study how young people could participate in the implementation of human rights throughout the world. Furthermore, he had read Mr. Mazilu's letter and had no doubt that Mr. Mazilu had intended to continue his work.

59. Bearing all that in mind, he proposed that a member of the Sub-Commission should visit Mr. Mazilu, wherever he might be, to assist him at least in completing his preliminary report, and that Mr. Martenson should designate an official of the secretariat to accompany the expert to be entrusted with that mission. He was confident that the members of the Sub-Commission would approve that suggestion by consensus. He hoped that the Romanian authorities would take the necessary steps to facilitate the journey of the two persons concerned to Romania so that they could establish contact with Mr. Mazilu in the course of the following week. If such contact was not established, the Sub-Commission could then envisage taking other measures.

60. Mr. JOINET recalled that he himself had already made a similar proposal, which he had subsequently withdrawn pending the receipt of a reply to the telegram sent to Mr. Mazilu by the Chairman of the Sub-Commission. Other solutions had been envisaged during private conversations. One of them was to send a delegation of four or five persons to Romania, but that might give the impression that the Sub-Commission wished to check up on the Romanian authorities, which had not been its intention. It had also been suggested that Mr. Martenson should be requested to persevere in his representations. However, in view of the poor results of the efforts already made by both Mr. Martenson and Mr. Despouy, and of the inadequacy of the replies given to the Sub-Commission's requests, the only valid solution was to send one of the Sub-Commission's experts to see Mr. Mazilu. Such an approach would, however, be of a friendly nature, from colleague to colleague, as it were. Consequently, it would be necessary to request the Romanian authorities to facilitate the issue, at an early date, of two visas, one for the Sub-Commission's expert, who would be designated on the basis of purely logical criteria, and the other for an official of the secretariat, who would be responsible for assisting the expert in technical and logistical matters. The mandate of the expert thus designated would, of course, have to be limited strictly to the question of preparing the report on human rights and youth.

61. He left it to the wisdom of the Sub-Commission to find a solution which could be adopted by consensus and receive the approval of the Romanian authorities.

62. Mr. FLINTERMAN said that it was difficult to believe that a man as devoted to the cause of human rights as Mr. Mazilu could have left his home without informing the Sub-Commission that he would not be able to present his report. Everything should therefore be done to enable him to participate in the Sub-Commission's session. In his opinion, the proposal just made by

Mr. Eide was the best way of establishing contact with Mr. Mazilu. If that initiative failed, the Sub-Commission could then reconsider the matter and envisage other measures.

63. Mrs. ATTAH wondered whether it was advisable to send two persons to see Mr. Mazilu, in so far as his whereabouts was not known. In her opinion, it would be better first of all to try to find out where he was, and perhaps to wait until the United Nations Information Centre at Bucharest had established contact with him.

64. Mr. VARELA QUIROS said that it was true that the persons sent to Mr. Mazilu might not be able to carry out their mission if they did not know his whereabouts. On the other hand, however, it was important that the Sub-Commission should know what had become of the report on human rights and youth. It would therefore be better, in his opinion, first of all to exhaust all the available means of obtaining the report before the end of the session. If all the efforts made proved vain, the appropriate decisions should then be taken at the end of the session.

65. Mr. JOINET said the question must be settled with the utmost urgency. It was therefore important that a decision should be taken promptly on the proposal that one of the Sub-Commission's experts and an official of the secretariat should be sent to see Mr. Mazilu. The Sub-Commission must be able to continue its work.

66. Mr. EIDE said, for Mrs. Attah's information, that it should not be difficult for the Romanian authorities to ascertain Mr. Mazilu's whereabouts. Immediate action was needed, so that the Sub-Commission could organize its work promptly. He was sure that Mrs. Attah would appreciate the advisability of a consensus.

67. Mrs. WARZAZI said that, in order to be able to envisage a rapid solution, it would first of all be necessary to be sure that the Romanian authorities would grant a visa to the persons to be designated to travel to Romania.

68. The CHAIRMAN said that it was essential to solve the problem promptly, since a member of the Sub-Commission was involved. It was, however, clear that the co-operation of the Romanian authorities would be needed. He accordingly requested the Observer for Romania to be so kind as to inform the Sub-Commission of his Government's intentions.

69. Mr. CHIRILA (Observer for Romania) said that his country's participation as an observer in the fortieth session of the Sub-Commission was proof of the interest which it took in the Sub-Commission's work, which it had, moreover, already shown by nominating Romanian experts for membership.

70. As far as the situation with regard to the report on human rights and youth was concerned, he recalled that Mr. Mazilu, a former counsellor at the Ministry of Foreign Affairs, had been elected a member of the Sub-Commission on the proposal of the Romanian Government and had participated in the Sub-Commission's work until 1987. At the beginning of 1987, Mr. Mazilu had suffered a heart attack and had frequently had to be hospitalized since then. The Permanent Mission of Romania to the United Nations Office at Geneva had informed the United Nations Centre for Human Rights on several occasions that Mr. Mazilu was unable to travel and consequently would not be able to

participate in the Sub-Commission's session. For the same reasons, Mr. Mazilu had decided to retire as from 1 December 1987. A certified copy of the medical certificate attesting that the former counsellor had retired for health reasons had been sent to the Centre for Human Rights. Mr. Mazilu's state of health had been confirmed in the telegram sent to the Centre for Human Rights by the United Nations Information Centre at Bucharest. He did not therefore see why that information was being questioned, and in his opinion all that remained to be done was to close the discussion on the matter, even though it was a procedural discussion, and to seek a solution to the problem of preparing the report, in view of the indisposition of the expert entrusted with that task. Any solution that cast doubt on the information supplied by the Romanian Government to the United Nations Centre for Human Rights would be unacceptable.

71. Mr. EIDE said that the Observer for Romania might perhaps explain why it had not been possible to obtain the address of the establishment where Mr. Mazilu was receiving medical treatment.

72. Mr. ALFONSO MARTÍNEZ proposed that, in view of the late hour, the Sub-Commission should continue its discussion at the next meeting. He would like the text of Mr. Eide's proposal and of the comments made on it by Mr. Joinet, as well as the texts of the telegram sent by the United Nations Information Centre at Bucharest and of the statement made by the observer for Romania, to be distributed to the members of the Sub-Commission.

73. The CHAIRMAN said that it was not a question of doubting the validity of the medical certificate which had been sent to the Centre for Human Rights. It was, however, only to be expected that the members of the Sub-Commission should be concerned about Mr. Mazilu's situation and attempt to establish contact with him, if only to tell him to discontinue his work if he was too ill to be able to complete his report. It would therefore be useful to have his address in order to be able to write to him or to visit him. He requested the Observer for Romania to be so kind as to hand the text of his statement to the Secretariat so that it could be distributed.

74. Mr. JOINET said that if Mr. Mazilu was in fact ill, he would need help to complete his report and it would be necessary to send another expert to see him. Moreover, the Romanian authorities should have no difficulty in ascertaining the whereabouts of a retired civil servant.

The meeting rose at 1.15 p.m.